

CHAPTER 12.36. - UNDERGROUND UTILITY DISTRICTS^[4]

Sec. 12.36.010. - Definitions.

Whenever in this chapter the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions, unless the context or subject matter otherwise requires:

Clerk means the Clerk of the Board of Supervisors.

Commission means the Public Utilities Commission of the State.

Director means the County Director of Transportation.

Poles, overhead wires and associated 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.

Underground utility district or district means that unincorporated area in the County within which poles, overhead wires and associated overhead structures are prohibited as the area is described in a resolution pursuant to the provisions of Section 12.36.030.

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

(Prior Code, § 31101; Code 1997, § 12.36.010; Ord. No. 3766, § 52, 1987; Ord. No. 5051, § 2, 4-18-2017)

Sec. 12.36.020. - Petition hearing.

- A. Upon petition of persons owning at least 51 percent of the assessed valuation of property in an unincorporated area, the Board shall 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 the designated area of the unincorporated area of the County and the underground installation of wires and facilities for supplying electric, communication or similar or associated service. The 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 the hearings at least ten days prior to the date thereof. The hearings 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 Board shall be final and conclusive.
- B. Report by Director. Prior to holding the public hearing, the Director shall consult all affected

utilities and shall prepare a report for submission at the hearing containing, among other information, the extent of the utilities' participation and estimates of the total costs to the County and affected property owners. The report shall also contain an estimate of the time required to complete the underground installation and removal of overhead facilities.

(Prior Code, § 31102; Code 1997, § 12.36.020)

Sec. 12.36.030. - Designation.

If, after any such public hearing, the Board finds that the public necessity, health, safety or welfare requires the removal and the underground installation within a designated area, the Board shall, by resolution, declare the designated area an underground utility district and order the removal and underground installation. The resolution shall include a description of the area comprising the district and shall fix the time within which the 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 the removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for the removal and for the installation of the underground facilities as may be occasioned thereby.

(Prior Code, § 31103; Code 1997, § 12.36.030)

Sec. 12.36.040. - Violation prohibited.

Whenever the Board creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein, as provided in Section 12.36.030, it is 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 the resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by the owner or occupant of the underground work necessary for the owner or occupant to continue to receive utility service as provided in Section 12.36.090, and for such reasonable time required to remove the facilities after the work has been performed and except as otherwise provided in this chapter.

(Prior Code, § 31104; Code 1997, § 12.36.040)

Sec. 12.36.050. - Exception—Emergency.

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period not to exceed 30 days without authority of the Board in order to provide emergency service. The Board may grant special permission on such terms as the Board 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.

(Prior Code, § 31105; Code 1997, § 12.36.050)

Sec. 12.36.060. - Same—Designated facilities.

This chapter and any resolution adopted pursuant to Section 12.36.030 shall, unless otherwise provided in the resolution, not apply to the following types of facilities:

- A. County facilities or equipment installed under the supervision and to the satisfaction of the Director;
- 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 within which overhead wires have been prohibited or connecting to buildings on the perimeter of a district when the 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 34,500 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 poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.

(Prior Code, § 31106; Code 1997, § 12.36.060)

Sec. 12.36.070. - Notice of establishment.

- A. Within ten days after the effective date of a resolution adopted pursuant to Section 12.36.030, the Clerk shall notify all affected utilities and all persons owning real property within the district created by the resolution of the adoption thereof. The Clerk shall further notify the affected property owners of the necessity that if they or any person occupying the property desires to continue to receive electric, communication or similar or associated services, they or the occupant shall provide all necessary facility changes on their premises

so as to receive the 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.

- B. Notification by the Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 12.36.030 together with a copy of the ordinance from which this chapter is derived to affected property owners as they are shown on the last equalized assessment roll and to the affected utilities.

(Prior Code, § 31107; Code 1997, § 12.36.070)

Sec. 12.36.080. - Utility company responsibility.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 12.36.030, 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.

(Prior Code, § 31108; Code 1997, § 12.36.080)

Sec. 12.36.090. - Property owner responsibility.

- A. *Duty to provide service connection.* 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 or her property between the facilities referred to in Section 12.36.080 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 respective 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 12.36.030, the Director shall give notice in writing to the person in possession of the 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 the notice.
- B. *Service of notice.* 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 the 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 the premises at the 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. 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 48 hours after the mailing thereof. If notice is

given by mail to either the owner or occupant of the premises, the Director shall, within 48 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. *Contents of notice.* The notice given by the Director 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 30 days after receipt of the notice the Director will provide the required underground facilities, in which case the cost and expense thereof will be assessed against the property benefitted and become a lien on the property.
- D. *Disconnection, construction, assessment.* If upon the expiration of the 30-day period the required underground facilities have not been provided, the Director shall forthwith proceed to do the work; provided, however, if the premises are unoccupied and no electric or communication services are being furnished thereto, the Director may, in lieu of providing the required underground facilities, authorize 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 Director, he or she shall file a written report with the Board 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 the cost is to be assessed. The Board 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. *Notice of protest hearing.* The Director shall forthwith, upon the time for hearing the protests having been fixed, give a notice in writing to the person in possession of the premises, and a notice in writing thereof to the owner thereof, in the manner provided in this section for the giving of the notice to provide the required underground facilities, of the time and place that the Board will pass upon the report and will hear protests against the assessment. The notice shall also set forth the amount of the proposed assessment.
- F. *Protest hearing.* Upon the date and hour set for the hearing of protests, the Board shall hear and consider the report and all protests, if there are any, and then proceed to affirm, modify or reject the assessment.
- G. *Lien upon property.* If any assessment is not paid within five days after its confirmation by the Board, the amount of the assessment shall become a lien upon the property against which the assessment is made by the Director, and the Director is directed to turn over to the Assessor and the 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.

(Prior Code, § 31109; Code 1997, § 12.36.090)

Sec. 12.36.100. - County responsibility.

The County shall remove at its own expense all County-owned equipment from all poles required to be removed under this chapter in ample time to enable the owner or user of the poles to remove them within the time specified in the resolution enacted pursuant to Section 12.36.030.

(Prior Code, § 31110; Code 1997, § 12.36.100)

Sec. 12.36.110. - Time extension.

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 12.36.030 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 the act will be accomplished shall be extended for a period equivalent to the time of the limitation.

(Prior Code, § 31111; Code 1997, § 12.36.110)

Sec. 12.36.120. - Penalty for violation.

It is unlawful for any person to violate any provision or to fail to comply with any of the requirements of this chapter. Any person violating any provision of this chapter or failing to comply with any of its requirements shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished according to the general penalties described in Chapter 1.24. 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 chapter is committed, continued or permitted by the person, and shall be punishable therefor as provided in this section.

(Prior Code, § 31112; Code 1997, § 12.36.120)