

ORDINANCE NO. 23-0013

AN ORDINANCE OF THE CITY OF MANHATTAN BEACH
AMENDING MANHATTAN BEACH MUNICIPAL CODE
SECTION 7.28.100 TO AMEND THE EXISTING
PROVISIONS THEREOF REGARDING THE
RESPONSIBILITY OF PROPERTY OWNERS WITHIN AN
UNDERGROUNDING UTILITY DISTRICT TO PROVIDE
REQUIRED UNDERGROUND FACILITIES ON THEIR
PROPERTY, AND MAKING A DETERMINATION OF
EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL
QUALITY ACT

THE MANHATTAN BEACH CITY COUNCIL HEREBY ORDAINS AS FOLLOWS:

SECTION 1. The City Council hereby amends Manhattan Beach Municipal Code Section 7.28.100 to read as follows:

"7.28.100 - Responsibility of property owner.

A. 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 7.28.090 hereof and the termination facility on or within said building or structure being served, all in accordance with the applicable rules, regulations and tariffs of the respective utility or utilities on file with the Commission. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 7.28.040 hereof, the City Engineer shall give a notice in writing to the record owner of the premises at the address shown on the last equalized assessment roll, or the supplemental roll, whichever is more current, and to the address of the premises, if different, to provide the required underground facilities within thirty (30) days after the receipt of such notice.

B. The notice required by Paragraph A may be given either by personal service or by mail by depositing the notice in the United States mail in a sealed envelope with postage prepaid. 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, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on paper not less than eight inches (8") by ten inches (10") in size, to be posted in a conspicuous place on said premises.

C. The notice required by Paragraph A shall specify what work is required to be done on the premises and shall state that if said work is not completed within thirty (30) days after receipt of such notice, the City Engineer will provide such required underground facilities, or cause such required underground facilities to be provided by a contractor, and the cost thereof will be assessed against the property and become a lien upon such property.

D. If, upon the expiration of the thirty (30) day period, the required underground facilities have not been provided, the City Engineer shall proceed to do the work or cause a contractor to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the City Engineer shall, in lieu of providing the required underground facilities, have the authority to authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to said property. Upon completion of the work by the City Engineer or contractor, the City Engineer 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, and identifying the property against which such cost is to be assessed. The Council shall thereupon set a time and place for hearing protests against the assessment of the cost of such work upon such property, which said time shall not be less than fourteen (14) days thereafter.

E. The City Engineer shall immediately give a notice in writing to the record owner of the premises as shown on the last equalized assessment roll, or the supplemental roll, whichever is more current, at the address shown on the roll, and to the address of the premises, if different, of the time and place that the Council will hold a hearing to consider such report and hear protests against such assessment. Such notice shall also set forth the amount of the proposed assessment and that if such assessment is not paid within five (5) days after the amount of the assessment is confirmed by the Council at such hearing, that the assessment shall become a lien upon the property against which the assessment is made. Such notice may be given either by personal service or by mail by depositing the notice in the United States mail in a sealed envelope with postage prepaid. If notice is given by mail, the City Engineer shall, within forty-eight (48) hours after the mailing thereof, cause a copy thereof, printed on paper not less than eight inches (8") by ten inches (10") in size, to be posted in a conspicuous place on said premises.

F. Upon the date and hour set for the hearing of protests, the Council shall hear and consider the report and all protests, if any, and then proceed to confirm, confirm as modified, or reject the assessment. The hearing may be continued from time to time.

G. 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, and the City Engineer shall provide to the County Assessor and Tax Collector the amount of said assessment to be added to the next regular bill for ad valorem taxes, and such assessment shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment.

Alternatively, if a property owner demonstrates financial hardship, the City Manager, in his or her sole discretion, may authorize collecting the assessment, together with interest thereon at the rate of six percent (6%) per annum, in up to 20 annual installments. In such case, the City Engineer shall provide the installments to the County Assessor and Tax Collector to be added to the regular bills for ad valorem taxes,

and such installments shall be collected at the same time and in the same manner as ordinary municipal ad valorem taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes. All laws applicable to the levy, collection and enforcement of municipal ad valorem taxes shall be applicable to such assessment and each installment thereof. Each property owner who elects for the assessment to be collected in annual installments shall execute an agreement with the City, which shall be recorded against the property, and any other document necessary to secure the owner's obligation to pay the assessment in accordance with this Section."

SECTION 3. Any provisions of the Municipal Code, or any other resolution or ordinance of the City, to the extent that they are inconsistent with this Ordinance are hereby repealed, and the City Clerk shall make any necessary changes to the Municipal Code for internal consistency.

SECTION 4. The City Council finds that this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Sections 15302(d) and 15303(d).

SECTION 5. If any part of this Ordinance or its application is deemed invalid by a court of competent jurisdiction, the City Council intends that such invalidity will not affect the effectiveness of the remaining provisions or their application and, to this end, the provisions of this Ordinance are severable.

SECTION 6. This Ordinance shall take effect and be in force thirty (30) days after its passage.

SECTION 7. The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause this Ordinance to be published within 15 days after its passage, in accordance with Section 36933 of the Government Code.


ADOPTED on December 19, 2023.

AYES: Howorth, Lesser, Napolitano, Franklin, and Montgomery.
NOES: None.
ABSENT: None.
ABSTAIN: None.



RICHARD MONTGOMERY
Mayor

ATTEST:



LIZA TAMURA
City Clerk