

Redding Rancheria
Underground Utility District Ordinance



REDDING RANCHERIA UNDERGROUND UTILITY DISTRICT ORDINANCE

The Redding Rancheria Indian Tribe, a federally recognized Indian Tribe ("Tribe") hereby enacts the following ordinance to establish a safe system of underground utilities within the jurisdiction of the Redding Rancheria. This ordinance shall be known as the "Redding Rancheria Underground Utility District Ordinance." This ordinance and any regulations promulgated thereunder shall constitute the entire underground utilities regulatory system for the tribe.

FINDINGS AND POLICY

The Tribe finds that:

1. Under the Tribe's Constitution, the Tribal Council is charged with the duties of securing rights and powers inherent in the Tribe's sovereign status; protecting the health, education, and general welfare of the Tribe; and promoting and developing economic endeavors;
2. It is within the Tribe's exclusive jurisdiction to regulate utilities on the Rancheria and in particular to determine in its sole discretion the necessity to establish zones requiring underground utilities for the safety of members and visitors on the Rancheria.

NOW, THEREFORE, the Tribe hereby ordains as follows:

Chapters

1. Purpose
2. General Provisions
3. Definitions
4. Designation
5. Violations
6. Exemptions-Special Permission
7. Exemptions-Types of facilities designated
8. Notice of Designation
9. Construction Regulations
10. Responsibility for construction
11. Notice of noncompliance-Service
12. Authority for Future districts delegated to Council
13. Certification

Chapter 1. Purpose

The purposes of this Ordinance is to regulate utilities on lands under the jurisdiction of the Redding Rancheria; and to exercise the Tribe's exclusive authority to establish zones requiring underground utilities for the safety of members and visitors on the Rancheria.

Chapter 2. General Provisions

2000. Short title. This ordinance shall be known and cited as the "Redding Rancheria Underground Utility District Ordinance."
2001. Sovereign immunity preserved. Nothing in this ordinance is intended or shall be construed as a waiver of the sovereign immunity of the Tribe. No officer or employee of the Redding Rancheria is authorized nor shall he/she attempt to waive the immunity of the Tribe under the provisions of this ordinance unless such officer or employee has an expressed and explicitly written authorization from the Council.
2002. Applicability on tribal lands. This ordinance shall apply to all persons, except those expressly exempted, who are present within the boundaries of the Redding Rancheria and such other Indian lands as may hereafter be expressly designated by written motion of the Tribal Council.
2003. Interpretation and findings. The Redding Rancheria Tribal Council may interpret any ambiguities contained in this ordinance.
2004. Conflicting provisions. Whenever any conflict occurs between the provisions of this ordinance and the provisions of any other ordinance of the Tribe, the stricter of such provisions shall apply.

Chapter 3. Definitions.

In construing the provisions of this ordinance, the following words or phrases shall have the meaning designated unless a different meaning is expressly provided or the context clearly indicates otherwise.

3000. The term "Council" means the Tribal council of the Redding Rancheria.
3001. The term "District" means an underground utility district.
3002. The term "Noticed Property" means a property located within a District, the owner and/or occupant of which have been noticed pursuant to Chapter 8 of this Ordinance.
3003. The term "Ordinance" means this Underground Utility District Ordinance.

3004. The term "Person" means and includes individuals, firms, corporations, co-partnerships and their agents and employees.
3005. The term "Poles and overhead wires and associated overhead structures" means poles, towers, supports, wires, conductors, guys, stubs, platforms, cross-arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground upon, along, across or over the streets, alleys and ways of the Rancheria and used or useful in supplying electric, communication or similar or associated services.
3006. The term "Tribe" means Redding Rancheria, a federally recognized Indian tribe.
3007. The term "Tribal law" means ordinances, resolutions, policies and procedures of Tribe and its affiliates, and rulings of the Tribe's court.
3008. The term "Underground utility district" or "district" means an area in the Rancheria within which poles and overhead wires and associated overhead structures are prohibited by this ordinance.
3009. The term "Utility" includes all persons or entities supplying electric, communication, or similar or associated service by means of electrical materials or devices.

Chapter 4. Designation.

4000. The Tribe finds that the public necessity, safety and general welfare require the undergrounding of overhead utility facilities. The Tribe may designate underground utility districts by this ordinance, and does hereby designate the entire Redding Rancheria as an underground utility district. This designation is based upon the following findings: Redding Rancheria Road is (1) extensively used by the general public and carries heavy volumes of pedestrian and vehicular traffic; and (2) adjoins both a public recreation area and an area where many children are present for educational or child care purposes.
4001. The Council may from time to time call public hearings to ascertain whether the public necessity, general public interest, health or safety requires the removal of poles or overhead wires and associated overhead structures from the public streets, alleys and ways within designated areas of the Rancheria. The general public interest may include, but is not limited to, one of the following findings: 1) The street or road or right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic; or 2) The street or road or right-of-way adjoins or passes through a civic area or public recreation area or an area or where many children are present for educational or child care purposes. The Tribal Council Secretary shall notify all affected property owners and utilities by mail of the time and place of such hearings at least ten days prior to the date thereof.

4002. If, after any such public hearing, the council finds that the public necessity, general public interest, health or safety require the removal of poles or overhead wires and associated overhead structures, the Council shall, pursuant to the authority of this ordinance, declare by Notice the area an underground utility district. The Notice shall be sent to affected utilities and property owners and shall include a description of the area comprising the district and shall fix the time within which the poles and overhead wires 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 the removal, having due regard for the availability of necessary labor, materials and equipment for the removal, and for the installation of such underground facilities as may be occasioned thereby.
4003. The Council shall follow the notice provision of Section 4002 in noticing owners and utilities affected by the designation in Section 4000 of the need for removing poles, overhead wires, and other overhead structures.

Chapter 5. Violations.

5000. Whenever the Tribe by ordinance or by Notice pursuant to ordinance declares an area of the Rancheria an underground utility district as provided in Chapter 4, it is unlawful for any person or utility to maintain any pole, overhead wires or associated overhead structure on any Rancheria street, alley or way within the district after the date when such facilities are required to be removed.
5001. Any person or utility who erects, constructs, places, keeps, maintains, continues, employs or operates any such pole or overhead wire or associated overhead structure on any Rancheria street, alley or way within the district after the date when such overhead facilities are required to be removed; or who neglects to take down and remove any such pole, overhead wire or associated overhead structure within the time designated by Notice under authority of the Ordinance; or who otherwise fails to comply with the provisions of this chapter is liable for of a civil offense and, upon determination of liability therefore shall be punishable by a fine not to exceed five hundred dollars. Each such person shall be deemed liable of a separate offense for each day during any portion of which any violation of any of the provisions of this chapter is committed, continued or permitted by the person, and shall be adjudicated therefore as provided in this chapter.

Chapter 6. Exceptions-Special Permission.

The Council may, in any district created under authority of this ordinance, grant special permission, on such terms as the council may deem appropriate in cases of emergency or unusual circumstances, excluding financial consideration, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, and overhead wires and associated overhead structures, notwithstanding any other provisions of this chapter.

Chapter 7. Exemptions-Types of facilities designated.

This chapter shall not apply to the following types of facilities:

- 7000. Pedestals or foundations used exclusively for the support of fire alarm boxes, traffic signal control equipment, pad mounted utility equipment, or any similar municipal equipment installed to the satisfaction of both the director of municipal utilities and the director of the electric utility for the Rancheria;
- 7001. Metal or concrete poles used exclusively for street lighting or traffic signals;
- 7002. Overhead wires of a 60,000-volt or higher transmission system and their support structures crossing any portion of the district;
- 7003. Overhead wires required to be erected on a temporary basis to give emergency service for less than a seven-day period, which period could be extended upon approval by the director of municipal utilities;
- 7004. Radio antennae, their associated equipment and supporting structures; and
- 7005. Overhead wires (exclusive of supporting structures) crossing any portion of an area from which overhead wires have been prohibited, when such wires originate in an area from which poles and overhead wires and associated overhead structures are not prohibited; provided, however, that no aerial connection from such overhead wires shall be made to buildings within the district.

Chapter 8. Notice of designation and required removal.

- 8000. Within ten days after creation of a District, the Council Secretary shall notify all affected utilities and all persons owning real property within the District described in this ordinance or in a District subsequently designated pursuant to authority of this Ordinance. The Redding Rancheria Utility Corporation (RRUCO) clerk shall further notify the property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication or other similar or associated service, they or such occupant shall provide RRUCO with access to their premises so as to receive such service from RRUCO's lines

subject to RRUCO's applicable rules, regulations and tariffs and the requirement of Tribal Law.

8001. Notification shall be made by mailing a copy of the Ordinance to the affected utilities, to affected property owners as they are shown on a current Bureau of Indian Affairs title status report or Rancheria ownership record and to any person occupying, operating, leasing or renting the property, when applicable.

Notification to the affected utility shall also state the date of required removal of overhead facilities, not less than 30 days from the date of notification.

Chapter 9. Construction Regulations.

9000. If underground construction is necessary to provide utility service within a District established by or pursuant to Chapter 4 or 12 of this Ordinance, RRUCO shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs. Underground construction by RRUCO shall be accomplished in accordance with established construction standards and in accordance with the rules and regulations authorized by Tribal law, and shall be completed within the time for removal of overhead facilities specified in this ordinance or pursuant to Chapter 12 of this Ordinance.

Chapter 10. Responsibility for construction

10000. In the event the supplying utility and the person owning, operating, leasing or renting a Noticed Property within a District does not comply with the provisions of Chapter 8 within the time provided in the notice pursuant to Chapter 4, RRUCO administration shall give notice in writing to the person or persons in possession of the premises, and a notice in writing to the owner thereof that the facilities shall be removed by RRUCO within 15 days and/or that RRUCO's access to the Designated Property shall be provided on a date not less than five (5) days after removal of facilities.
10001. Noncompliance by any person owning, operating, leasing or renting that property with the provisions of this section shall constitute a violation under Chapter 5. Until such time as a notice is issued pursuant to Chapter 8 of this Ordinance, 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 facilities.

Chapter 11. Notice of noncompliance-Service.

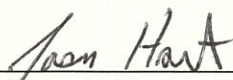
Notice pursuant to Chapter 8 may be given either by personal service or by mail. In case of service by mail, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed and mailed to the person in possession of the premises and the notice(s) must also be addressed to the owner thereof as the owner's name appears, and must be addressed to the owner's last known address as it appears on Rancheria records, and when no address appears, to General Delivery, Redding, California. If notice is given by mail, the notice shall be deemed to have been received by the person(s) to whom it has been sent within forty-eight hours after the mailing thereof. If notice is given by mail to either the owner or occupant of the premises, RRUCO management shall, within forty-eight hours after the mailing thereof, cause a copy thereof printed on a card not less than eight inches by ten inches in size to be posted in a conspicuous place on the premises.

Chapter 12. Authority for future districts delegated to Council.

The General Membership hereby delegates to the Council the authority to designate future, underground utility Districts, and hereby directs that any such District shall be treated in the same manner as a District created by this Ordinance.

Chapter 13. Certification.

We, the undersigned duly elected officials of the Redding Rancheria, do hereby certify that at a duly called meeting of the Tribal Council on January 10, 2012, with a vote of 6 for, 0 against, 0 abstaining, Tribal Council recommends to the Redding Rancheria General Membership that the foregoing Underground Utility District Ordinance be adopted.



Tribal Council Chair

Date: 4-24-12



Tribal Council Secretary

Date: 4/24/12

We, the undersigned duly elected officials of the Redding Rancheria, do hereby certify that the foregoing Ordinance was adopted at a duly called meeting of the General

Membership of the Redding Rancheria with a quorum present on the 16th day of April 2012, by a vote of 39 for, 10 against, 22 abstaining.



Tribal Council Chair

Date: 4-24-12



Tribal Council Secretary

Date: 4/24/12

Present Council:

1. Jason Hart, Chairperson
2. Jack Potter, Jr., Vice-Chairperson
3. Brian McCain, Treasurer
4. Michelle Hayward, Secretary
5. Hope Wilkes, Council Person
6. Barbara Murphy, Council Person
7. James Hayward, Sr., Council Person
8. Mike Hayward, 1st Alternate
9. Patty Spaulding, 2nd Alternate
10. Jason Hayward, Sr., 3rd Alternate