

CITY OF ALAMEDA ORDINANCE NO. _____

New Series

AMENDING ALAMEDA MUNICIPAL CODE CHAPTER XIX, SECTION
19-4 (UNDERGROUND UTILITY DISTRICTS)

BE IT ORDAINED by the City Council of the City of Alameda that:

Chapter XIX of the Alameda Municipal Code is amended by amending section 19-4:

19-4 UNDERGROUND UTILITY DISTRICTS.

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19-4.1 Definitions.

As used in this section:

Commission shall mean the Public Utilities Commission of the State of California.

Committee shall mean the Technical Advisory Committee which shall consist of representatives of the Public Works Director, the General Manager of Alameda Municipal Power (as chairperson) and the other affected utilities.

Conversion shall mean the removal of existing poles, overhead wires and associated overhead structures and the installation of new underground facilities to serve new or existing customers.

District shall mean 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 subsection 19-4.4 of this section.

Person shall mean any private or governmental entity including individuals, firms, corporations, partnerships, and their agents and employees.

Poles, overhead wires and associated overhead structures shall 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.

Resolution shall mean a resolution adopted by the City Council pursuant to subsection 19-4.4 of this section.

Underground Utility District Policy or UUD Policy shall mean the policy approved and adopted by the City Council by passage of this ordinance.

Utility shall mean all persons supplying electric, communication or similar or associated service by means of electrical materials or devices. For the purposes of this section and without limitation of the definition herein, Alameda Municipal Power, Public Utilities Board of the City of Alameda, shall be a "utility".

(Ord. No. 2212 N.S.)

UUD in Areas of General Public Interest and Benefit shall mean an Underground Utility District in which the City has determined that such undergrounding is in the general public interest and benefit for one or more of the following reasons:

- a. Such undergrounding will avoid or eliminate an unusually heavy concentration of overhead electrical facilities
- b. The street or road right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic
- c. The street or road right-of-way adjoins or passes through a civic area or public recreation area or an area of unusual scenic interest to the general public.

UUD in Areas of General Public Interest, But Primarily of Local Benefit shall mean an Underground Utility District in which the City has determined that such undergrounding is in the general public interest, but primarily of local benefit.

UUD in Areas of Insufficient General or Local Public Benefit shall mean all other underground conversions in which the City has determined lack sufficient general or local public benefit.

19-4.2 Public Hearing and Notification.

At the request of the General Manager for Alameda Municipal Power or on its own initiative, the City Council may call public hearings to consider the creation of new Underground Utility Districts consistent with the UUD Policy. The City Clerk shall notify all utilities concerned, and all affected property owners as shown on the last equalized

assessment roll, by mail of the time and place of such hearing at least fifteen (15) days prior to the date thereof. Each such hearing shall be open to the public and may be continued. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the City Council on all matters involved in the creation of a district shall be final and conclusive.

(Ord. No. 2212 N. S.)

Within fifteen (15) days after the effective date of a resolution, the City Clerk shall so notify all affected utilities and all persons owning real property within the District and shall notify such affected property owners of the necessity that, if they or any person occupying such property desires to continue to receive utility 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 or utilities on file with the Commission. Notification by the City Clerk shall be made by mailing a copy of the resolution, together with a copy of this section, to the affected utilities, and to affected property owners as shown on the last equalized assessment roll.

19-4.3 Reports.

Prior to the City Council's calling such public hearing, the Committee shall submit a report to the City Council containing, among other information, the extent of each utility's participation and estimates of the total costs to the City, to AMP, to the utilities and to each affected property owner within a proposed UUD. Such report shall also contain an estimate of the time required to complete such conversion. In addition, the Committee shall report to the City Council, annually, the progress made towards implementing the Underground Utility District Policy in the preceding year and anticipated activity in the coming year.

(Ord. No. 2212 N.S.)

19-4.4 Resolution.

If, after any such public hearing the Council finds that the public necessity, health, safety or welfare requires such conversion within the designated area, the Council shall, by resolution, declare all or part of such area an Underground Utility District, and order such work. The resolution shall include a description of the area and shall fix a reasonable time within which such conversion shall be accomplished and within which affected property owners must be ready to receive underground service, giving due regard to the availability of necessary labor, materials and equipment.

(Ord. No. 2212 N.S.)

19-4.5 Policy Implementation and Master Plan.

Alameda Municipal Power will serve as the lead City Department for the implementation of the Underground Utility District Policy approved by the City Council.

Alameda Municipal Power shall develop and maintain a Master Plan for implementing the Underground Utility District Policy. The Master Plan provides additional details and procedures for implementing the Policy but does not modify or change the approved Policy. The General Manager of Alameda Municipal Power may from time to time revise or make changes to the Master Plan as necessary for the efficient implementation of the Policy so long as those such changes are consistent with the Policy.

19-4.6 Responsibility of Property Owners.

Cost sharing of the conversion costs shall be in accordance with subsection 19-4.14.

Pursuant to Section 38793 of the Government Code of the State of California, if any property owner, after due notice, refuses to comply within a reasonable time to effect the removal of his existing overhead utility lines and prepare his property to accept underground utility lines, the City may cause such work to be done and assess the costs thereof against the property, and such assessment shall become a lien against the property. The assessment may be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment.

(Ord. No. 2212 N.S.)

19-4.7 Responsibility of Utility Companies.

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. Alameda Municipal Power shall not be required to pay for the removal or undergrounding of other utilities under any rule, regulation or tariff of such utility not agreed to by Alameda Municipal Power. Whenever a rule, regulation or tariff requires a reciprocal rule, regulation or tariff for cost sharing or other equitable participation, this section shall be deemed to furnish it.

(Ord. No. 2212 N.S.)

19-4.8 Responsibility of City.

The City, through Alameda Municipal Power, shall remove at its own expense any City owned equipment or materials in ample time to enable the removal of poles by the responsible utility within the time specified in the resolution.

(Ord. No. 2212 N.S.)

19-4.9 Extension of Time.

In the event that any act required by this section or by a resolution 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. No. 2212 N.S.)

19-4.10 Unlawful Acts.

Whenever the Council adopts a resolution, 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 otherwise provided in this section.

(Ord. No. 2212 N.S.)

19-4.11 Exception. Emergency or Unusual Circumstances.

Notwithstanding the provisions of this section, overhead facilities may be installed to provide emergency service. Further, the General Manager of Alameda Municipal Power may grant special permission, for a period not to exceed twelve (12) months unless approved by the Council, on such terms as the General Manager 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. No. 2212 N.S.)

19-4.12 Other Exceptions.

This section and any resolution adopted pursuant to subsection 19-4.4 shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- a. 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.
- b. 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 (34,500) volts.
- c. Overhead wires attached to the exterior 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.

- d. Antennas, associated equipment and supporting structures.
- e. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, concealed ducts, and electrolier standards.
- f. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.
- g. Lighted signs or marquees encroaching within public streets or public utilities easements, existing under proper legal authority, provided the electrical service does not require overhead wires.
- h. Poles and overhead wires and associated overhead structures used exclusively for fire alarm boxes, or any similar municipal equipment installed under the supervision and to the satisfaction of the City Engineer or to poles and overhead wires and associated overhead structures used exclusively for street lighting furnished by a duly constituted public agency authorized to provide such street lighting within the City.

(Ord. No. 2212 N.S.)

19-4.13 Penalty.

Any person violating any provision or failing to comply with any of the requirements of this section shall be deemed guilty of a misdemeanor. Each such person shall be deemed guilty of a separate offense for each day during any portion of which any violation of any of the provisions of this section is committed, continued or permitted by such person, and shall be punishable as provided for in this section.

(Ord. No. 2212 N.S.)

19-4.14 Financial Obligations.

- a. For UUDs in Areas of General Public Interest and Benefit, the City, through Alameda Municipal Power, will convert all electrical distribution and service facilities from overhead to underground, install trench and substructures, make all landscaping and road surface repairs and convert the customer's electrical service to accept underground service, at its own expense within the limits defined below:
 - 1. The installation is the most direct route from the point of service to the meter location unless otherwise agreed to in writing by AMP. Excess installation not agreed to by AMP will be at customer's expense.
 - 2. The conversion of electric service panel to accept underground service at the existing main breaker size is limited to the cost of panel conversion

established by the UUD Program Master Plan prior to the district conversion. Excess panel conversion costs will be borne by the customer.

- b. For UUDs in Areas of General Public Interest and Benefit, telecommunication utilities will convert their overhead facilities to underground at their own expense when and to the extent that the electric utility companies convert their facilities upon request of the governing body within the limits below:
 - 1. Not to exceed 100 feet of service lateral. Excess costs will be borne by the customer.
- c. UUDs in Areas of General Public Interest but Primarily of Local Benefit, will be initiated when requested by a group of applicants or an authorized representative of a group of applicants and will be funded by the applicant or group of applicants.

This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Presiding Officer of the City Council

Attest:

Lara Weisiger, City Clerk

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I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the ____ day of _____, 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this ____ day of _____, 2015.

Lara Weisiger, City Clerk
City of Alameda

APPROVED AS TO FORM

Janet C. Kern
City Attorney