

ORDINANCE NO. 19-0017

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING CHAPTER 7.28 "UNDERGROUNDING OF PUBLIC
UTILITY FACILITIES" OF THE MANHATTAN BEACH MUNICIPAL
CODE TO REVISE THE PROCESS FOR PROVIDING AFFECTED
PERSONS WITH NOTICE REGARDING THE DESIGNATION OF AN
UNDERGROUND UTILITY DISTRICT

**THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH DOES HEREBY
ORDAIN AS FOLLOWS:**

SECTION 1. The City Council hereby amends Section 7.28.010 of Chapter 7.28 of the
Municipal Code to read as follows:

"7.28.010 - 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" shall mean the Public Utilities Commission of the State of California.
- B. "Underground Utility District" or "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 Section 7.28.040 of this chapter.
- C. "City Engineer" shall mean the City Engineer or his or her designee.
- D. "Person" shall mean and include individuals, firms, corporations, partnerships, and
their agents and employees.
- E. "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 aboveground within a District and used
or useful in supplying electric, communication, or similar or associated service.
- F. "Utility" shall include all persons or entities supplying electric, communication, or
similar or associated service by means of electrical materials or devices.

SECTION 2. The City Council hereby amends Section 7.28.020 of Chapter 7.28 of
the Municipal Code to read as follows:

7.28.020 - 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 City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The City Engineer 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 (10) 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 Council will be final and conclusive.

SECTION 3. The City Council hereby amends Section 7.28.080 of Chapter 7.28 of the Municipal Code to read as follows:

7.28.080 - Notice to property owners and utility companies.

Within ten (10) days after the effective date of a resolution adopted pursuant to Section 7.28.040 hereof, the City Engineer shall notify all affected utilities and all persons owning real property within the District created by said resolution of the adoption thereof. The City Engineer 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 or utilities on file with the Commission.

Notification by the City Engineer shall be made by a mailing to the affected utilities and affected property owners, as such are shown on the last equalized assessment roll, stating that the resolution was adopted by the City Council pursuant to Section 7.28.040 hereof, and providing instructions on how to access the text of the resolution and this chapter online.

SECTION 4. The City Council hereby amends paragraph D of Section 7.28.100 of Chapter 7.28 of the Municipal Code to read as follows:

“D. If, upon the expiration of the thirty (30) day period, the said required underground facilities have not been provided, the City Engineer shall forthwith proceed to do the work; 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 the required underground facilities, have the authority to authorize 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 City Engineer, 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 said time shall not be less than ten (10) days thereafter."

SECTION 5. Internal Consistency. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 6. Severability. If any section, subsection, sentence, clause, phrase, or word of this Ordinance is, for any reason, deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, or preempted by legislative enactment, such decision or legislation shall not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Manhattan Beach hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or word thereof, regardless of the fact that any one or more sections, subsections, clauses, phrases, or word might subsequently be declared invalid or unconstitutional or preempted by subsequent legislation.

SECTION 4. Effective Date. The City Clerk is directed to certify to the enactment of this Ordinance and to cause this ordinance to be published and/or posted as required by law.

ADOPTED December 3, 2019.

AYES:

NOES:

ABSENT:

ABSTAIN:

NANCY HERSMAN
Mayor

ATTEST:

LIZA TAMURA
City Clerk

APPROVED AS TO FORM



QUINN M. BARROW
City Attorney