TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER

DEPARTMENT: UTILITIES

DATE: JUNE 19, 2006

CMR: 238:06

SUBJECT: ADOPTION OF AN ORDINANCE AMENDING SECTIONS 12.16.010 THRU 12.16.100 TO REVISE THE ADMINISTRATIVE PROCEDURES GOVERNING THE FORMATION OF UNDERGROUND UTILITY DISTRICTS

RECOMMENDATION
Staff recommends that Council adopt the attached Ordinance (Attachment A) to amend sections 12.16.010, 12.16.030, 12.16.050, 12.16.070, 12.16.080, 12.16.090, 12.16.091, 12.16.092, 12.16.093, 12.16.094, 12.16.095, 12.16.096 and 12.16.100 of Chapter 12.16 of Title 12 of the Palo Alto Municipal Code (PAMC) to make administrative changes to the underground loan program. Because it is not financially feasible, given legal limitations on loan term, staff is not recommending an alternative loan program for financing property owners’ share of underground costs.

BACKGROUND
At its meeting of September 19, 2005, the Council approved staff’s recommendation to return with amendments to the Palo Alto Municipal Code to include a new loan program that would allow deferring the repayment of underground utility district loans until the home is sold or transferred to a new owner. This repayment could occur several decades in the future. Various other financing alternatives were presented and discussed during the Council meeting and, based on the pros and cons of the various programs, Council voted to approve staff’s recommendation.

As part of the review of the Municipal Code section on undergrounding, staff also revised outdated sections of the code.

DISCUSSION
The purpose of implementing a new loan program was to reduce the burden of the service conversion cost to property owners in underground districts. The new loan with no ongoing periodic repayment schedule was recommended as an alternate program to augment the current 10-year loan program. This loan would provide a means for the City to finance the cost of the service conversion for property owners and secure repayment by placing a lien against the property. This differs from the current 10-year program in that the property owners would not be required to meet an annual repayment schedule. The lien would attach to the property collecting interest until the property is sold, the owner changes, or the amount is repaid. It was staff’s understanding when this program was recommended that this type of loan could provide the most benefit to property owners without increasing administration costs nor causing any significant out of pocket expense to the property owners.
The City Attorney’s Office has advised staff that the term of loan offered in underground districts must be limited to 10 years in order to comply with State laws on which the ordinance is based. According to these laws, all loans offered for the payment of underground service conversion cost would become a special assessment and full payment must be made within a period of 10 years. There are no provisions for extending the time for repayment of the loan. Staff asked the Attorney’s Office to ascertain if there were any other feasible methods that could be used to create a longer term loan program without undue risk to the City and residents. No other feasible options were identified that would ensure City’s ability to enforce its lien interest.

In order to decide whether there would be any benefit, staff evaluated an alternative loan program that would allow deferring repayment to no more than the mandated 10 year limitation. The result of this deferral is receiving a bill at the end of ten years that will come due with interest. For example a $5,000 loan at 5% interest rate will result in a payment of $8,235 at the end of 10 years. If a homeowner is having difficulty paying the conversion cost today, it is likely that he or she may have difficulty paying at the end of 10 years. A loan with a ten-year term would only provide limited benefit compared to the existing loan program. In addition it does not meet the expectations of the property owners and the Council for a longer term loan payable when the property is sold or the owner changes. Due to these reasons staff is not able to recommend provisions being made in the Palo Alto Municipal Code to offer an alternate loan program.

During the review, staff also identified changes to sections of the Municipal Code to address minor changes in the administrative procedures for forming underground utility districts and to update the various authorized and designated positions referenced in the PAMC. Other changes include revising the fine established in 1965 for the failure to remove poles from the underground district from $500 to $1,000 in order to account for inflation, and extending the filing period for the assessment from the time of district formation to the completion of the undergrounding project. The second change will allow residents additional time to make a decision on accepting a loan from the City. Staff recommends that these revisions be approved as proposed in the ordinance.

**RESOURCE IMPACT**
The approval of the proposed changes to Municipal Code will not have any additional impact on the funding budgeted for utility underground districts.

**POLICY IMPLICATIONS**
This recommendation is consistent with existing City policies.

**ENVIRONMENTAL REVIEW**
This project is categorically exempt from the California Environmental Quality Act under Section 15302.

**ATTACHMENTS**
A: Ordinance