

**CHAPTER 12.08
UNDERGROUND UTILITY DISTRICTS**

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Statutory reference:

Provisions regarding conversion of existing overhead electric and communication facilities to underground locations, see Cal. Streets and Highways Code §§ 5896.1 et seq.

Provisions regarding municipal utility districts, see Cal. Government Code § 38793

12.08.010 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

COMMISSION. The Public Utilities Commission of the State of California.

POLES, OVERHEAD WIRES, AND ASSOCIATED OVERHEAD STRUCTURES. Poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments, and appurtenances located above-ground within a district and used or useful in supplying electric communication or similar or associated service.

UNDERGROUND UTILITY DISTRICT or DISTRICT. The area in the City within which poles, overhead wires, and associated overhead structures are prohibited as the area is described in a resolution adopted pursuant to the provisions of § [12.08.030](#).

UTILITY. Includes all persons or entities supplying electric, communication, or similar or associated service by means of electrical materials or devices.

(Ord. 382, § 1, passed -- 1969; Am. Ord. 870, § 20, passed 8-25-2008)

12.08.020 PUBLIC HEARING BY CITY COUNCIL.

The City Council may from time to time call public hearings to ascertain whether the public necessity, health, safety, or welfare requires the removal of poles, overhead wires, and associated overhead structures within designated areas of the City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The City Clerk shall notify all affected property owners as shown on the last equalized assessment roll and utilities concerned by mail of the time and place of the hearings at least ten (10) days prior to the date thereof. Each hearing shall be open to the public and may be continued from time to time. At each hearing, all persons interested shall be given an opportunity to be heard. The decision of the City Council shall be final and conclusive.

(Ord. 382, § 2, passed -- 1969)

12.08.030 CITY COUNCIL MAY DESIGNATE UNDERGROUND UTILITY DISTRICTS BY RESOLUTION.

If, after any such public hearing, the City Council finds that the public necessity, health, safety, or welfare requires the removal and the underground installation within a designated area, the City Council shall, by

resolution, declare the designated area an underground utility district and order the removal and underground installation. The resolution shall include a description of the area comprising the district and shall fix the time within which the removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for the removal and underground installation, having due regard for the availability of labor, materials, and equipment necessary for the removal and for the installation of the underground facilities as may be occasioned thereby.

(Ord. 382, § 3, passed -- 1969)

12.08.040 UNLAWFUL ACTS.

Whenever the City Council creates an underground utility district and orders the removal of poles, overhead wires, and associated overhead structures therein as provided in § [12.08.030](#), it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ, or operate poles, overhead wires, and associated overhead structures in the district after the date when the overhead facilities are required to be removed by the resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by the owner or occupant of the underground work necessary for the owner or occupant to continue to receive utility service, for the reasonable time required to remove the facilities after the work has been performed and except as otherwise provided in this chapter.

(Ord. 382, § 4, passed -- 1969)

12.08.050 EXCEPTION - EMERGENCY OR UNUSUAL CIRCUMSTANCES.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten (10) days, without authority of the City Council in order to provide emergency service. The City Council may grant special permission, on the terms as the City Council may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires, and associated overhead structures.

(Ord. 382, § 5, passed -- 1969)

12.08.060 EXCEPTED FACILITIES.

This chapter and any resolution adopted pursuant to § [12.08.030](#), unless otherwise provided in the resolution, shall not apply to the following types of facilities:

- A. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the City Engineer;
- B. Poles or electroliers used exclusively for street lighting;
- C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when the wires originate in

an area from which poles, overhead wires, and associated overhead structures are not prohibited;

- D. Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one (1) location on the building to another location on the same building or to an adjacent building without crossing any public street;
- F. Antennae and associated equipment and supporting structures used by a utility for furnishing communication services;
- G. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts; and
- H. Temporary poles, overhead wires, and associated overhead structures used or to be used in conjunction with construction projects.

(Ord. 382, § 6, passed -- 1969)

12.08.070 NOTICE TO PROPERTY OWNERS AND UTILITY COMPANIES.

- A. Within ten (10) days after the effective date of a resolution adopted pursuant to § [12.08.030](#), the City Clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The City Clerk shall further notify the affected property owners of the necessity that, if they or any person occupying the property desires to continue to receive electric, communication, or similar or associated service, they or the occupant shall provide all necessary facility changes on their premises so as to receive the service from the lines of the supplying utility or utilities at a new location, subject to applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission.
- B. Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to § [12.08.030](#), together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

(Ord. 382, § 7, passed -- 1969)

12.08.080 RESPONSIBILITY OF UTILITY COMPANIES.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to § [12.08.030](#), the supplying utility shall furnish that portion of the conduits, conductors, and associated equipment required to be furnished by it under its applicable rules, regulations, and tariffs on file with the Commission.

(Ord. 382, § 8, passed -- 1969)

12.08.090 RESPONSIBILITY OF PROPERTY OWNERS.

Every person owning, operating, leasing, occupying, or renting a building or structure within a district shall perform construction and provide that portion of the service connection on his or her property between the facilities referred to in § [12.08.080](#) and the termination facility on or within the building or structure being served, all in accordance with applicable rules, regulations, and tariffs of the respective utility or utilities on file with the commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to § [12.08.030](#), the City Engineer shall give notice in writing to the person in possession of the premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten (10) days after receipt of the notice.

(Ord. 382, § 9(A), passed -- 1969)

12.08.100 NOTICE - PROCEDURE.

The notice to provide the required, underground facilities may be given either by personal service or by mail. In case of service by mail on either of the persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of the premises at the premises, and the notice must be addressed to the owner thereof as the owner's name appears, and must be addressed to the owner's last known address as the same appears on the last equalized assessment roll, and when no address appears, to "General Delivery, City of Fort Bragg." If notice is given by mail, the notice shall be deemed to have been received by the person to whom it has been sent within 48 hours after the mailing thereof. If notice is given by mail to either the owner or occupant of the premises, the City Engineer shall, within 48 hours after the mailing thereof, cause a copy thereof, printed on a card not less than 8 inches x 10 inches in size, to be posted in a conspicuous place on the premises.

(Ord. 382, § 9(B), passed -- 1969)

12.08.110 NOTICE - COMPLETION OF WORK IN 30 DAYS.

The notice given by the City Engineer to provide the required underground facilities shall particularly specify what work is required to be done and shall state that if the work is not completed within thirty (30) days after receipt of the notice, the City Engineer will provide the required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon the property.

(Ord. 382, § 9(C), passed -- 1969)

12.08.120 EXPIRATION OF TIME - CITY COMPLETION - ASSESSMENT.

If upon the expiration of the thirty (30)-day period, the required underground facilities have not been provided, the Director of Public Works or City Engineer shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the Director of

Public Works or City Engineer shall, in lieu of providing the required underground facilities, have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the Director of Public Works or City Engineer, he or she shall file a written report: with the City Council setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The City Council shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises, which time shall not be less than ten (10) days thereafter.

(Ord. 873, § 26, passed 8-25-2008)

12.08.130 NOTICE OF HEARING OF PROTESTS.

The Director of Public Works or City Engineer shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises and a notice in writing thereof to the owner thereof in the manner hereinabove provided for the giving of the notice to provide the required underground facilities in § [12.08.100](#), of the time and place that the City Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.

(Ord. 873, § 27, passed 8-25-2008)

12.08.140 CONDUCT OF HEARING.

Upon the date and hour set for the hearing of protests, the City Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify, or reject the assessment.

(Ord. 382, § 9(F), passed -- 1969)

12.08.150 LIEN AGAINST PROPERTY - NOTICE - PAYMENT.

If any assessment is not paid within five (5) days after its confirmation by the City Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the Director of Public Works or City Engineer. The Director of Public Works or City Engineer is directed to turn over to the Assessor and Tax Collector a notice of lien on each of the properties on which the assessment has not been paid and the Assessor and Tax Collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as the property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate as determined by resolution of the City Council.

(Ord. 873, § 28, passed 8-25-2008)

12.08.160 RESPONSIBILITY OF CITY.

The City shall remove, at its own expense, all City-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of the poles to remove the same within the time specified in the resolution enacted pursuant to § [12.08.030](#).

(Ord. 380, § 10, passed -- 1969)

12.08.170 EXTENSION OF TIME.

In the event that any act required by this chapter or by a resolution adopted pursuant to § [12.08.030](#) cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which the act will be accomplished shall be extended for a period equivalent to the time of the limitation.

(Ord. 382, § 11, passed -- 1969)

12.08.180 VIOLATION - PENALTY.

It shall be unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable as provided in Chapter 1.12.

(Ord. 874, § 32, passed 8-25-2008)

12.08.190 CONSTITUTIONALITY.

If any section, subsection, sentence, clause, or phrase of this chapter, is for any reason held to be invalid, the decision shall not affect the validity of the remaining portions of this chapter. The City Council hereby declares that it would have adopted the chapter and each section, subsection, sentence, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

(Ord. 382, § 13, passed -- 1969)