

## Chapter 13.24

### UNDERGROUNDING OF UTILITY FACILITIES

#### Sections:

- 13.24.010 Definitions.**
- 13.24.020 Public hearing to determine need.**
- 13.24.030 Designation of underground utility district.**
- 13.24.040 Unlawful acts.**
- 13.24.050 Exception—Emergency.**
- 13.24.060 Exception—Miscellaneous poles and wires.**
- 13.24.070 Notice to property owners and utility companies.**
- 13.24.080 Responsibility of utility company.**
- 13.24.090 Responsibility of property owner.**
- 13.24.100 Responsibility of city.**
- 13.24.110 Time extension.**
- 13.24.120 Violation—Penalty.**

#### **13.24.010 Definitions.**

Whenever in this chapter the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions:

A. "Commission" means the Public Utilities Commission of the state of California.

B. "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees.

C. "Poles, overhead wires and associated overhead structures" means 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.

D. "Underground utility district" or "district" means that area in the city within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 13.24.030 of this chapter.

E. "Utility" means and includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 204 § 1, 1969)

#### **13.24.020 Public hearing to determine need.**

The 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 services. The city clerk shall notify all affected property owners as shown on the last equalized assessment roll and the utilities concerned by mail of the time and place of such hearing at least fifteen days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the council shall be final and conclusive. (Ord. 367 § 1, 1986; Ord. 204 § 2, 1969)

### **13.24.030 Designation of underground utility district.**

A. If, after any such public hearing the council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the council shall, by resolution, declare such designated area an underground utility district and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such 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 such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

B. Any petition for proceedings for conversion shall be signed by not less than five owners of assessable land in the proposed assessment district, as shown by the last equalized assessment roll used by the city, owning lands constituting more than one-half of the area of all assessable lands within the proposed assessment district. Upon presentation of a petition and certificate of sufficiency or upon a determination by the city council to initiate proceedings, the legislative body may adopt a resolution declaring its intention to order the conversion. (Ord. 367 § 2, 1986; Ord. 204 § 3, 1969)

### **13.24.040 Unlawful acts.**

Whenever the council creates an underground utility district and orders the removal of poles, overhead wires and

associated overhead structures therein as provided in Section 13.24.030 of this chapter, 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 such resolution, except as said overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 13.24.090 of this chapter, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter. (Ord. 204 § 4, 1969)

### **13.24.050 Exception—Emergency.**

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed ten days, without authority of the council in order to provide emergency service. The council may grant special permission, on such terms as the 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. 204 § 5, 1969)

### **13.24.060 Exception—Miscellaneous poles and wires.**

This chapter and any resolution adopted pursuant to Section 13.24.030 of this chapter shall, unless otherwise provided in such resolution, 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 such wires originate in any 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 thirty-four thousand five hundred volts;

E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;

F. Antennae, 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 and meter cabinets, and concealed ducts;

H. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 204 § 6, 1969)

#### **13.24.070 Notice to property owners and utility companies.**

A. Within ten days after the effective date

of a resolution adopted pursuant to Section 13.24.030 of this chapter, the city clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution or the adoption thereof. The city clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall provide all necessary facility changes on their premises so as to receive such 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 Section 13.24.030, 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. 204 § 7, 1969)

#### **13.24.080 Responsibility of utility company.**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 13.24.030 of this chapter, 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. 204 § 8, 1969)

#### **13.24.090 Responsibility of property owner.**

A. 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 property between the facilities referred to in Section 13.24.080 and the termination facility on or within the building or structure being serviced, 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 Section 13.24.030, the city engineer shall give notice in writing to the person in possession of such 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 days after receipt of such notice.

B. 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 such 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 such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such 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 Ripon. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight hours after the mailing thereof. If the notice is given by mail to either the owner or occupant of such premises, the city engineer shall, within forty-eight hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place on the premises.

C. 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 days after receipt of such notice, the city engineer will take necessary steps to provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefitted and become a lien upon such property.

D. If, upon the expiration of the thirty-day period, the required underground facilities have not been provided, the city engineer shall forthwith proceed to do or cause the work to be done; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the city engineer shall, in lieu of providing for 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, the city engineer 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 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 days thereafter.

E. The city engineer shall forthwith, upon the time for hearing such protests having been fixed, cause a notice to be given in writing to the person in possession of such premises, and a notice to be given in writing thereof to the owner thereof, in the manner provided for in

this section for the giving of the notice to provide the required underground facilities, of the time and place that the 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.

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

G. If any assessment is not paid within five days after its confirmation by the council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the city engineer, and the city engineer is directed to turn over to the assessor and tax collector for the city 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 taxed are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per annum.

H. Subject to applicable rules, regulations, tariffs or ordinances, all electric or communication facilities located upon any lot or parcel of land within the assessment district shall be constructed, reconstructed, relocated or converted by the owner of such lot or parcel at his own expense. Such work may be done by the contractor, or the public utility, public agency or city performing the conversion work, and the cost thereof included in the assessment to be levied upon such lot or parcel, provided, that the owner shall execute a written request therefor and file the same with the clerk. Any such request

shall expressly authorize the contractor, public utility, public agency or city, and their respective officer, agents and employees to enter upon such lot or parcel for such purpose and shall waive any right of protest or objection in respect of the doing of such work and the inclusion of the cost thereof in the assessment. Any such written request by the owner shall be filed with the clerk not later than the date fixed for commencement of construction of the conversion.

I. The clerk shall mail a notice to each owner of a lot or parcel of land within the assessment district advising him of the applicable provisions of Section 13.24.090 of this chapter, and stating unless such owner complies with the requirements of Section 13.24.090, all buildings, structures and improvements located upon the lot or parcel will be subject to disconnection from the electric or communication facilities providing service thereto. Such notice shall be mailed at least fifteen days prior to the date of commencement of construction and shall be mailed to the owners whose names and addresses appear on the last equalized assessment roll used by the city or as known to the clerk.

J. If the owner of any lot or parcel of land shall fail to comply with the requirements of Section 13.24.090, the city may order the disconnection and removal of all overhead electric or communication facilities providing service to any building, structure or improvement located upon such lot or parcel. Written notice of proposed disconnection shall be given at least five days prior to disconnection by leaving a copy of such notice at the principal building, structure or improvement located upon such lot or parcel. (Ord. 367 § 3, 1986; Ord. 204 § 9, 1969)

**13.24.100 Responsibility of city.**

The city shall remove at its own expense all city-owned equipment from all poles required to be removed under this chapter in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 13.24.030 of this chapter. (Ord. 204 § 10, 1969)

**13.24.110 Time extension.**

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 13.24.030 of this chapter 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 such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. 204 § 11, 1969)

**13.24.120 Violation—Penalty.**

It is 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 punished as provided in Chapter 1.08 of this code. (Ord. 204 § 12, 1969)