

Chapter 12.48

UNDERGROUND UTILITIES*

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*Prior ordinance history: Ordinance No. 345 N.S. as amended by Ordinance No. 26-78 N.S.

12.48.010 Definitions.

As used in this chapter, the following words shall have the following meanings:

(a) "Commission" means the Public Utilities Commission of the state of California.

(b) "Underground utility district" or "district" means that area in the city within which overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 12.48.030 of this chapter.

(c) "Person" means and includes individuals, firms, corporations, partnerships and their agents and employees.

(d) "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.

(e) "City" means the city of Richmond, California.

(f) "Council" means the city council of the city of Richmond, California.

(g) "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices.

(h) "County" means the county of Contra Costa, California.

(i) "Director of public works" means the director of public works of the city of Richmond or said director's designee.

12.48.020 Public hearing by council.

The council may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of overhead structures within designated areas of the city and the installation underground of wires and facilities for supplying electric, communication or similar or associated service. The city clerk shall notify by mail all affected property owners as shown on the last equalized assessment roll of Contra Costa County and all concerned utilities of the time and place of such hearings at least ten 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 council shall be final and conclusive.

A public hearing shall be unnecessary in the case of a new subdivision which is to become an underground utility district pursuant to the provisions of Section 15.08.620 of the Municipal Code of the city of Richmond.

12.48.030 Council may designate underground utility districts by resolution.

(a) If, after any public hearing the council finds that the public necessity, health, safety or welfare requires the removal of overhead structures and the underground installation of wires and facilities within a designated area, the council shall, by resolution, declare said designated area an underground utility district and order removal and underground installation. The resolution shall include a description of the area comprising the underground utility district and shall fix the time within which 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 removal and underground installation, having due regard for

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the availability of labor, materials and equipment necessary for said removal and for the installation of such underground facilities as may be occasioned thereby.

(b) In the case of a new subdivision, the area shall become an underground utility district upon the filing with the county recorder of the final map or parcel map of said subdivision, pursuant to the provisions of Section 15.08.620 of the Municipal Code of the city of Richmond. Affected property owners must be ready to receive underground service, remove the overhead structures and perform the underground installation prior to obtaining the city's approval of the subdivision improvements.

12.48.040 Unlawful acts.

Whenever the council creates an underground utility district and orders the removal of overhead structures therein as provided in Section 12.48.030 of this chapter, it shall be unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate overhead structures in the district after the date when said overhead structures are required to be removed, except when said overhead structures may be needed to facilitate the performance of the underground work required or as otherwise provided in this chapter.

12.48.050 Exception, emergency or unusual circumstances.

Notwithstanding the provisions of this chapter, overhead structures may be installed and maintained for a period, not to exceed ten days, without authority of the director of public works in order to provide emergency service. The director of public works may grant special permission, on such terms as he may deem appropriate, in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate overhead structures.

12.48.060 Other exceptions.

This chapter and any resolution adopted pursuant to Section 12.48.030 of this chapter shall not apply, unless otherwise provided in such resolution, to the following types of facilities:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the director of public works;

(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 structures have been prohibited, when such wires originate in an area from which overhead structures are not prohibited;

(d) 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 overhead structures used or to be used in conjunction with construction projects.

12.48.070 Notice to property owners and utility companies.

Within ten days after the effective date of a resolution adopted pursuant to Section 12.48.030 of this chapter, the director of public works shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The director of public works 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.

Notification by the director of public works shall be made by mailing a copy of the resolution adopted pursuant to Section 12.48.030 together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll of Contra Costa County and to the affected utilities.

12.48.080 Responsibility of utility companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 12.48.030 of this chapter, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under the applicable rules, regulations and tariffs on file with the commission.

12.48.090 Responsibility of property owners.

(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 12.48.080 of this chapter and the termination facility on or within said building or structure being served. Said construction and service connections shall be done in accordance with applicable rules, regulations and tariffs which the respective utility has 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 12.48.030 of this chapter, the director of public works shall notify, in writing, the person in possession of such premises (hereinafter referred to as "occupant") and the owner thereof that the required underground facilities must be provided within thirty 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. 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.

(c) The notice given by the director of public works to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty days after receipt of such notice, the director of public works may (1) provide such required underground facilities, in which case the cost and expense thereof will be assessed against the owner of the property benefited, and/or (2) order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property benefited.

(d) Within the time specified in the notice, the owner or occupant may request a hearing before the director of public works. Such a request must be in writing and should set forth the reasons why the owner and/or occupant should be granted an extension of time in order to comply with the notice requirements.

(e) The director of public works shall conduct a hearing. Based upon what transpires at the hearing, the director of public works shall determine whether or not a time extension shall be granted.

(f) If the director of public works determines that a time extension should be granted to allow the owner and/or occupant time in which to comply with the notice requirements, the director of public works shall so notify, in writing, the owner and/or occupant and specify the time within which the previous notice requirements must be met.

(g) If upon the expiration of the thirty-day period specified in the original notice or the time period specified in the notice sent after the hearing, the required underground facilities have not been provided, then the director of public works may forthwith proceed to do the work; provided, however, that if such premises are unoccupied and no electric or communication services are being furnished thereto, the director of public works 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 said property. Upon completion of the work by the director of public works, 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.

(h) After the protest hearing date has been scheduled by the council, the director of public works shall notify, in writing, the premises' owner of the time and place that the council will hear protests against the assessment. Such notice shall be given ten days in advance of the protest hearing and shall set forth the amount of the proposed assessment.

(i) Upon the date and hour set for the hearing of protests, the council shall hear and consider

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the report and all protests. Based upon the merits of the protests, the council may make such revision, correction or modifications in the report as it may deem just, after which, by resolution, the report as submitted or as revised, corrected or modified shall be confirmed.

(j) The cost of providing the required underground facilities may be assessed by the council against the owner of the parcel of property benefited and such cost so assessed, if not paid within five days after its confirmation by the council, shall constitute a special assessment against the owner of the parcel of property and shall be placed on the property tax assessment rolls maintained by the Contra Costa County auditor.

12.48.100 Responsibility of city.

City shall remove at its own expense all city-owned equipment from all overhead structures required to be removed under this chapter in ample time to enable the owner or user of such

overhead structures to remove the same within the time specified in the resolution enacted pursuant to Section 12.48.030 of this chapter.

12.48.110 Extension of time.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 12.48.030 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 limitations.

12.48.120 Penalty.

It shall be unlawful for any person to violate any provision of this chapter. Any person failing to comply with any of this chapter's provisions shall be deemed guilty of a misdemeanor. (Source: Ordinance No. 10-83 N.S.)