

## CHAPTER 42.

UNDERGROUND UTILITY DISTRICTS.<sup>1</sup>

- Sec. 42-1. Definitions.
- Sec. 42-2. Public hearing by city council on placing utilities underground.
- Sec. 42-3. Designation of districts; fixing of time for completion of work.
- Sec. 42-4. Maintenance, construction, etc., of overhead wires, etc., prohibited within designated districts.
- Sec. 42-5. Exceptions to underground requirements--Generally.
- Sec. 42-6. Same--Emergency service; unusual circumstances.
- Sec. 42-7. Notice to property owners and utility companies to provide underground facilities.
- Sec. 42-8. Responsibility of utility companies.
- Sec. 42-9. Responsibility of property owners; removal of overhead facilities by city engineer.
- Sec. 42-9.1. City council action alternative to section 42-9.
- Sec. 42-10. Responsibility of city.
- Sec. 42-11. Extension of time.
- Sec. 42-12. Utility lines to be underground.
- Sec. 42-13. Lines included.
- Sec. 42-14. Appurtenant structures may be placed above ground.
- Sec. 42-15. Modification of requirements.
- Sec. 42-16. Building or occupancy permit issued upon compliance with underground utility ordinance.

Sec. 42-1. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Commission. The public utilities commission of the state.

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 aboveground within a district and used or useful in supplying electric, communication or similar or associated service.

Underground utility district or district. 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 42-3.

Utility. All persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. No. 234)

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<sup>1</sup>For state law as to conversion of overhead utility facilities to underground locations, see St. & H. C., Secs. 5896.1 to 5896.17.

Sec. 42-2. Public hearing by city council on placing utilities underground.

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 such hearings at least ten 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. Prior to holding such public hearing, the city planning director shall consult with all affected utilities and shall prepare a report for submission at such hearing. (Ord. No. 234)

Sec. 42-3. Designation of districts; fixing of time for completion of work.

If, after any public hearing under section 42-2 the city council finds that the public necessity, health, safety or welfare requires removal of poles, overhead wires, etc., and 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 shall 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. (Ord. No. 234)

Sec. 42-4. Maintenance, construction, etc., of overhead wires, etc., prohibited within designated districts.

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 section 42-3, it shall be 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 such 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 to continue to receive utility service as provided in section 42-9, 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. No. 234)

Sec. 42-5. Exceptions to underground requirements--Generally.

Any resolution adopted pursuant to section 42-3 shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- (a) Any municipal facility 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 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 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. No. 234)

Sec. 42-6. Same--Emergency service: unusual circumstances.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period, not to exceed thirty days, without authority of the city 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 wires and associated overhead structures. (Ord. No. 234)

Sec. 42-7. Notice to property owners and utility companies to provide underground facilities.

Within ten days after the effective date of a resolution adopted pursuant to section 42-3, 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 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 the applicable rules, regulations and tariffs of the respective utility on file with the public utilities commission.

Notification by the city clerk shall be made by mailing a copy of the resolution adopted pursuant to section 42-3, 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. No. 234)

Sec. 42-8. Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to section 42-3, 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 public utilities commission. (Ord. No. 234)

Sec. 42-9. Responsibility of property owners; removal of overhead facilities by city engineer.

- (a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in section 42-8 and the termination facility on or within the building or structure being served.
- (b) In the event any person owning, operating, leasing, occupying or renting such property does not comply with the provisions of subsection (a) of this section within the time provided for in the resolution enacted pursuant to section 42-3, the city engineer shall post written notice on the property being served, and thirty days thereafter may authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. (Ord. No. 234)

Sec. 42-9.1. City council action alternative to section 42-9.

The city council may, at its discretion, adopt the following procedure in lieu of that given in section 42-9:

- (a) Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in section 42-8 and the termination facility on or within such building or structure being served. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to section 42-3, 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, such 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 such 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, addressed "general delivery, City of Paramount." 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 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 printed on a card not less than eight inches by ten inches in size to be posted in a conspicuous place on such 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 provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited 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 the work; provided, that if such premises are unoccupied and no electric or communication services are being furnished thereto, the 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 city engineer, he 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, to be held not less than ten days thereafter.

A person shall not obstruct, impede or interfere with the city engineer or any representative of the city engineer whenever he is engaged in such work pursuant to this section or in the performance of any necessary act preliminary to or incidental to such work, or authorized or directed pursuant hereto.

VERSION 10/2007

Sec. 42-9.1

Sec. 42-13

- (e) The city engineer shall give written notice of the time for hearing such protests to the owner thereof, in the manner described by this chapter for giving notice to provide the required underground facilities. Such notice shall state the time and place that the council will pass upon the 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 a notice of lien on each of the properties on which the assessment has not been paid. 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, and if not paid when due and payable, shall bear interest at the rate of six percent per annum. (Ord. No. 315)

#### Sec. 42-10. 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 42-3. (Ord. No. 234)

#### Sec. 42-11. Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to section 42-3 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 shall be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. No. 234)

#### Sec. 42-12. Utility lines to be underground.

All utility lines including, but not limited to electric, communication, street lighting and cable television, shall be placed underground. The owner, developer, authorized applicant and utility company, shall make the necessary arrangements for the installation of such facilities to be placed underground when practical and not unreasonable to do so. (Ord. No. 287)

#### Sec. 42-13. Lines included.

This requirement includes, but is not limited to all lines and wires extending to the property from poles located in the street, alley, rights of way or the exterior property lines on property being developed. (Ord. No. 287)

Sec. 42-14. Appurtenant structures may be placed above ground.

Appurtenant structures and incidental equipment related to the utility facilities such as, but not limited to, surface mounted transformers, terminal boxes, meter cabinets and concealed ducts, in an underground system may be placed above ground. (Ord. No. 287)

Sec. 42-15. Modification of requirements.

Upon application of the owner, developer, authorized applicant and utility company, the director of planning may grant a modification by using the same procedure for granting variances by the planning commission, except no notice of public hearing is required and the appeals of the applicants or other aggrieved persons shall be directed to the planning commission; provided that the director of planning may in his discretion require that any application coming before him for such modification be automatically referred to the planning commission for action. Upon application of an owner, developer, authorized applicant or utility company, to the director of planning for consideration of modification of the requirements as set forth in sections 1 and 2 of this ordinance, the planning director may, after investigation and verification of conditions, modify the requirements subject to the following:

- (a) Any municipal facility 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 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 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. No. 287)

Sec. 42-16. Building or occupancy permit issued upon compliance with underground utility ordinance.

No building permit or occupancy permit shall be issued for any new construction and land development unless the applicant's plans comply with the underground utility ordinance or until the applicant has obtained approval for modification of the requirements of the underground utility ordinance. (Ord. No. 287)

(Ord. Nos. 234, 287, 315)