

**ORDINANCE NO. 233**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, AMENDING TITLE 8, DIVISION 7, OF THE SAN BERNARDINO COUNTY DEVELOPMENT CODE AS ADOPTED AND AMENDED BY THE TOWN OF YUCCA VALLEY BY REPEALING AND REINACTING IN ITS ENTIRETY CHAPTER 11 RELATING TO UTILITY UNDERGROUNDING (DCA-02-11).**

The Town Council of the Town of Yucca Valley, California, does ordain as follows:

**SECTION 1. Code Amended**

Title 8, Division 7, Chapter 11 of the San Bernardino County Development Code as adopted by the Town of Yucca Valley is hereby repealed and reenacted in its entirety to read as follows:

**“CHAPTER 11  
UTILITY UNDERGROUNDING**

Sections	87.1110	Intent
	87.1120	Definitions
	87.1130	When Undergrounding Installation Required
	87.1140	Expansion
	87.1150	Exceptions
	87.1160	Refunding of Undergrounding Fees
	87.1170	Reviewing Authority
	87.1180	Waiver
	87.1190	Nonconforming

**87.1110 Intent.** It is the purpose and intent of this ordinance to serve the public health, safety and welfare by requiring the undergrounding of overhead utilities and to specifically achieve the following objectives:

- (a) Provide for the orderly construction of new underground facilities Town wide and the undergrounding of existing overhead lines in all land use districts to avoid or eliminate the over concentration of overhead facilities along the street and road ways and the service lines which extend from these distribution lines;
- (b) Eliminate potential hazards to life and property in the event of emergencies or disasters such as earthquakes, fires, floods, hazardous or toxic waste releases, and rains;
- (c) Facilitate the delivery of emergency services to persons and property located adjacent to the public right of way;
- (d) Improve or increase the utility of the public right of way for such public uses as pedestrian travel, ease of deliveries to adjacent property, and landscaping treatments;

- (e) Improve or increase the visibility of persons operating motor vehicles on public and private streets and thereby promote the safety of the pedestrian and vehicle operators.

**87.1120 Definitions**

- (a) **Service Line:** defined for the purposes of this chapter as those electrical, telephone, cable, or other utility conductors that extend from the Distribution Line to the building, structure, or improvement which consume or uses the utility service.
- (b) **Distribution Line:** defined for the purposes of this Chapter as those electrical utility conductors which are energized at 34,500 volts or less, telephone, cable, or other line that supply utility product to the Service Line.
- (c) **Transmission Line:** defined for the purposes of this Chapter as those electrical utility conductors which are energized above 34,500 volts, telephone, cable, or other line that supply utility product to the Distribution Line.
- (d) **Infill:** Construction of residential projects on existing lots of record.

**87.1130 When Undergrounding Installation Required.** The undergrounding of all such utility facilities shall be performed by the owner or developer of the property seeking its development or improvement, or any construction thereon, at the owner's or developer's sole expense. The owner or developer shall arrange for the placement of said utilities underground with the appropriate utility or communication company including the processing of any application, payment of any fees or expenses, the submission and approval of any plans and the coordination of said undergrounding with the Town Engineer. This requirement to underground shall not abrogate any rights offsets, or claims, which the owner or developer may have as to any utility or communication company.

No certificate of occupancy shall be issued for any property whose development or improvement requires the undergrounding of the utility facilities unless and until compliance with this Chapter shall have been accomplished to the satisfaction of the Town Engineer. Where an owner or developer has entered into a written agreement with the applicable utility company to underground utilities and has paid the required costs, a certificate of occupancy may be issued upon proof thereof.

Except as otherwise provided in this chapter, all new Service, Distribution, and Transmission lines shall be constructed underground.

- (a) **New In-fill Single Family and Multi-Family Residential Development**
  - 1. Existing overhead distribution lines shall be permitted to remain in place.
  - 2. New service lines shall be underground, except in those areas where seventy-five (75) percent of existing residential units within ½ mile of the proposed development site are constructed with overhead service lines.

New services lines shall be permitted to be installed above ground when these criteria are satisfied.

3. All Service and Distribution lines which are being relocated as a result of a project shall be allowed to remain overhead.
4. All new distribution lines which are designed to serve existing lots of record shall be placed underground.

**(b) Commercial, Industrial, and Institutional Development Projects:**

1. Existing overhead distribution lines shall be permitted to remain in place.
2. New service lines shall be underground, except in those areas where all abutting properties to the proposed development site are constructed with overhead service lines. New services lines shall be permitted to be installed above ground when these criteria are satisfied.
3. All new distribution lines which are designed to serve existing lots of record or proposed new lots created through the subdivision of land shall be placed underground.
4. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

**(c) Residential Tract Maps:**

1. All new Service and Distribution lines that provide direct service to the property being developed shall be placed underground.
2. Existing Service and Distribution lines that are located within the boundaries being developed that provide direct service shall be placed underground.
3. Existing Service and Distribution lines between the street frontage property line and the centerline of the adjacent streets of the property being developed that provide direct service shall be placed underground.
4. Existing Service and Distribution lines located along or within 10 feet of the lot lines of the property being developed that provide direct service shall be placed underground.
5. Existing Service and Distribution lines being relocated as a result of a project shall be placed underground.
6. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

**(d) Residential Parcel Maps:**

1. All new Service and Distribution lines that provide direct service to the property being developed shall be placed underground.
2. Existing Service and Distribution lines that are located within the boundaries being developed that provide direct service shall be placed underground.
3. All existing overhead distribution lines which are designed to serve existing lots of record proposed to be further subdivided may be permitted to remain in place subject to Planning Commission approval.

**87.1140 Expansions & Alterations.** When buildings or structures are enlarged, altered or expanded, those enlargements, alternations and expansions shall conform to the standards and requirements established by this Chapter for new construction.

**87.1150 Exceptions.** The following exceptions shall apply:

- (a) Utility facilities approved by Building & Safety Division which are to be installed and maintained for a period not to exceed thirty (30) days in order to provide emergency service. The Building Official may extend the period of time for which emergency service utilities may be allowed to remain in place;
- (b) Temporary utility facilities used, or to be used, in conjunction with construction projects with an active building permit;
- (c) Utility facilities are operated at voltage in excess of thirty-four thousand five hundred volts;
- (d) Equipment applicable to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes, meter cabinets and concealed ducts;
- (e) Wires and enclosures attached to the exterior walls of a building for the purpose of interconnecting communication functions within the building;
- (f) Utility facilities which are prohibited from being placed underground by rules and regulations of the Public Utility Commission.
- (g) Street construction and widening projects, street lights and traffic signal projects constructed by public agencies.
- (h) To the extent a utility company is required to perform maintenance, upgrade or redesign under the provisions of their franchise agreement.
- (i) Whenever the owner or developer of a subject property is required to underground existing distribution lines under this chapter but the distance over which the distribution line that is required to be placed underground is less than

two hundred (200) feet, the Town Engineer may allow the owner or developer to pay a fee to the Town that is equal to the unit cost of placing said distribution line underground multiplied by the distance over which the undergrounding is required, not to exceed two hundred feet, in lieu of such undergrounding. The unit price for undergrounding any existing distribution line shall be based upon the most recent unit price for undergrounding any distribution line over a distance of greater than thirteen hundred feet as established by the utility company that would otherwise be responsible for the undergrounding of said distribution lines. The owner or developer shall obtain a written statement of the unit price for undergrounding the existing distribution lines from the utility company servicing the subject property and submit it to the Town Engineer for determination of the amount of the in lieu fee.

- (j) Nonprofit agencies identified as institutional land use activities, subject to Planning Commission and Town Council approval.
- (k) Town and the Redevelopment Agency sponsored projects

**87.1160 Refunding of Undergrounding Fees.** The Town Council may approve the refunding of undergrounding fees paid when the following findings are made.

- (a) The undergrounding of existing overhead utility lines along the projects street frontages are not projected to be completed by the Town of Yucca Valley or Southern California Edison within a five year time period
- (b) The undergrounding of existing overhead utility lines along the projects property lines at this time would be the single property which provides for undergrounding of overhead utilities within 2,640 feet in either direction from side property lines.

**87.1170 Reviewing Authority.** Where the Town has authority to issue a permit for the development or improvement of any property within the Town, said official shall condition the permit upon the placement of specified utility facilities underground. For other development approvals, the Town shall recommend to the Planning Commission or the Town Council which utility facilities shall be placed underground and which utility facilities, developments or improvements are exempt from this chapter. Thereafter, the Planning Commission or Town Council shall determine which utility facilities shall be placed underground or exempted pursuant to this chapter.

**87.1180 Waiver.** The Planning Commission may waive the requirements of Section 87.1130 *Undergrounding of New Facilities* if the utility undergrounding is not feasible due to geologic, soil, topographic, or other physical conditions which would cause significant financial cost increases that make the project infeasible. The applicant shall provide to the Town technical reports and/or information, including but not limited to soils report, geotechnical report and cost comparison analysis illustrating the cost variation of undergrounding verses overhead for review. The Town shall review and forward a report to the Planning Commission for review.

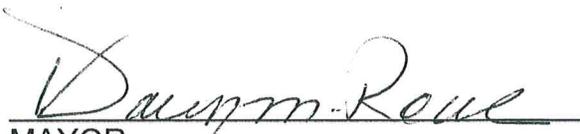
- (a) Any waiver of the requirements of this Chapter shall be based on the findings as follows:
1. That waiver will not adversely affect the public health and safety.
  2. That the improvement being waived is a necessary to allow the development of the surrounding area.
  3. That due to soils, geological, and topographic conditions, and the utility undergrounding requirement is economically infeasible.
  4. The Planning Commission shall consider requests for waiver for structures 3,500 square-feet or smaller in size.
- (b) Any decision of the Planning Commission pertaining to a request to waive the utility undergrounding requirement may be appealed to the Town Council.

**87.1190 Nonconforming Structures.** Existing buildings and structures which do not meet these regulations because of aboveground Service lines or Distribution lines shall be considered conforming.

**SECTION 2: NOTICE OF ADOPTION:** Within fifteen (15) days after the adoption hereof, the Town Clerk shall certify to the adoption of this Ordinance and cause it to be published once in a newspaper of general circulation printed and published in the County and circulated in the Town pursuant to Section 36933 of the Government Code.

**SECTION 3. EFFECTIVE DATE:** This Ordinance shall become effective thirty (30) days from and after the date of its adoption.

APPROVED AND ADOPTED by the Town Council and signed by the Mayor and attested by the Town Clerk this            day of            , 2012.

  
 \_\_\_\_\_  
 MAYOR

ATTEST:

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 TOWN CLERK

  
 \_\_\_\_\_  
 TOWN ATTORNEY

STATE OF CALIFORNIA

COUNTY OF SAN BERNARDINO

TOWN OF YUCCA VALLEY

I, Janet M. Anderson, Town Clerk of the Town of Yucca Valley, California hereby certify that the foregoing Ordinance No. 233 as duly and regularly introduced at a meeting of the Town Council on the 20<sup>th</sup> day of December, 2011, and that thereafter the said ordinance was duly and regularly adopted at a meeting of the Town Council on the 17<sup>th</sup> day of January, 2012, by the following vote, to wit:

Ayes: Council Members Abel, Hagerman, Huntington, Lombardo and Mayor Rowe

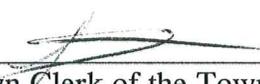
Noes: None

Abstain: None

Absent: None

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the Town of Yucca Valley, California, this 18<sup>th</sup> day of January, 2012.

(SEAL)

  
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Town Clerk of the Town of  
Yucca Valley