

**ORDINANCE NO 2000-12**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON ADDING CHAPTER 12.08 TO THE AMERICAN CANYON MUNICIPAL CODE REGARDING ESTABLISHING AN UNDERGROUND UTILITY DISTRICT**

**WHEREAS**, under the authority provided by Government Code sections 36901 and 53069.4, the City Council desires to adopt and establish an Underground Utility District;

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of American Canyon hereby ordains as follows:

Section 1. Chapter 12.08 of the American Canyon Municipal Code is hereby added to Title 12 of the American Canyon Municipal Code to read as follows:

**CHAPTER 12.08**

Sec. 12.08.010	Definitions
Sec. 12.08.020	Creation of the Highway 29/American Canyon Underground Utility District
Sec. 12.08.030	Prohibitions and Exceptions
Sec. 12.08.040	Responsibility
Sec. 12.08.050	Performance

**Section 12.08.010 Definitions.**

For the purpose of this Chapter certain words and phrases are defined as provided in the following Subsections.

- A. "Commission" shall mean the Public Utilities Commission of the State of California.
- B. "District" or "Underground Utility 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 of Section 12.08.020 of this Chapter.
- 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 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, agencies, and entities, public or private, supplying by means of electrical materials or devices, any electric, communication or similar or associated service, including any such service supplied only to departments or divisions of the supplier.

**Section 12.08.020 Creation of the Highway 29/American Canyon Road Underground Utility District.**

- A. There is created an Underground Utility District, located at the South West corner of state Highway Route 29 and American Canyon Road which includes that area as more particularly described in Exhibit "A" attached to this Ordinance and all adjacent public-rights-of way or interest in real property thereto.

**Section 12.08.030 Prohibitions and Exceptions.**

- A. 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 12.08.020 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 12.08.040B and for such reasonable time required to remove said facilities after said work has been performed and except as other wise provided in this Chapter.
- B. Exceptions. Notwithstanding the provisions of this Chapter, in order to provide emergency service temporary overhead facilities may be installed and maintained for a period not to exceed ninety (90) days. Any person installing such temporary overhead facilities shall, as soon as practicable, notify the Director of Public Works of an such temporary overhead facility to be relocated and so maintained as he may deem necessary to prevent unnecessary interference with vehicular traffic or undue hazard to the public safety.
- C. Other Exceptions. This Chapter shall not apply to the following types of facilities:

1. Any municipal facilities or equipment installed under the supervision and to the satisfaction of the Director of Public Works;
2. Poles, or electroliers used exclusively for street lighting;
3. 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;
4. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts;
5. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location of the building to another location on the same building or to an adjacent building without crossing any public street;
6. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;
7. Equipment appurtenant to under ground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;
8. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction project.

**Section 12.08.040 Responsibility.**

- A. Utility Companies. If underground construction is necessary to provide utility service within a District created by this Ordinance Section 12.08.020 of the supply utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulation and tariffs aon file with the Commission.
- B. Property Owners. 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 property between the facilities referred to in Section 12.08.040A and the termination facility on or within

said building or structure being served. If the above is not accomplished by any person within a reasonable time pursuant to the above, the Director of Public Works shall give notice in writing to the person in possession of such 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 thirty (30) days after receipt of such notice, all in accordance with the application rules, regulation and tariffs of the respective utilities on file with the Commission."

- C. City. City shall remove at its own expense all City-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 a reasonable time.

#### **Section 12.08.050 Performance**

- A. Notice. The notice to provide the required underground facilities may be given either by personal service or by mail. In the case of service by mail on either of such 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 such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last know address as the same appears on the last equalized assessment roll, and when no address appears, to General Delivery, City of American Canyon. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight (48) hours after the mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the Director of Public Works shall within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight (8) inches by ten (10) inches in size, to be posted in a conspicuous place on said premises.
- B. Notice; Content. The notice given by the Director of Public Works to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the Director of Public Works will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property.
- C. Performance By City. If upon the expiration of the thirty (30) day period, the said required underground facilities have not been provided, the Director of Public Works shall forthwith proceed to do the work; provided however, if such premises are unoccupied and not electric or

communications services are being furnished thereto, the Director of Public Works shall in lieu of providing the required underground facilities, 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.

- D. Cost Report. Upon completion of the work by the Director of Public Works, he 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 including administrative overhead, 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.
- E. Notice of Hearing. The Director of Public Works shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession such premises, and a notice in writing thereof to the owner thereof, in the manner hereinabove provided for the giving of notice to provide the required underground facilities, of the time and place that the Council will pass upon such report and will hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment.
- F. Hearing on Report. Upon the date and hour set for the hearing of protests the Council shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment.
- G. Collection of Cost. If any assessment is not paid within five (5) days after its confirmation by the Council, the amount of the assessment shall become a lien upon the property against which the assessment is made by the Director of Public Works, and the Director of Public Works is directed to turn over to the Assessor and Tax Collector a notice of lien on each of said properties on which the assessment has not been paid, and said Assessor and Tax Collector shall add the amount of said assessment to the next regular bill for taxes levied against the premises upon which said assessment was not paid. Said assessment shall be due and payable at the same time as said property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent (6%) per annum.

H. Time Extension. In the event that any act required by this Chapter 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 to the time of such limitation.

SECTION 2. Effective Date. This ordinance shall take effect thirty (30) days after its adoption.

SECTION 3. Severability. This chapter shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application. To this end, the provisions of this chapter are declared to be severable and are intended to have independent validity.

The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 21st day of December, 2000 and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California held on the 4th day of January, 2001 by the following vote:

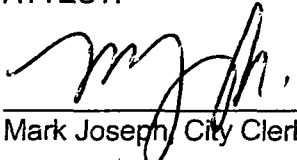
AYES: Maples, Colcleaser, Anderson, Canziani, Shaver

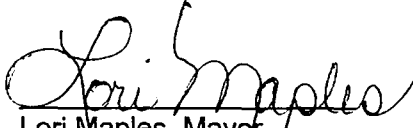
NOES: None

ABSTAIN: None

ABSENT: None

ATTEST:

  
\_\_\_\_\_  
Mark Joseph, City Clerk

  
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Lori Maples, Mayor

APPROVED AS TO FORM:

  
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William D. Ross, City Attorney