

ORDINANCE NO. 22-

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF MAMMOTH
LAKES, COUNTY OF MONO, STATE OF CALIFORNIA CREATING
UNDERGROUNDING UTILITY DISTRICT NO. 2022-01**

WHEREAS, in the latter part of 1967 the California Public Utilities Commission ("CPUC") decided Case No. 8209 which established a program (commonly referred to as an "Undergrounding" Program); and

WHEREAS, Southern California Edison ("SCE"), through implementation of California Public Utilities Commission Rule 20A, makes allocations to cities and counties that may be applied to qualifying utility undergrounding projects; and

WHEREAS, other utilities have tariffs approved by the CPUC providing for the replacement of aerial utility facilities with underground utility facilities; and

WHEREAS, the Town of Mammoth Lakes ("Town") is the largest community in Mono County, and has identified its highest priority undergrounding project, consisting of approximately 650 feet of power lines owned by Southern California Edison and other utilities located along Laurel Mountain Road; and

WHEREAS, this section of road meets all project requirements to qualify for Rule 20A funds and for replacement by Frontier California of aerial lines with underground lines pursuant to Rule 33 of Frontier California's tariff, including establishment of an underground utility district to prevent further overhead lines in the area; and

WHEREAS, on March 16, 2022, the Town Council of the Town of Mammoth Lakes, California, met at 4:00 p.m. in the Town Council Chambers/Suite Z, 437 Old Mammoth Road, Mammoth Lakes, California, and held a public hearing to determine whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar associated services on those streets, easements and rights-of-way within that territory included in the area contiguous with Laurel Mountain Road between Main Street (SR203) and Tavern Road, inclusive of Tavern Road approximately 100' east and west of the intersection of Laurel Mountain Road as shown on Exhibit "A", attached hereto and incorporated herein by reference; and

WHEREAS, at the conclusion of the public hearing the Town Council adopted Resolution No. 2022-15 declaring the Town Council's intention to create Underground Utility District 2022-01 ("District"); and

WHEREAS, the Town Council has conducted another public hearing as part of its April 6, 2022 regular meeting, and notice of this public hearing has been given to all utilities concerned in the matter and property owners affected by the District for the time required by law; and

WHEREAS, this public hearing has been duly and regularly held and all persons interested have been given an opportunity to be heard; and

WHEREAS, the Town Council has previously adopted Ordinance 13-07, establishing Underground Utility District No. 2013-01, and wishes to list that district for ease of reference in new Municipal Code Chapter 12.42 adopted hereby, without affecting any aspect of the district;

**NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF
MAMMOTH LAKES, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Recitals. The above recitals are all true and correct.

Section 2. Environmental Review. The Town Council hereby finds that the adoption of this ordinance is categorically exempt from the California Environmental Quality Act under CEQA Guidelines Section 15302(d) (conversion of overhead electric distribution facilities to underground).

Section 3. Findings. The Town Council hereby finds and determines based on the information presented herewith:

- A. The undergrounding of utilities within Undergrounding Utility District No. 2022-01 depicted in Exhibit "A" is in the general public interest because the location has a high concentration of aerial facilities, is extensively used by the general public, and carries a high volume of pedestrian and vehicular traffic.
- B. The public necessity, health, safety and welfare require the removal of poles, overhead wires, and associated overhead structures and the underground installation of wires and facilities for supplying electric, communication or similar associated services in that territory as shown on Exhibit "A".
- C. The utility undergrounding district implements General Plan Policy C.3.F: Underground utilities within the community.

Section 4. Adoption of Underground Utility District Ordinance. Based on the findings contained in this Ordinance and all other evidence in the record of proceedings in this matter, the Town Council hereby amends the Mammoth Lakes Municipal Code by adopting and adding thereto Chapter 12.42, to read as set forth in Exhibit "B" attached hereto and incorporated herein by reference.

Section 5. Additional Provisions Regarding Underground Utility District No. 2022-01.

- A. Pursuant to Southern California Edison's ("SCE") Rule 20 Tariff, Rule 20A funds will be used for the installation of no more than 100 feet of each customer's underground electric service lateral on private property, as well as the conversion of affected property owners meter panels from overhead to underground service. The cost of such meter conversions

using Rule 20A funds shall be limited to existing meters, and shall not include permit fees and any upgrades requested by affected property owners.

- B. All other affected utilities are responsible for their own underground installation costs and shall underground their overhead facilities pursuant to their respective tariffs and franchise agreements.
- C. Property owners shall grant each utility the necessary easement or land rights when it is necessary by the utilities to place their facilities on private property to complete the required undergrounding.
- D. Each property served from such electric overhead facilities shall have installed in accordance with SCE's rules for underground service, all electrical facility changes on the premises necessary to receive service from the underground facilities of SCE as soon as it is available.
- E. It is ordered that by December 31, 2025, all the electric, communication and similar or associated service overhead distribution facilities shall be removed from Undergrounding Utility District No. 2022-01, and the underground installation of such distribution facilities shall have been accomplished in such district. Funding for the underground installation of 900 linear feet of SCE overhead utilities and appurtenant facilities will be covered by the Town's Rule 20A funds. Other utilities are responsible for their specific underground installation costs.
- F. All future electric and communication facilities shall be placed underground within Undergrounding Utility District No. 2022-01.
- G. SCE is authorized to discontinue its overhead service within Undergrounding Utility District No. 2022-01.
- H. The Town Clerk, within ten (10) days after the adoption of this ordinance, shall mail a copy hereof to all affected utility companies and property owners.

Section 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance, or any part thereof, is held invalid or unconstitutional, then such decision shall not affect the validity of the remaining sections or portions of this Ordinance or part thereof. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance irrespective of the fact that any one or more sections, subdivisions, paragraphs, sentences, clauses or phrases may be declared invalid or unconstitutional.

Section 6. Effective Date. The mayor shall sign and the Town Clerk shall certify passage and adoption of this Ordinance, and shall cause the same to be published and posted pursuant to the provisions of law in this regard, and this Ordinance shall take effect thirty days after its final passage.

ADOPTED, SIGNED, and APPROVED this 20th of April 2022

LINDA SALCIDO, Mayor

ATTEST:

JAMIE GRAY, Town Clerk

Underground Utility District 2022-01

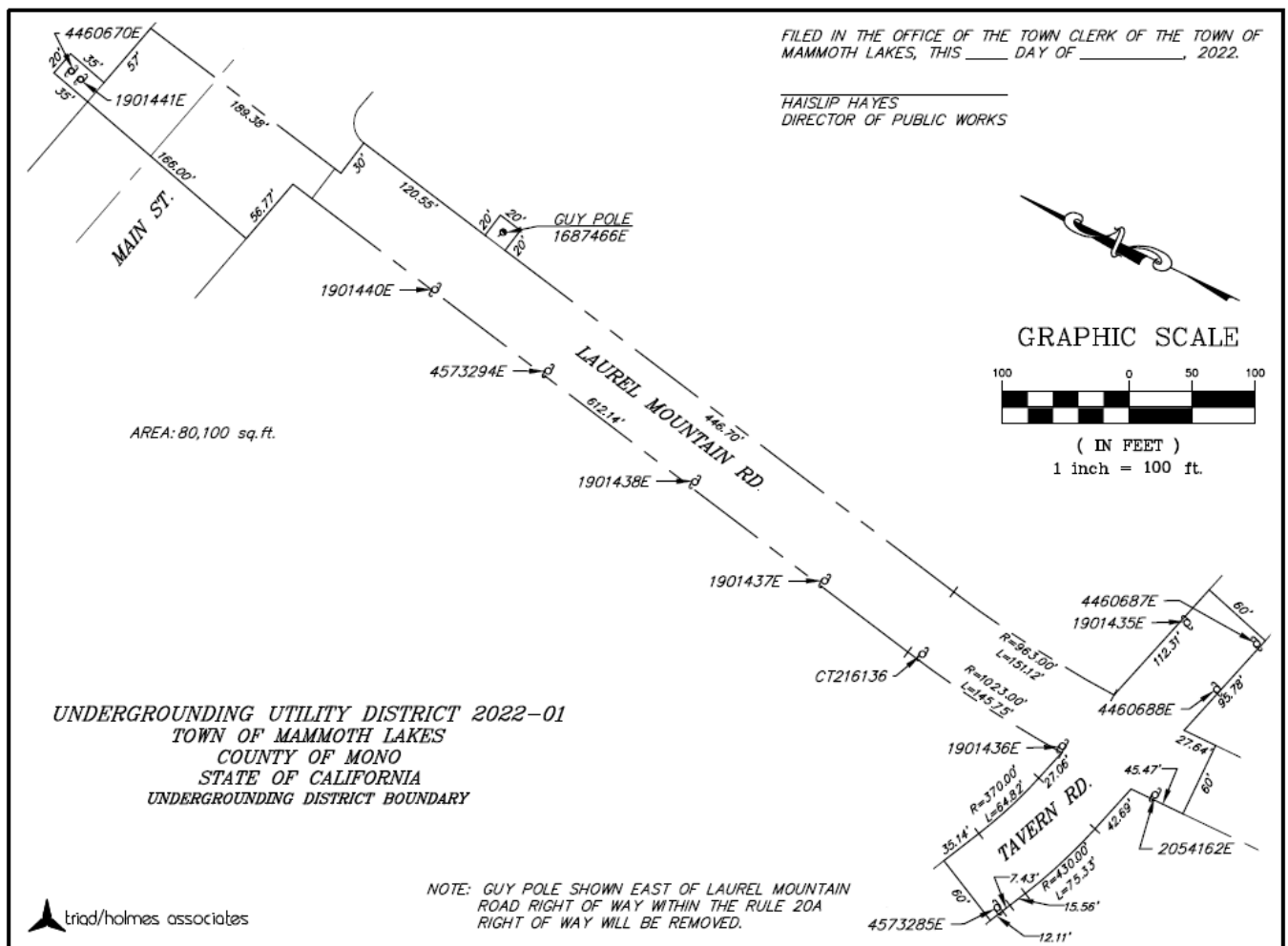


Exhibit "B"

Chapter 12.42 – Underground Utility Districts

12.42.010 Definitions

Except where the context otherwise requires, the definitions set forth in this section govern the construction of this chapter.

- (a) "Town Council" or "Council" means the Town Council of the Town of Mammoth Lakes.
- (b) "Public Works Director" means the Public Works Director of the Town of Mammoth Lakes, or his/her designee.
- (c) "Town Clerk" means the Town Clerk of the Town of Mammoth Lakes, or his/her designee.
- (d) "Person" includes individuals, partnerships, firms, utilities, corporations, and public agencies, provided that public agencies shall be excluded from this definition to the extent necessary to reflect the limits of the Town's ability to regulate public agencies' electric utility operations.
- (e) "Utility" includes all persons or entities supplying, delivering, transmitting, distributing, transporting, conducting or otherwise conveying electricity, communications or similar or associated emissions or service to the Town, in the Town, through the Town by means of electrical apparatus, fiber optic apparatus, or similar apparatus.
- (f) "Overhead Structures" or "Lines" or "Facilities" means any poles, towers, supports, wires, cables, lines, fiber optics, conduits, conductors, guys, stubs, platforms, crossarms, braces, transformers, capacitors, insulators, cutouts, switches, communication circuits, appliances, apparatus, appurtenances, and other equipment and structures located above ground and used in delivering, supplying, transmitting, distributing, transporting, conducting, or conveying electricity, communications, or similar emissions or service to the Town, in the Town or through the Town.
- (g) "Underground Utility District" or "Utility District" or "District" means the area in the Town within which overhead facilities are required to be removed and installed underground, as such area is described in this chapter.

12.42.020 Underground Utility Districts Established

- (a) The Town Council of the Town of Mammoth Lakes finds and determines that the public interest requires that poles, overhead lines and associated overhead structures used in supplying electric service, communications service or similar associated service be placed in underground locations in order to promote and preserve the health, safety and general welfare of the public.

(b) The Town Council finds and determines that the public interest requires that the following described areas in the Town of Mammoth Lakes as delineated with more detail in those certain maps entitled *Underground Utility District Maps*, and made a part hereof by reference, be declared to be and the same are declared to be and established as underground utility districts, and persons maintaining poles, and overhead lines and associated overhead structures in such districts shall remove the same within the period of time as indicated:

1. District No. 2013-01. Six hundred (600) feet along the north side of Main Street/Highway 203 to the street centerline, as shown in Exhibit "A" to Ordinance 13-07, which is incorporated herein by reference.
2. District No. 2022-01. Nine hundred (900) feet along the west side of Laurel Mountain Road between Main Street/SR203 and Tavern Road as shown on Exhibit "A", to Ordinance No. 2022- , which is incorporated herein by reference.

(c) No new poles, overhead lines and associated overhead structures may be installed within established underground utility districts unless authorized by the Town of Mammoth Lakes. Unless a different time period is established by an ordinance creating the underground utility district, all existing overhead lines, structures, and facilities shall be removed from an underground utility district within 180 days after a suitable replacement underground facility is complete and ready for service.

12.42.030 Poles, Overhead Lines and Associated Overhead Structures Prohibited in Underground Districts

- (a) Whenever any area of the Town is declared to be an underground utility district, it shall be unlawful for any person or utility to erect, construct, use, or maintain poles, overhead lines and associated overhead structures within the district after the date when the utilities are required to be removed.
- (b) From and after the effective date of the establishment of any underground utility district, it shall be unlawful for any person or utility to erect or construct poles, overhead lines and associated overhead structures within the district.
- (c) Any individual or utility who shall erect or construct poles, overhead lines and associated overhead structures within any underground utility district or who shall neglect to take down and remove such poles, overhead lines and associated overhead structures within the time designated in this chapter or who shall otherwise fail to comply with the provisions of this chapter shall be guilty of a misdemeanor. Each consecutive fifteen-day period during which the failure to comply with the provisions hereof shall constitute a separate

offense. Such violation is likewise hereby declared to be a nuisance and may be abated by the Town attorney in the manner provided for the abatement of nuisances.

12.42.040 Council May Designate Additional Underground Utility Districts

- (a) The Town Council may from time to time hold public hearings to ascertain whether the public necessity, health or safety requires the removal of poles and overhead lines and associated overhead structures from some designated area of the Town. The Town Clerk or designee shall publish a notice of the public hearing and the Town Clerk or designee shall notify all affected property owners as shown on the last equalized assessment roll and affected utilities by mail of the time and place of such hearings at least thirty days prior to the date thereof.
- (b) If, after any such public hearing, the Town Council finds that the public necessity, health and safety require such removal, the Council shall, by ordinance amending Section 12.42.020 of this chapter, declare such area an underground utility district. Such ordinance shall include a description of the area comprising such district and shall fix the time within which such poles and overhead lines and associated overhead structures shall be removed and within which affected property owners must be ready to receive underground service. The Council shall allow a reasonable time for such removal having due regard for the availability of necessary labor, materials and equipment for such removal and for the installation of such underground facilities as may be occasioned thereby.

12.42.050 Exceptions

The provisions of this Chapter 12.42 shall not apply to the following types of facilities:

- (a) Poles used exclusively for police and fire alarm boxes, traffic control facilities, or any similar equipment owned by a public agency and installed under the supervision and to the satisfaction of the Public Works Director or designee;
- (b) Poles used exclusively for street lighting;
- (c) An electric distribution or transmission system, if the Public Works Director determines that underground installation of such distribution or transmission system is infeasible and not practicable. The decision of the Public Works Director or designee in such matters is final;
- (d) When authorized by the Public Works Director or designee, poles, overhead lines and associated overhead structures crossing or entering any portion of a district from which

poles, overhead lines and associated overhead structures have been prohibited and originating in an area in which poles, overhead lines and associated overhead structures are not prohibited;

- (e) When authorized by the Public Works Director or designee, overhead lines 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 without crossing any public street;
- (f) Radio antenna and associated equipment and supporting structures used for furnishing wireless communications services;
- (g) Changes in or additions of aerial drop lines and anchors or the addition or replacement of lines and cables on poles in place on May 20, 2022;
- (h) Service terminals, in pedestals, in above ground locations, used to distribute communications service in underground systems; or
- (i) Facilities owned by a public agency, to the extent that the Town lacks the authority to regulate the use of such facilities by that public agency.

12.42.060 Special Exceptions Granted by the Town Council

Notwithstanding any other provisions of this chapter the Town Council may grant special exceptions on a permanent or temporary basis to the provisions hereof, on such terms as the Town Council may deem appropriate in cases of emergency or unusual circumstances, to any person to erect, construct, install, maintain, use or operate poles and overhead lines and associated overhead structures within any underground utility district, provided that prior thereto the Town Council shall have made a finding that granting of such special exception does not violate the general purposes of this chapter, will not be detrimental to the public interest, welfare, safety, peace or health and that such action will not constitute a grant of special privilege inconsistent with the limitations upon other properties in the underground utility district.

12.42.070 Time Extension

In the event that any act hereby required by any person or utility herein referred to cannot be performed within the time herein provided on account of shortage of materials, war, restraint by public authorities, strikes, or by any circumstances beyond the control of the person or utility or by unusual hardships, then the time within which such act shall be accomplished may be extended by the Public Works Director or designee, for a period not exceeding one year.

12.42.080 Notification to Affected Property Owners and Utilities

Unless a different time period is established within the ordinance creating a specific underground utility district, within thirty days after the establishment of the underground utility district the Public Works Director or designee shall so notify all affected property owners and utilities owning real property within the affected area. The Public Works Director or designee shall further notify affected property owners and utilities that poles, overhead lines and associated overhead structures are to be removed and that if the affected owners and utilities or the tenants or occupants of their property desire to continue to receive electric, communication or similar associated service they shall make all necessary facility changes on their premises so as to receive the services at a new location subject to the applicable rules, regulations and tariffs of the respective utilities on file with the California Public Utilities Commission or with such utilities, and the utility rules and regulations of the Town of Mammoth Lakes.

12.42.090 Responsibility of Property Owner

- (a) All conduits, conductors and associated equipment necessary to receive electric, communication or similar associated services between service conductors or underground pipes or conduits of the supplying utilities and the service facilities to the building or structure being served shall be provided by the person owning, operating, leasing or renting the affected property subject to applicable rules, regulations and tariffs of the respective utilities on file with the California Public Utilities Commission and the utility rules and regulations of the Town of Mammoth Lakes.
- (b) The underground service connection construction shall be accomplished within the time specified in Section 12.42.020 or if the time is not specified therein, within 30 days after the installation of the replacement underground utility facilities.

12.42.100 Action on Noncompliance

- (a) In the event the person owning, operating, leasing or renting the affected property does not comply with the provisions of Section 12.42.090 within the time specified therein the Public Works Director shall have the authority to order the disconnection and removal of poles, overhead lines and associated overhead structures supplying utility service to the affected property and the utility shall not be thereafter required to provide service to such premises until the owner, tenant or occupant makes the necessary changes.
- (b) Noncompliance by any person owning, operating, leasing or renting the affected property with the provisions of Section 12.42.090 shall constitute a misdemeanor. Until such time as notice is given pursuant to the provisions of Section 12.42.080 the 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 those facilities.

12.42.110 Cost of Removal a Lien

The cost of disconnecting and removing poles, overhead lines and associated overhead structures supplying electric service incurred by the Town under Section 12.42.100 shall become a lien on the property theretofore served from the same.