

Chapter 15.28

UNDERGROUND UTILITY DISTRICT

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15.28.010 Definitions. Whenever in this chapter the words or phrases hereinafter in this section defined 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) "Underground utility district" or "district" means that area in the town 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 15.28.030 of this chapter;
- (c) "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees;
- (d) "Poles, overhead wires and associated overhead structures" mean 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) "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices. (Ord. 282 §1 (part), 1968).

15.28.020 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 poles, overhead wires and associated overhead structures within designated areas of the town and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The town 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. (Ord. 282 §1(part), 1968).

15.28.030 Council may designate underground utility districts by resolution. 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. (Ord. 282 §1(part), 1968).

15.28.040 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 15.28.030 hereof, 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 the 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 15.28.090 hereof, 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. 282 §1(part), 1968).

15.28.050 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 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. 282 §1(part), 1968).

15.28.060 Other exceptions. This chapter and any resolution adopted pursuant to Section 15.28.030 hereof 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 town 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; Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 282 §1(part), 1968).

15.28.070 Notice to property owners and utility companies. Within ten days after the effective date of a resolution adopted pursuant to Section 15.28.030 hereof, the town clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The town 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.

Notification by the town clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 15.28.030, 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. 282 §1(part), 1968).

15.28.080 Responsibility of utility companies. If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 15.28.030 hereof, 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. 282 §1(part), 1968).

15.28.090 Responsibility of property owners. (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 15.28.080 and the termination facility on or within the building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the 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 15.28.030 hereof, the town 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 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, Town of Ross. 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 forty-eight hours after the mailing thereof. If notice is given by mail to either the owner or occupant of the premises, the town 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 town 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 the notice, the town 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 the property.

(d) If upon the expiration of the thirty day period, the required underground facilities have not been provided, the town engineer shall forthwith proceed to do the work; provided, however, if the premises are unoccupied and no electric or communications services are being furnished thereto, the town 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 town engineer, he shall file a written report with the town 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 the work upon the premises, which time shall not be less than ten days thereafter.

(e) The town 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, of the time and place that the council will pass upon such report and will hear protests against the 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 town engineer, and the town 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 of six percent per year. (Ord. 282 §1(part) 1968).

15.28.100 Responsibility to town. Town shall remove at its own expense all town-owned equipment from all poles required to be removed hereunder 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 15.28.030. (Ord. 282 §1(part), 1968).

15.28.110 Extension of time. In the event that any act required by this chapter or by a resolution adopted pursuant to Section 15.28.030 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 such act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. 282 §1(part), 1968).

15.28.120 Underground facilities not in underground district. All building and electrical permits issued for the construction of new homes, buildings or structures shall be issued on condition that all electric, communication and television service laterals to the entire parcel of

property shall be placed underground on the premises to be served, in accordance with applicable rules, regulations, and tariffs on file with the California Public Utilities Commission, or with respect to cable television service local regulations. The builder or developer shall provide the director of public works with his plans for utilities including telephone, electrical and gas and cable television services. The builder or developer will also include proof that a contractual agreement exists between the building or developer and the cable television licensee, which is consistent with the provisions of this section. Where compliance with the foregoing requirement is not economically or practicably feasible, the building inspector may permit different arrangements for electric, communication and television service. The property owner shall be responsible for compliance with this section and shall make the necessary arrangements with the public utilities involved. (Amended during July, 1999 supplement; Ord. 373 §13, 1976: Ord. 321 §1, 1972: Ord. 314 §1, 1970).