

# Code Amendments Related to Regulation of Utilities in the Right of Way



# Project Objectives

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- Clarify need and benefit of having an active utility franchise
- Outline franchise dispute resolution and revocation processes
- Update the definition of cable franchise fee
- Misc. clarification and housekeeping amendments



# Utility Franchise - Background

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- A Franchise is the County's authorization for public or private utility purveyors to use of the public right-of-way (ROW) for their facilities
- Provides a framework for future coordination
- Addresses a number of issues, including:
  - Emergency situations
  - Utility relocation
  - Permitting for installation, maintenance, & repair
  - Restoration of ROW
- Types of Franchises:
  - Water, Sewer, Electric, Natural Gas, Telecommunications, Cable TV



# Utility Code Amendments

## Permit Requirements for Utilities

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- 13.10.010 – Permit Required
  - Clarifies franchise is required to obtain permit
- 13.80.015 – Right-of-way permit required
  - Clarifies ROW Use Permit required in addition to franchise.
  - Allows D8 permits in cases of emergencies as determined by the Engineer



# Utility Code Amendments

## Permit Requirements for Utilities

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- 13.80.140 – Expired Franchises
  - Formalizes current practice of month-to-month operation if utility applies for franchise renewal and is engaged in good faith negotiations
- 13.60.055 – D8 (Major Utility Construction) permit conditions
  - No D8 permit unless utility has a franchise, C10 Permit, or is engaged in the utility franchise renewal process (if expired).
  - D8 permits may also be issued by the County Engineer in case of emergencies, regardless of a utility's franchise status
- 13.60.060 D7 (“Blanket” Minor Utility Construction) permit conditions
  - No D7 permit unless utility has a franchise or C10 Permit. Utilities operating on an expired month-to-month franchise will not be eligible.
  - One year delayed effective date for this provision to allow outstanding expired franchises to be renewed.



# Utility Code Amendments

## Dispute Resolution and Revocation

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- Authority for the Hearing Examiner to hold hearings on franchise disputes and revocation, described in chapter 13.80 SCC (new section 2.02.123)
- 13.80.125 Franchise Dispute Resolution Process
  - Outlines general process for utility franchise dispute resolution.
  - Authorizes the Hearing Examiner to hear appeals of orders by the County Engineer to comply with the terms of a franchise, including assessment of liquidated damages.
- 13.80.130 – Franchise Revocation Process
  - Outlines general process for revocation of a utility franchise.
  - Provides utility the option for appeal to the Hearing Examiner.
  - Hearing Examiner provides recommendation to Council for final action

# Utility Code Amendments

## Cable Franchise Fees

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- 13.80.092 – Cable television Franchise Fee
  - Revised definition to align the Cable Act
  - Requires quarterly payments, improving County budget forecasting
- 13.110.010 Fees to be charged
  - Eliminates reference to annual franchise fee for consistency with revised Franchise Fee definition in 13.80.092.



# Utility Code Amendments

## Misc. Clarification and Housekeeping

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- 13.50.010 – General
  - Clarifies Type C-10 Permit applies to both opened and unopened right-of-way
- 13.50.100 – Conditions—Utilities (C10)
  - Establishes general conditions for a C10 permit (previously not described)
- 13.80.020 – Application
  - Clarifies applications are required for a new franchise or renewals.
  - Eliminates thirty-day timeline for County Engineer report and recommendations.
- 13.80.070 – Expense of Proceeding
  - Provides correct reference to permit section.

