

ORDINANCE #2013- 03

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON ADDING PROVISIONS TO
CHAPTER 12.08 OF THE CITY OF AMERICAN CANYON MUNICIPAL CODE
ESTABLISHING UTILITY UNDERGROUND DISTRICTS BY RESOLUTION**

WHEREAS, the City of American Canyon established its first underground utility district in 2000 by adopting Municipal Code Chapter 12.08 for the purposes of creating an underground utility district at the corner of American Canyon Road and Highway 29 (Safeway area parcel); and

WHEREAS, the City Council finds that establishing future underground districts by resolution will result in a streamlined and more efficient process than modifying Chapter 12.08 of the Municipal Code each time an underground district is needed; and

WHEREAS, the Safeway area underground utility district originally created in 2000 will be affirmed by Resolution when this Ordinance is enacted.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AMERICAN CANYON DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1: Section 12.08.020 is deleted in its entirety.

SECTION 2: Section 12.08.020 is enacted to read:

"12.08.020 Establishment

- A. Council Hearing. The Council may from time to time call a public hearing 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 City and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service.
- B. Notice. The City 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 hearing at least ten (10) days prior to the date thereof.
- C. Conducting of Hearing. Each such hearing shall be open to the public and may be continued from time to time. At such hearing all persons interested shall be given an opportunity to be heard. The decision of the Council shall be final and conclusive.
- D. Report. Prior to holding such public hearing, the Public Works Director shall consult all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent of such utilities' participation and estimates of the total cost to the City and affected property owners. Such reports shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities.
- E. Council Designation of District. 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 installations. Such resolution shall include a description of the area comprising such district and shall fix the time 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.

F. Notice of Establishment. Within ten (10) days after the effective date of a resolution adopted pursuant to this Section, the City Clerk shall notify all affected utilities and all persons owning real property within the District created by said resolution of the adoption thereof. Said City Clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or such occupant shall prior to the date specified in said resolution, 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 the applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission.

G. Notice of Establishment Method. Such notice by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to this Section, 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 4: The provisions of this Ordinance shall be severable. If any portion is found to be unconstitutional, illegal, or invalid, the remainder shall survive and remain effective and enforceable.

SECTION 5: Effective date: This Ordinance shall take effect immediately after its adoption.

SECTION 6: The City Council finds that this Ordinance is exempt from review under the California Environmental Quality Act (CEQA) because the adoption of an Ordinance setting forth the process to require the conversion of overhead electric utility distribution system facilities to underground is not a project and also categorically exempt pursuant to Section 15302(d) of the CEQA guidelines.

SECTION 7: The foregoing Ordinance was introduced and read at the regular meeting of the City Council of the City of American Canyon, state of California, held on the 19th day of February, 2013 and approved and adopted at a regular meeting on the 5th day of March, 2013.

MAYOR GARCIA:
VICE MAYOR JOSEPH:
COUNCIL MEMBER J. BENNETT:
COUNCIL MEMBER B. BENNETT:
COUNCIL MEMBER K. LEARY:

Yes
Yes
Yes
Yes
Yes

Leon Garcia

Leon Garcia, Mayor

ATTEST:

Rebekah Barr

Rebekah Barr, MMC, City Clerk

APPROVED AS TO FORM:

William D. Ross

William D. Ross, City Attorney