

ORDINANCE NO. 2011-05-04-01

AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE TOWN OF TUSAYAN, ARIZONA, AMENDING THE BUILDING CODE, AND SPECIFICALLY, THE 2005 NATIONAL ELECTRIC CODE, BY ADDING REGULATIONS RELATED TO UNDERGROUND UTILITIES.

WHEREAS, the Mayor and Council of the Town of Tusayan (the "Town Council") deem it necessary to adopt certain regulations to protect, enhance and promote the health safety and welfare of the Town of Tusayan (the "Town") and its residents; and

WHEREAS, the Town Council desires to achieve the effect of a model gateway community which integrates the built environment with the natural environment; and

WHEREAS, the Town Council wishes to adopt responsible regulations which are complementary and compatible with architectural and design standards, adopted by the Town and the National Park Service; and

WHEREAS, the Town Council desires to achieve a very high aesthetic quality as identified in the Tusayan vision statement contained in the Tusayan Area Plan; and

WHEREAS, the Town Council supports the implementation of the Utility Policies contained in the Tusayan Area Plan; and

WHEREAS, the Town Council acting as the Tusayan Planning and Zoning Commission held a duly noticed public hearing on March 24, 2011 and recommended approval of Ordinance No. 2011-05-04-01; and

WHEREAS, the Tusayan Town Council held a duly noticed public hearing on Ordinance No. 2011-05-04-01 on May 4, 2011;

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWN OF TUSAYAN, ARIZONA, as follows:

SECTION 1. That the Tusayan Building Code, 2005 National Electric Code, is hereby amended by adding the following new Article as follows:

Article 90.12 Underground Utilities

(A) Definitions; in this article unless the context requires otherwise:

(1) "Distribution feeder" means that portion of the distribution system feeding from a distribution substation to a specific load area having a capacity of over three thousand KVA.

(2) "Existing utility poles and wires" means such poles and wires and other facilities as are in place and in operation as of the effective date of this ordinance and including repairs, replacements, relocations on the same alignment, enlargements, betterments, changes or improvements herein made to increase service capabilities of existing utility poles, wires, service drops and other facilities, but it does not include extensions made to existing distribution lines.

(3) "Transmission line" means an electric line used for the bulk transmission of electricity between generating or receiving points and major substations or delivery points, having a rating of over twelve thousand volts.

(4) "Utility poles and wires" means poles and structures, wires, cables, transformers and all other facilities used in or as a part of the distribution of telephone, telegraph, radio or television communications.

(B) Requirement to Underground Utilities, Provision for Waiver and Exceptions

After the effective date of this ordinance, no new utility poles and wires shall be erected in the town above the surface of the ground unless approval of a waiver from this requirement is first secured from the Town Council; except that the following construction may be installed without such waiver:

- (1) Temporary service facilities, such as facilities to furnish emergency service during an outage, facilities to provide service to construction sites, or other service of a limited duration, such as to a fair, carnival, outdoor exhibit or other function where the facilities will be installed for a temporary period only.
- (2) Pad-mounted transformers or pull boxes, service terminals, pedestal-type telephone terminals, telephone splice closures, or similar on-the-ground facilities normally used with and as a part of an underground electric distribution, telephone, telegraph, or television system or on-the-ground facilities attached to existing overhead facilities which are used for the purpose of connecting an underground system with the existing facilities.
- (3) Transmission lines and distribution feeder lines, together with related switch yards, substations and related equipment. Service drops from existing overhead lines to new single family residential customers, except when underground service is required by the Town's subdivision regulations.

(C) Procedure for Obtaining Approval of Waiver

Any person seeking a waiver to allow the erection of any new utility poles and wires within the town boundaries and above the surface of the ground shall first make application therefore to the Town Council. The Town Council shall approve or deny the application. Approval of an application for a

waiver allowing above ground erection of new utility poles and wires may be granted only in the event that the applicant makes an affirmative showing that the public's general health, safety and welfare and that of adjacent property owners will not be impaired, endangered or jeopardized by the proposed erection. In deciding such matter, the following factors shall be considered:

- (1) The location and height of such poles and wires and their relation to present or potential future roads.
- (2) The crossing of such lines over much travelled highways or streets; the proximity of such lines to places where people congregate.
- (3) The probability of extensive flying in the area where such poles and wires are proposed to be located and the proximity to existing or proposed airfields.
- (4) Fire or other accident hazards from the presence of such poles and wires and the effect, if any, of same upon the effectiveness of fire-fighting equipment.
- (5) The future conditions that may be reasonably anticipated in the area in view of a normal course of development.
- (6) The practicality and feasibility of underground installations of such facilities with due regard for the comparative costs between underground installations; but a mere showing that an underground installation shall cost more than an over-ground installation shall not in itself necessarily justify approval of a waiver.

SECTION 2. That if any provision or any portion of any provision of this Ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance.

PASSED AND ADOPTED BY the Mayor and Council of the Town of Tusayan, May 4, 2011.

FOR THE TOWN OF TUSAYAN:



Greg Bryan, Mayor

REVIEWED BY:



Enrique Medina Ochoa, Town Manager

ATTESTED TO:



Hollie Drew, Town Clerk

APPROVED AS TO FORM:



Bill Simms, Town Attorney