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General Provisions

- 7-301 Definitions.

In this chapter, unless the context otherwise requires:

- (a) "Facility" means poles, towers, supports, wires, conductors, guys, stubs, platforms, cross arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances and all other attachments and appurtenances used or useful in supplying electric, communication or similar or associated service.
- (b) "Person" means and includes an individual, firm, corporation and partnership, and includes utility.
- (c) "Service" means and includes, but is not limited to, the product of an electrical transmission device, such as electrical energy, television and telephone communications, through continuous conductive material.
- (d) "Underground utility zone" means an area in the city within which all facilities are required to be installed underground.
- (e) "Utility" means a person supplying electric, communication or similar or associated service by means of electrical materials or devices.

(Ord. 18 § 1 (part), 1968)

- 7-302 Facilities excluded from application of this chapter.

This chapter and a resolution adopted under Section 7-325 does not apply to the following kind of facility:

- (a) A facility used exclusively for a police and fire alarm box or similar municipal equipment;
- (b) An overhead wire attached to the exterior surface of a building and extending from one location on the building to another location on the same building;
- (c) A radio antenna and its associated equipment and supporting structure used for furnishing communication service;
- (d) Equipment appurtenant to underground facilities, such as a surface-mounted transformer (except as otherwise required in accordance with Section 7-362), a pedestal mounted terminal box and meter cabinet, and a concealed duct;
- (e) An overhead wire (exclusive of supporting structures) crossing any portion of an underground utility zone or connecting to buildings on the perimeter of such portion, when the wire originates in an area from which overhead facilities are not prohibited;
- (f) A pole or electrolier used exclusively for street lighting;
- (g) A facility used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
- (h) A facility used or to be used in conjunction with construction projects;

- (i) Overhead facilities installed and maintained for a period not exceeding ten days to provide emergency service, unless the time is extended by the council upon terms and conditions it determines.

(Ord. 18 § 1 (part), 1968)

7-303 City may grant waiver of underground requirements.

The council may waive the requirements that facilities be located underground under these circumstances:

- (a) In an industrial subdivision after recommendation by the planning commission, when the council finds that a waiver is necessary or desirable to obtain the objectives of health, safety and general welfare and is in the public interest;
- (b) Upon application by a person and a showing to the satisfaction of the city that (a) installation underground involves a threat or danger to persons or property and cannot be accomplished feasibly within applicable safety regulations or (b) installation underground involves an unnecessary or unusual hardship.

(Ord. 18 § 1 (part), 1968)

7-304 Procedure for requesting waiver.

A person who desires a waiver shall file an application with the city on a form prescribed by it. The application shall set forth reasons why the exception should be granted. The city may require the applicant to provide supporting information, including reports relating to technical and economic aspects of construction and development prepared by a qualified person. (Ord. 18 § 1 (part), 1968)

7-305 City may impose conditions to the waiver of requirements.

In granting a waiver of underground requirements under Section 7-303, the council may impose such conditions as it considers necessary or desirable in the public interest. (Ord. 18 § 1 (part), 1968)

Article 2. Requirements for Underground Construction

7-311 New residential subdivisions.

The requirements for underground utilities in new residential subdivisions are set forth in Section 8475 of the County Ordinance Code as adopted by the city. (Ord. 18 § 1 (part), 1968)

7-312 Developments other than new subdivisions.

The city council shall fix the requirements for construction of, or conversion to, underground facilities by the creation of underground utility zones as provided in Sections 7-321 through 7-331. (Ord. 18 § 1 (part), 1968)

7-313 New extensions of utility facilities.

New extensions of existing utility distribution facilities (including, but not limited to, electric, communication, and cable television lines), constructed or installed in the city after January 1, 1973 shall be placed underground. (Ord. 96 § 1, 1972)

- 7-314 Under grounding of utility services to buildings.
- (a) New Buildings. Electric and communication service wires and cables to a new building or structure shall be placed underground unless special permission to construct the facilities above ground is granted, as provided in Section 7-303.
 - (b) Remodeled Buildings. Except in the single-family residential and agricultural land use districts, electric and communication service wires and cables to a building or structure being remodeled (when remodeling requires the relocation or replacement of the property owners main service equipment or when the actual cost of the remodeling exceeds 50 percent of the assessed value of the existing improvements on the property) shall be placed underground unless special permission to construct the facilities above ground is granted, as provided in Section 7-303.

(Ord. 96 § 2, 1972)

- 7-315 Responsibility for compliance.
- It is the responsibility of the applicant for electric, communication or similar or associated service to make the necessary arrangements with the utility company involved for the underground installation of wires and facilities required for the new extension or service pursuant to Sections 7-313 and 7-314. The arrangements shall be in accordance with applicable rules, regulations and tariffs of the utility on file with the California Public Utilities Commission. (Ord. 96 § 3, 1972)

- 7-316 Special exceptions for existing facilities.
- Nothing in Sections 7-313, 7-314 or 7-315 shall prohibit (a) the maintenance and operation of existing overhead facilities, (b) the installation of additional overhead service lines to buildings or structures already served by at least one overhead utility service, and (c) the connection of underground service lines to existing overhead utility distribution equipment. A utility may interset additional poles or other supporting structures or increase the height of existing poles or other supporting structures if such work takes place within the existing easements and locational confines of existing overhead utility facilities; and may continue to maintain, repair, replace and reinforce any facility or structure in order to maintain the integrity of any facility or structure existing on or before December 31, 1972. (Ord. 96 § 4, 1972)

Underground Utility Zones

- 7-321 Declaration of purpose.
- It is the purpose of Sections 7-321 through 7-331 to provide for the orderly removal of existing overhead facilities and the construction of new underground facilities by providing a procedure by which the council may create an underground utility zone upon finding that the public necessity, health, safety or welfare requires it. (Ord. 18 § 1 (part), 1968)

- 7-322 Initiation of proceedings to form underground utility zone.
- (a) The council may initiate proceedings to determine whether the public necessity, health, safety or welfare requires the creation of an underground utility zone for the purpose of requiring existing overhead distribution facilities to be replaced with underground distribution facilities along public streets, roads and ways. The council shall consult with each affected utility to determine whether or not undergrounding of utilities is in the general public interest for reasons of public necessity, health, safety or welfare.
 - (b) Proceedings are initiated when the council adopts a resolution calling a public hearing to determine whether or not to create an underground utility zone. The resolution shall generally describe the boundaries of the area proposed to be included in the underground utility zone.

(Ord. 18 § 1 (part), 1968)

- 7-323 Notice of hearing.

When the council determines to hold a public hearing, the city shall notify property owners and utilities in the proposed area by mailing notice of the time and place of hearing. The notice shall be mailed at least ten days before the date of the hearing and shall be addressed to the owner, postage prepaid, as shown on the last equalized assessment roll or as known to the city. (Ord. 18 § 1 (part), 1968)

7-324 Hearing.

The hearing is open to the public and the council may continue it from time to time. At the hearing all persons interested shall be given an opportunity to be heard. (Ord. 18 § 1 (part), 1968)

7-325 Resolution ordering removal of overhead structures and underground installation.

(a) At the close of the public hearing, the council shall determine whether or not the public necessity, health, safety or welfare require underground installation.

(b) The decision of the council is final. If the council finds that facilities should be installed underground, the council shall adopt a resolution declaring the formation of the underground utility zone and ordering the installation of existing overhead distribution facilities underground. The resolution shall describe the area of the underground utility zone and fix a reasonable time within which the work must be done.

(Ord. 18 § 1 (part), 1968)

7-326 Allocation of responsibility for work between utility and property owner.

(a) Utility Responsibility. The utility shall furnish and pay the costs of providing that portion of the underground facilities required to be furnished by it under its rules, regulations and tariffs on file with the Public Utilities Commission of the state of California.

(b) Property Owner's Responsibility. The property owner is responsible for providing that portion of the service connection on his property between the facilities referred to in subsection (a) and the termination facility on or within the structure being served, in accordance with applicable rules, regulations and tariffs of the utility on file with the Public Utilities Commission of the state of California.

(Ord. 18 § 1 (part), 1968)

7-327 Responsibility of government agencies.

The city and each federal, state and local governmental agency and district is responsible for the removal of its police and fire alarm circuits or other equipment at its own expense from the facilities required to be removed. The responsible agency shall complete this work in sufficient time to enable each utility and property owner to remove the facilities for which they are responsible within the time specified in the resolution ordering removal. (Ord. 18 § 1 (part), 1968)

7-328 City to give notice of creation of underground utility zone to property owner and utility.

Within 30 days after adoption of the resolution creating the underground utility zone and ordering removal, the city shall give notice to each utility affected and each property owner within the area designated in the resolution. (Ord. 18 § 1 (part), 1968)

7-329 Form of notice.

The notice shall:

- (a) State that the council has adopted the resolution creating the underground utility zone;
- (b) Describe the area within the underground utility zone;
- (c) Advise each property owner of the necessity that if he or the person occupying the property desires to continue to receive service, he or the occupant shall provide all necessary facility changes on the premises to receive service;
- (d) State the time within which the work must be completed.

(Ord. 18 § 1 (part), 1968)

7-330 Time and manner of giving notice.

The city shall have a copy of the notice and resolution creating the underground utility zone and ordering removal mailed to each affected utility and to each property owner as known to the city or as shown on the last equalized assessment roll, postage prepaid. (Ord. 18 § 1 (part), 1968)

7-331 Duty to install facilities underground.

Each property owner and each utility shall comply with the resolution order and install the facilities for which he is responsible within the time prescribed in the resolution. (Ord. 18 § 1 (part), 1968)

Alternate Procedure for Conversion

7-341 Failure of person other than utility to comply with conversion order.

If a person other than a utility does not install the facilities for which he is responsible as directed or within the time prescribed, the city may do the work and assess the cost against the property in the manner prescribed in Sections 7-342 through 7-354. (Ord. 18 § 1 (part), 1968)

7-342 Survey of property owners who have failed to convert.

When the time for completing the conversion to underground expires, the city shall make an engineering study and prepare a list of each property owner who has not installed underground the facilities necessary to receive service from the utilities. (Ord. 18 § 1 (part), 1968)

7-343 Report to council and resolution.

The list and report prepared under Section 7-342 shall be filed with the council. The council may adopt a resolution directing the institution of proceedings under Sections 7-342 through 7-354. (Ord. 18 § 1 (part), 1968)

7-344

Notice to property owners.

The city shall have a notice prepared in substantially the following form:

NOTICE TO INSTALL FACILITIES UNDERGROUND

NOTICE is given to:

(name) (address)

that on _____, 19____, the City Council of the City of Lafayette adopted a resolution creating an Underground Utility Zone and declaring that facilities shall be installed underground and directing that the work be completed no later than _____ Thereafter, the Council did on _____, adopt a resolution directing that proceedings be instituted under Sections 7-342 — 7-354 of the Municipal Code by which the City would do the work and assess the cost against the land and that the cost would be a lien upon the property until paid. Reference is made to these resolutions for further particulars.

The City has made an estimate of the cost of doing the work based upon an average installation. The estimated cost is \$ _____ however, this is an estimate only and no detailed study has been made of the cost for your particular property.

Each property owner having an objection to the proposed estimate of cost for installation of underground facilities is notified to attend the meeting of the City Council to be held on _____ when their objections to this cost estimate will be heard and given due consideration.

(Date)

(Title)

(Ord. 18 § 1 (part), 1968)

7-345

Publication, posting and mailing of notice.

(a) The city shall have a copy of the notice posted conspicuously in front of or on the property affected in any manner most likely to give actual notice to the property owner. The city shall also have the notice published once in a newspaper of general circulation circulated in the city and mailed to the property owner at his last known address or as shown on the last equalized assessment roll.

(b) The posting, publication and mailing shall be complete at least ten days before the day set for the hearing.

(Ord. 18 § 1 (part), 1968)

7-346

Hearing and action of council.

At the time set for hearing, the council shall hear all objections and may continue the hearing from time to time. Upon the conclusion of the hearing the council shall allow or overrule each or any of the objections, after which it may order the work performed. (Ord. 18 § 1 (part), 1968)

7-347

Method of doing the work.

The city may do the work with its own forces or may let a contract for the work. (Ord. 18 § 1 (part), 1968)

7-348 Authority to enter property and do the work.
The city and each authorized agent or employee of city may enter upon the private property for the purpose of performing the work of installing underground facilities required by resolution of the council. (Ord. 18 § 1 (part), 1968)

7-349 Itemized report of cost.
(a) The public works director shall file an engineer's report showing the costs of doing the work on each separate parcel within 30 days after the work is completed.
(b) Before submitting the report to the council, the council shall give notice of the time and place when it will consider the report and hear protests in the manner provided in Section 7-345 for the giving of notice to install facilities underground.
(Ord. 18 § 1 (part), 1968)

7-350 Hearing on report.
At the time fixed for considering the report, the council shall hear objections of each property owner liable for the cost of the work. The council may make such modifications as it considers necessary. Following the hearing, the council shall confirm the report. (Ord. 18 § 1 (part), 1968)

7-351 Special assessment and lien.
If the amount fixed in the report is not paid within five days after the council confirms it, the amount of the cost for removing the overhead facilities and installing the underground facilities upon each of the parcels of property listed in the report as confirmed is a special assessment against the respective parcel of property and is a lien on the property for the amount of the assessment. (Ord. 18 § 1 (part), 1968)

7-352 Transmittal of report to county assessor.
The city shall send a notice of lien on each property on which the assessment is not paid to the county assessor together with the request that the assessor enter the amounts of the assessment against the parcel of property as it appears on the assessment roll. (Ord. 18 § 1 (part), 1968)

7-353 Inclusion of assessment in tax bill and collection of assessment.
The tax collector shall include the amount of the assessment on the next regular bill for taxes levied against the property. The amount of the assessment shall be collected at the same time and in the same manner as county taxes are collected. The assessment is subject to the same penalty and the same procedure as in case of delinquency as provided for county taxes. (Ord. 18 § 1 (part), 1968)

7-354 Applicability of laws governing levy, collection and enforcement of county taxes.
The laws which govern the levy, collection, enforcement, cancellation and refund of county taxes apply to the special assessment. (Ord. 18 § 1 (part), 1968)

Construction Standards

7-361 General construction standards.
A person who installs facilities underground shall comply with all applicable building and electrical codes, safety regulations and orders and rules of the Public Utility Commission of the state of California. (Ord. 18 § 1 (part), 1968)

7-362 Compliance with encroachment regulation.
A person who installs facilities underground shall comply with the encroachment regulations of the city. (Ord. 18 § 1 (part), 1968)

7-363 Location of transformers.
Each transformer shall be located in the manner so that it harmonizes with the area surrounding it. The transformer shall be properly landscaped in a manner approved by the city. The council may require the transformer to be flush with or below the official sidewalk or curb grade. (Ord. 18 § 1 (part), 1968)

Prohibitions and Penalties

7-371 Maintaining overhead facilities.
A person who maintains overhead facilities in violation of Sections 7-301 through 7-374 is guilty of a misdemeanor and shall be punished as provided in Section 7-374. (Ord. 18 § 1 (part), 1968)

7-372 Construction of overhead facilities in violation of chapter.
A person who constructs, uses, continues to use, or operates overhead facilities, or who neglects to take down and remove them within the time directed by the council, or who otherwise fails to comply with any provision of Sections 7-301 through 7-363, is guilty of a misdemeanor and shall be punished as provided in Section 7-374. (Ord. 18 § 1 (part), 1968)

7-373 Each 15-day period a separate offense.
Each period of 15 days during which a person violates Section 7-371 or Section 7-372 is a separate violation and is a separate offense. (Ord. 18 § 1 (part), 1968)

7-374 Penalty for violation.
A person who violated Section 7-371 or Section 7-372 of this chapter is punishable by a fine of not more than 500 dollars or imprisonment in the county jail for not more than six months, or both. (Ord. 18 § 1 (part), 1968)
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