

Chapter 13.28 UNDERGROUND UTILITIES*

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* Prior legislation: Ord. 92-3, 1992; Ord. 79-21 § 22, 1979; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.05.

13.28.010 Definitions.

Whenever in this chapter the words or phrases in this section are used, they shall have the respective meanings assigned to them in the following definitions:

- A. “City” means the City of Carmel-by-the-Sea, a municipal corporation of the State of California, in its present incorporated form or in any later reorganized, consolidated, enlarged or reincorporated form.
- B. “Commission” means the Public Utilities Commission of the State of California.
- C. “Council” means the City Council of the City of Carmel-by-the-Sea.

D. "Person" shall mean and include any individual, firm, corporation, copartnership, or their agents and employees.

E. "Poles and overhead wires and associated overhead structures" shall mean poles, towers, supports, wires, conductors, guys, stubs, platforms, crossarms, braces, transformers, insulators, cut-outs, switches, communication circuits, appliances, attachments, and appurtenances located aboveground, and used or useful in supplying electric, communication, or similar or associated services.

F. "Underground utility district" or "district" shall mean that area in the City within which poles, overhead wires, and associated overhead structures are prohibited as such areas are described in one or more resolutions which may, from time to time, be adopted pursuant to the provisions of CMC [13.28.040](#).

G. "Utility" includes all persons or entities supplying electric, communication, or similar or associated services by means of electrical materials or devices. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 §§ 1409.01, 1409.05).

13.28.020 Replacement With Overhead Facilities Prohibited.

All poles, wires and associated overhead structures installed underground, whether installed pursuant to a previously established undergrounding district or not, shall become subject to the terms of this chapter and shall not be replaced by new overhead facilities except as provided in CMC [13.28.060](#) and [13.28.070](#).

13.28.030 Public Hearing by Council.

The City Council may, from time to time, call public hearings to ascertain whether the public necessity, health, safety or welfare would be served by the establishment of an underground district to require the removal of poles, overhead wires and associated overhead structures within designated areas of the City and the installation of replacement underground wires and facilities for supplying electric communication, television, or similar associated services. At least 10 calendar days prior to the date of said hearing the City Clerk shall notify by mail all affected utility companies and all affected property owners, as shown on the last equalized assessment roll, indicating the time and place of such hearing and shall provide said owners with a summary description of the proposed underground utility district. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.03).

13.28.040 Designation by Resolution.

If, after a public hearing, the City Council finds that the establishment of an underground district within a designated area is appropriate and that such a district would enhance the public health, safety or

welfare, the City Council may, 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. The City Council shall allow a reasonable time 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. The City Council may adopt resolutions for any and all areas of the City for which poles, wires and associated structures already have been undergrounded by past actions and, upon adoption, such designated areas shall be subject to the provisions of this chapter. Resolutions covering such designated areas previously undergrounded shall not require mailed public notice or a hearing. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.04).

13.28.050 Unlawful to Maintain Overhead Wires.

Whenever the City Council creates an underground utility district and orders the removal of poles, overhead wires and associated overhead structures therein as provided in this chapter, 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 performance of such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in CMC [13.28.100](#) hereof, and for such reasonable time required to remove said facilities after said work has been performed, and except as otherwise provided in this chapter. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.05).

13.28.060 Overhead Wires – Exceptions by Special Permission.

The City Administrator or an authorized designee may grant special permission on such terms as may be deemed appropriate, in cases of emergency or unusual circumstances, to erect, construct, install, maintain, use or operate poles and overhead wires, and associated overhead structures, notwithstanding any other provisions of this chapter. The City Administrator may establish administrative regulations specifying such emergency or unusual circumstances including guidelines on when such exceptions are appropriate and conditions leading to the ultimate removal of overhead equipment when the exception has been granted on a temporary basis. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.06).

13.28.070 Overhead Wires, Poles, Structures – Exceptions.

This chapter and any resolution adopted pursuant to CMC [13.28.040](#) 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 City Administrator.

B. Poles or electroliers used exclusively for street lighting, fire alarm boxes or emergency services.

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. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixtures 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.

E. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services.

F. Equipment appurtenant to underground facilities, such as surface-mounted transformers, pedestal-mounted terminal boxes and meter cabinets, and concealed ducts when designed and installed in conformation with all City design standards contained in Chapters [12.04](#), [12.08](#) and [17.12](#) CMC.

G. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.07).

13.28.080 Notice to Property Owners and Utility Companies.

Within 10 days after the effective date of a resolution adopted pursuant to CMC [13.28.040](#) hereof, 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. The City Clerk shall further notify such affected property owners of the necessity that, if they or any other person occupying such property desire to continue to receive electric, communication, television, 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 and to the requirements of State laws and the municipal code of the City of Carmel-by-the-Sea. Notification by the City Clerk shall be made by mailing a copy of the resolution adopted pursuant to CMC [13.28.040](#), 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. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.08).

13.28.090 Responsibility of Utility Companies.

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to CMC [13.28.040](#) hereof, the supplying utility shall furnish at its own expense 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, including underground service facilities required to provide utility service to the affected properties but excluding those facilities that are the responsibility of the property owners as set forth below. New underground equipment installed flush with the surface of the ground shall not be placed within sidewalks or other pedestrian walking surfaces without approval by the City Administrator and conformance to City design standards.

13.28.100 Disconnection and Removal Authority.

A. All conduits, conductors and associated equipment necessary to receive utility service between service conductors or underground pipe or conduit of the supplying utility and the service facilities in the building or structure being served shall be provided by the person owning, operating, leasing, or renting the property, subject to applicable rules, regulations and tariffs of the respective utility or utilities on file with the commission and to the lawful requirements of State laws and the municipal code of the City.

B. In the event the person owning, operating, leasing, or renting the property does not comply with the provisions of subsection (A) within the time provided for in the resolution adopted pursuant to CMC [13.28.040](#), the Director of Public Works shall post written notice on the property being served and 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.

C. Noncompliance by any person owning, operating, leasing or renting said property with the provisions of this section shall constitute a misdemeanor under CMC [13.28.050](#). Until such time as an order is issued pursuant to subsection (B), the supplying utility shall not be in violation of this chapter in continuing to maintain overhead facilities necessary to serve such person during the period of such noncompliance and such reasonable time thereafter as may be necessary to remove the same. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.10).

13.28.110 Obligation of City.

The City shall remove its police and fire alarm circuits or any similar municipal equipment at its own expense from all poles required to be removed under this chapter in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution adopted pursuant to CMC [13.28.040](#). (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.11).

13.28.120 Extension of Time Limitation.

In the event that any act required by this chapter or by a resolution adopted pursuant to CMC [13.28.040](#) cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, 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. (Ord. 92-3 § 1, 1992; Ord. 84 C.S. § 1, 1963; Code 1975 § 1409.12).

The Carmel-by-the-Sea Municipal Code is current through Ordinance 2023-05, passed July 11, 2023.

Disclaimer: The city clerk's office has the official version of the Carmel-by-the-Sea Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

City Website: <https://ci.carmel.ca.us/>

City Telephone: (831) 620-2000

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