



## Legislation Text

---

**File #:** 19-0467, **Version:** 1

---

**TO:**

Honorable Mayor and Members of the City Council

**THROUGH:**

Bruce Moe, City Manager

**FROM:**

Stephanie Katsouleas, Public Works Director

**SUBJECT:**

Consider Introducing an Ordinance Amending Manhattan Beach Municipal Code Chapter 7.28 - Undergrounding of Public Utility Facilities to Modify Required Notification of the Council's Designation of Undergrounding Districts and to Update Certain Procedural Requirements (Public Works Director Katsouleas).

**INTRODUCE ORDINANCE NO. 19-0017**

---

**RECOMMENDATION:**

Staff recommends that City Council introduce Ordinance No. 19-0017 amending Manhattan Beach Municipal Code (MBMC) Chapter 7.28 - Undergrounding of Public Utility Facilities.

**FISCAL IMPLICATIONS:**

Should City Council approve the proposed amendments to MBMC Chapter 7.28, the City, and ultimately residents, will save approximately \$200-\$400 plus up to 10 hours of staff time for each Underground Utility Assessment District (UUAD or District) formed following a Proposition 218 ballot protest procedure.

**BACKGROUND:**

Manhattan Beach Municipal Code, Chapter 7.28, specifies the criteria and guidelines for UUAD formation, including the responsibilities of the City, utility companies and property owners. Among other things, the City is responsible for administering the overall district formation process, including completing an Assessment Engineer's report and conducting a Proposition 218 protest procedure for all property owners in a proposed district. If a district passes and is approved by City Council, then the utility companies (electric and telecommunication) are responsible for providing the conduits, conductors, wires, and associated equipment necessary to complete construction and energizing of the underground system. Property owners are responsible for ensuring that their homes are "underground ready" by installing conduits from their electrical and telecom service panels to the underground system stub-outs in the public right-of-way. Once all three entities have completed their individual responsibilities and the utilities have energized their complete systems, then the overhead wires can ultimately be removed.

**DISCUSSION:**

Per MBMC Section 7.28.080, within ten days after City Council conducts a public hearing to count all Proposition 218 protest ballots and adopts a resolution officially forming a district, the City Clerk's office is required to "notify all affected utilities and all persons owning real property within the District created by said resolution of the adoption thereof." More specifically, Section 7.28.080 requires that a complete copy of the adopted resolution and the entire MBMC Chapter 7.28 be mailed to each property owner in the approved District. Combined, these two documents are eight pages in length. Together with the cover letter sent by the City notifying property owners of the formation of the district, there is a total of five double-sided pages mailed to each parcel. The extra weight of this mailing roughly doubles the stamp cost. It also significantly increases the staff time needed to prepare the materials because the automated machine used for preparing this mailing cannot accept five pages per envelope, and thus they must be manually prepared by staff.

Staff proposes that a few key changes be made to MBMC 7.28, several of which are procedural in nature, as follows:

1. In Section 7.28.010, add "City Engineer" to the definitions section to read as follows: "City Engineer" shall mean the City Engineer and his or her designee.
2. In Section 7.28.020, change the reference from City Clerk to City Engineer.
3. In Section 7.28.080, change the reference from City Clerk to City Engineer as to who most notifies the public.
4. In Section 7.28.080, amend the code to simply require that notification of the adoption of the resolution be provided to homeowners in lieu of mailing a hard copy of the resolution itself, along with a reference to this chapter. The revised notification would provide: 1) a web address to the City's UUAD page where the resolution and a copy of this chapter could be easily downloaded and saved electronically; and 2) instructions on how to obtain a hard copy should the property owner wish to have the documents mailed instead. This approach is more efficient, less wasteful of paper and staff time, less expensive, and provides property owners the ability to retrieve and save a permanent digital copy, which is likely easier for them to keep and reference at a later date.
5. In Section 7.28.100 (D), amend the Code to change the City Engineer reference from "he" to simply City Engineer.

It is worth noting that this approach is not uncommon and is used by several other cities that provide resident-driven UUAD programs, as confirmed by the City's Bond Counsel. Should City Council approve the proposed modifications to MBMC 7.28, a second reading will be included on the December 3, 2019, agenda. The code change would take effect on January 3, 2020, which is before the January 7, 2020, City Council meeting where staff anticipates that a Public Hearing will be conducted to count Proposition 218 protest ballots for UUAD 4.

When construction nears completion and residents begin preparing their properties for underground utility services, they will again receive information about the requirements of MBMC 7.28, as well as additional information about how to get ready for the upcoming overhead to underground utility conversion. As was the case in the mid-2000s, City staff will provide a wealth of information and resources and help to property owners when it is time to begin connecting to the underground system.

#### **PUBLIC OUTREACH:**

After analysis, staff determined that public outreach was not required for this issue.

**ENVIRONMENTAL REVIEW:**

The City has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines the activity is not subject to CEQA. Thus, no environmental review is necessary.

**LEGAL REVIEW:**

The City Attorney has approved the ordinance as to form.

**ATTACHMENTS:**

1. Proposed Ordinance No. 19-0017
2. Legislative Digest: Manhattan Beach Municipal Code Proposed Amendments (redlined)