

REPORT TO CITY COUNCIL

DATE: JANUARY 12, 2011

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

FROM: GREG RAMIREZ, CITY MANAGER

BY: RAMIRO ADEVA, CITY ENGINEER

SUBJECT: ADOPT ORDINANCE NO. 10-380; AMENDING DIVISION 3 OF PART 1 OF CHAPTER 6 OF ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE, RELATING TO THE CITY'S UNDERGROUNDING UTILITIES ORDINANCE TO ALLOW FOR THE OPTION OF AN IN-LIEU FEE FOR DEVELOPMENT LOCATED WITHIN SPECIFIED AREAS OF UNDERGROUNDING DISTRICTS.

At the December 8, 2010, City Council meeting, the Council introduced, read by title only, and waived further reading of Ordinance No. 10-380.

The ordinance will amend the existing Municipal Code section dealing with undergrounding overhead utilities to allow the option of an in-lieu fee for developments within existing Undergrounding Utility Districts.

Attached for your reference is a copy of the proposed ordinance.

RECOMMENDATION

Staff recommends the City Council adopt Ordinance No. 10-380; amending Division 3 of Part 1 of Chapter 6 of Article IX of the Agoura Hills Municipal Code, relating to the City's undergrounding utilities ordinance to allow for the option of an in-lieu fee for development located within specified areas of undergrounding districts.

Attachment: Ordinance No. 10-380

ORDINANCE NO. 10-380

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AGOURA HILLS, CALIFORNIA AMENDING DIVISION 3 OF PART 1 OF CHAPTER 6 OF ARTICLE IX OF THE AGOURA HILLS MUNICIPAL CODE, RELATING TO THE CITY'S UNDERGROUNDING UTILITIES ORDINANCE TO ALLOW FOR THE OPTION OF AN IN-LIEU FEE FOR DEVELOPMENTS LOCATED WITHIN SPECIFIED AREAS OF UNDERGROUNDING DISTRICTS

The City Council of the City of Agoura Hills does hereby ordain as follows:

SECTION 1. Division 3 of Part 1 of Chapter 6 of Article IX of the Agoura Hills Municipal Code is hereby amended to read as follows:

“DIVISION 3. UNDERGROUND FACILITIES

9603. Underground facilities requirement.

The following provisions are hereby established to govern the installation of underground utilities for the conversion of existing overhead facilities within the city.

9603.1. Development subject to undergrounding provisions.

A. For purposes of this Division 3, the term “development” means either:

1. The construction of new buildings or structures; or

2. The expansion, enlargement, modernization, renovation, remodeling, repair, improvement, or alteration of existing buildings or structures for which one or more approvals or permits by or from the City are required, and which adds more than two thousand square feet of floor area.

B. Except as provided in this chapter, all new and existing electrical distribution lines, telephone, cable television, and similar service wires or cables, which are adjacent to and provide service to a development's property, shall be installed underground as a part of development's property from the nearest existing pole not on the development's property with the following exceptions:

1. In the development of a single-family dwelling upon an existing, subdivided lot in the OA overlay district and RS district when overhead utility distribution lines presently exist. Any new single-family dwelling shall conform to the requirements of section 9603.2 as a part of development.

2. Temporary utilities along with the necessary service poles, wires and cables during the period when authorized construction is continuing for which valid building permits have been issued or for temporary use authorized under the provisions of the zoning ordinance, building code and other applicable regulations.
3. Appurtenances and associated equipment, such as surface mounted transformers, when it is determined by the planning commission that it would be economically unfeasible to underground such equipment.

9603.2. Recorded agreement.

In lieu of undergrounding existing distribution lines as a part of development, the planning commission may permit the recording of an agreement guaranteeing that the property will participate in any undergrounding district which is subsequently established by the City. The form of the agreement shall be approved by the City Attorney and shall run with the land. This section shall not be applicable to the service lines that lead directly to the building.

9603.3. Responsibility for compliance.

The developer or owner shall be responsible for complying with the requirements of sections 9603 through 9603.2 and shall make the necessary arrangements with the utility company for the installation of such facilities.

9603.4. Nonconforming structures.

Buildings or structures, which on the effective date of this chapter are nonconforming in regard to aboveground on-site utility lines, may continue to be used, altered, or enlarged in the same manner as if such nonconforming utility lines did not exist. However, when the buildings or structures are enlarged over two thousand (2,000) square feet in floor area or when alteration or enlargement require the installation of additional utility lines at new locations on the buildings and structures, the new and existing electrical distribution lines, telephone, cable television, and similar service wires or cables, which are adjacent to and provide service to the property being developed shall comply with the requirements of this division.

9603.5. Optional In-Lieu Fee for Properties Located in Specified Areas within an Existing Undergrounding District

In lieu of undergrounding existing distribution lines as a condition of development, a developer or owner whose development is located in a specified area within an existing undergrounding district may request instead to pay an in-lieu fee, in an amount established by resolution of the City Council, as a contribution to the future undergrounding of existing overhead utilities. Only those properties located in areas, specifically designated by resolution of the City Council, within an existing undergrounding district are eligible for the option of the payment of said in-lieu fee.”

SECTION 2. If any section, subsection, sentence, clause, portion, or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of

any competent jurisdiction, such decision shall not affect the validity of the remaining sections, subsections, sentences, clauses, portions, or phrases of this Ordinance. The City Council hereby declares that it would have passed this Ordinance and each and every section, subsection, sentence, clause, portion, or phrase without regard to whether any other section, subsection, sentence, clause, portion, or phrase of the Ordinance would be subsequently declared invalid or unconstitutional.

SECTION 3. This ordinance shall go into effect on the 31st day after its passage.

SECTION 4. The City Clerk of the City of Agoura Hills shall certify to the passage and adoption of this ordinance and shall cause the same or a summary thereof to be published and posted in the manner required by law.

PASSED, APPROVED AND ADOPTED this _____ day of _____, 2011, by the following vote to wit.

AYES: ()
NOES: ()
ABSENT: ()
ABSTAIN: ()

Harry Schwarz, Mayor

ATTEST:

Kimberly Rodrigues, City Clerk

APPROVED AS TO FORM:

Craig A. Steele, City Attorney