

TOWN OF SAN ANSELMO  
ORDINANCE NO. 899

An ordinance of the Town of San Anselmo amending ordinance No. 549 and Establishing Regulations and Procedures for the Removal of Overhead Utility Facilities and Installation of Underground Facilities in Underground Utility Districts.

The Town Council of the Town of San Anselmo does Ordain as Follows:

DIVISION 1: Title 7, Chapter 8 of the San Anselmo Municipal Code entitled "Underground Utility Facilities" is hereby repealed and replaced with the following:

CHAPTER 8  
REMOVAL OF OVERHEAD UTILITY FACILITIES  
AND THE INSTALLATION OF UNDERGROUND FACILITIES IN  
UNDERGROUND UTILITY DISTRICTS

- 7-8.01 DEFINITIONS
- 7-8.02 PUBLIC HEARING BY COUNCIL
- 7-8.03 COUNCIL MAY DESIGNATE UNDERGROUND UTILITY DISTRICTS BY RESOLUTION
- 7-8.04 UNLAWFUL ACTS
- 7-8.05 EXCEPTION, EMERGENCY OR UNUSUAL CIRCUMSTANCES
- 7-8.06 OTHER EXCEPTIONS
- 7-8.07 NOTICE TO PROPERTY OWNERS AND UTILITY COMPANY
- 7-8.08 RESPONSIBILITY OF UTILITY COMPANIES
- 7-8.09 RESPONSIBILITY OF PROPERTY OWNERS
- 7-8.10 RESPONSIBILITY OF TOWN
- 7-8.11 EXTENSION OF TIME
- 7-8.12 PENALTIES

Section 7-8.01. 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 Town 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 Section 7-8.03 of this code.

(c) "Person" shall mean and include individuals, firms, corporations, partnerships, and their agents and employees.

(d) "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 similar facilities and appurtenances located above-ground within a District and used or useful in supplying electric, communication or similar or associated service

(e) "Utility" shall include all persons or entities ~~supplying electric, communication or similar or associated service by means of electrical materials or devices.~~

Section 7-8.02 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 Town and the underground installation of wires and facilities for supply electric, communication, or similar or associated service. The Town 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 such hearings at least fifteen (15) calendar 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 the Council shall be final and conclusive.

Section 7-8.03 COUNCIL MAY DESIGNATE UNDERGROUND UTILITY DISTRICTS BY RESOLUTION. If, after any such public hearing the Council finds that the public necessity, health, safety or welfare requires such removal and such underground installation within a designated area, the Council shall, by resolution, declare such designated area an Underground Utility District and order such removal and underground installation. Such resolution shall include a description of the area comprising such district and shall fix the time within which such 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 such removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of such underground facilities as may be occasioned thereby.

Section 7-8.04 UNLAWFUL ACTS. Whenever the Council creates an Underground Utility District and orders the removal of poles, overhead wires and associated overhead structures therein as provided in Section 7-8.03 hereof, 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 said overhead facilities are required to be removed by such resolution, except as said overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Section 7-8.09 hereof, and for such reasonable time required to remove said facilities after said work has been performed, and except as otherwise provided in this ordinance.

Section 7-8.05 EXCEPTION, EMERGENCY OR UNUSUAL CIRCUMSTANCES. Notwithstanding the provisions of this ordinance, overhead facilities may be installed and maintained for a period not to exceed thirty (30) calendar days, without authority of the Council in order to provide emergency service. The Council may grant special permission, on such terms as the Council 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.

Section 7-8.06 OTHER EXCEPTIONS. This ordinance and any resolution adopted pursuant to Section 7-8.03 hereof shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

(a) Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Town Engineer.

(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, when such 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 on the same lot without crossing any public street.

(f) Antenna, 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.

Section 7-8.07 NOTICE TO PROPERTY OWNERS AND UTILITY COMPANIES. Within thirty (30) calendar days after the effective date of a resolution adopted pursuant to Section 7-8.03 hereof, the Town Clerk shall notify all affected utilities and all persons owning real property within the District created by said resolution of the adoption thereof. Said Town Clerk shall further notify such affected property owners of the necessity that, if they or any persons 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 applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission.

Notification by the Town Clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 7-8.03, together with a copy of this chapter, to affected property owners as such are shown on the last equalized assessment roll and to the affected utilities.

Section 7-8.08 RESPONSIBILITY OF UTILITY COMPANIES. If underground construction is necessary to provide utility service within a District created by any resolution adopted pursuant to Section 7-8.03 hereof, 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.

Section 7-8.09 RESPONSIBILITY OF PROPERTY OWNERS.

(a) Every person owning, operating, leasing, occupying or renting a building or structure within a District shall perform construction and provide that portion of the service connection on his property between the facilities referred to in Section 7-8.08 and the termination facility on or within said building or structure being served, all in accordance with applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission.

(b) In the event any person owning, operating, leasing, occupying or renting said property does not comply with the provisions of subparagraph (a) of Section 7-8.09 within the time provided for in the resolution enacted pursuant to Section 7-8.03 hereof, the Town Engineer shall post written notice on the property being served and thirty (30) calendar days thereafter shall have the authority to order the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property.

Section 7-8.10 RESPONSIBILITY OF TOWN. Town shall remove at its own expense all Town-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same

within the time specified in the resolution enacted pursuant to Section 7-8.03 hereof.

Section 7-8.11 EXTENSION OF TIME. In the event that any act required by this chapter or by a resolution adopted pursuant to Section 7-8.03 hereof 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 of the time of such limitation.

Section 7-8.12. PENALTIES. It shall be 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 an infraction or a misdemeanor and upon conviction thereof shall be punished in accordance with the law. 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 such person, and shall be punishable therefor as provided for in this chapter

DIVISION 2. CONSTITUTIONALITY. If any section, sub-section, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The Council hereby declares that it would have adopted the ordinance and each section, sub-section, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, sub-sections, sentences, clauses or phrases be declared invalid.

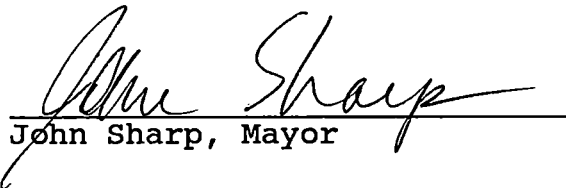
The foregoing Ordinance was introduced at a regular meeting of the San Anselmo Town Council held on May 10, 1988, and was thereafter duly passed and adopted at a regular meeting of the Town Council held on June 14, 1988, by the following vote:

AYES: Colteaux, Walsh, Zaharoff, Sharp

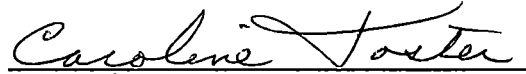
NOES: (None)

ABSTAIN: (None)

ABSENT: Chignell

  
\_\_\_\_\_  
John Sharp, Mayor

ATTEST:

  
\_\_\_\_\_  
Caroline Foster  
TOWN CLERK