Staff Summary Report

Tempe

Council Meeting Date: 03/20/2008 **Agenda Item Number:** _____

SUBJECT: This is the **introduction and first public hearing** to adopt an ordinance to amend language relating to the requirements for placement of overhead utility lines underground. **The second public hearing is scheduled for April 3, 2008.**

DOCUMENT NAME: 20080320PWWS08 **PLANNING AND DEVELOPMENT (0503-25) ORDINANCE NO. 2008.13**

SUPPORTING DOCS: No

COMMENTS: This ordinance is being introduced to modify the current Tempe City Code (Chapter 25, Sections 25-120 and 25-122) language to reflect the exemption of detached, single family dwellings to the overhead power line undergrounding requirement.

PREPARED BY: WENDY SPRINGBORN-PITMAN, ENG SVCS ADMINISTRATOR (x8250)

REVIEWED BY: ANDY GOH, DEPUTY PW MANAGER/CITY ENGINEER (x8896)

APPROVED BY: GLENN KEPHART, PUBLIC WORKS MANAGER (x8205)

LEGAL REVIEW AS TO FORM: JUDITH MORGAN, ASSISTANT CITY ATTORNEY (x8779)

FISCAL NOTE: N/A

RECOMMENDATION: Adopt Ordinance No. 2008.13 and authorize the Mayor to execute any necessary documents.

ORDINANCE NO. 2008.13

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, AMENDING CHAPTER 25 OF THE TEMPE CITY CODE, RELATING TO PLANNING AND DEVELOPMENT BY AMENDING SECTIONS 25-120 AND 25-122 RELATING TO UNDERGROUNDING OF OVERHEAD UTILITY LINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

Section 1. That Section 25-120 of the Tempe City Code is hereby amended to read as follows:

Sec. 25-120. Definitions.

In this article, unless the context otherwise requires:

Communication lines means any line that provides one or two way transmissions by whatever means conveyed over lines in the public right-of-way including but not limited to transmissions of voice, video or data or anything of similar nature by which thought, idea or information is intended to be conveyed.

Developer shall be deemed to be any individual, firm, corporation, partnership, association, syndication, trust, governmental agency, or other legal entity that is responsible for the development or redevelopment of land that creates any demand for any utility service or causes alteration of existing utility services.

Development/redevelopment shall refer to either initial construction on previously vacant land, or the cumulative expansion (since effective date of this article) of greater than twenty-five percent (25%) of the building floor area existing or approved at the time of effective date of this article, or the cumulative alteration (since effective date of this article) at a cost exceeding fifty percent (50%) of the current appraised value of the structure WITH THE EXCEPTION OF DETACHED, SINGLE FAMILY DWELLINGS.

Existing utility poles and lines means such poles, wires, aerial cables and any other related facilities that are in place and in operation within ninety (90) days of the effective date of this article.

New utility poles and lines means such poles, wires, aerial cables and other related facilities that are not in place and in operation within ninety (90) days as of the effective date of this article.

Off-site shall refer to easements and street rights-of-way within the development and adjacent to the development.

On-site shall refer to the individual lots, parcels, tracts, etc., of the development.

Power line extensions refers to those primary distribution lines that are to be extended through a developed or undeveloped area.

Primary distribution line means an electric line used for electrical distribution or electrical feeder, single-phase or three-phase, having a voltage rating of twelve thousand five hundred (12,500) volts or less.

Secondary and service lines means utility lines that provide electrical and communications service to commercial, industrial, residential, and public use areas.

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 voltage rating greater than twelve thousand five hundred (12,500) volts, including multi-functional static ground wire.

Underground (undergrounding) means the placement of utility lines below ground, with the removal of above ground poles, wires, and structures as applicable.

Utility company shall refer to companies, corporations, and municipalities that undertake distribution and transmission of electricity, telephone, telegraph, radio, television, or telecommunications, or any other communications over communication lines.

Utility poles and lines shall refer to the poles, structures, wires, aerial cables and related facilities used in the distribution of electricity or communication lines.

Section 2. That Section 25-122 of the Tempe City Code is hereby amended to read as follows:

Sec. 25-122. Undergrounding of overhead utility lines.

(a) All new or existing utility lines, other than transmission lines, shall be placed underground in conjunction with a development/redevelopment project (OTHER THAN DETACHED, SINGLE FAMILY DWELLINGS) that has been submitted for approval under the provision of the Tempe City Code. This requirement shall also apply to primary distribution lines and all communication lines, including underbuild on transmission poles, except for communication lines installed on transmission poles in the static neutral position. The required undergrounding shall be completed prior to approval and occupancy of the project.

(b) The (re)developer or owner of a (re)development project shall be responsible to make necessary arrangements with the affected utility companies for the installation of required underground facilities, including arrangements for the payment of any cost, as one of the conditions of plan approval. Nothing contained herein is intended to obligate a providing utility company to install such underground facilities without reimbursement except where the utility company is acting as a (re)developer.

(c) In those instances where poles to be removed include street lights, the street lights will be replaced with freestanding poles and luminaries by the (re)developer in accordance with the approved street light standards or agreements of the serving utility.

(d) The undergrounding requirement shall also apply to all situations where utility companies plan a system upgrade of power or communication line extensions that result in more conductors or wires on a pole. Individual pole mounted equipment shall not be considered an upgrade, such as transformers, switches, splice cases and capacitor banks. The cost for this undergrounding is to be borne by the affected utility company. All new electrical and communication lines requiring a right-of-way permit, other than electrical transmission lines, shall be placed underground. New communication lines, including upgraded replacement lines, will not be allowed to be underbuilt on existing utility poles except for lines installed in the static neutral position.

(e) The undergrounding requirement shall apply to all situations where a governmental agency is acting as a (re)developer or has initiated a construction effort which requires the relocation of existing overhead utility lines. Nothing contained herein is intended to obligate a providing utility company to install such underground facilities without reimbursement from the governmental agency for any costs in excess of those not already the obligation of the utility company.

(f) Where utility lines are required to be placed underground due to a combination of needs generated by (re)development, utility system upgrade, and governmental improvement projects, there shall be an equitable sharing of the cost of that undergrounding effort.

(g) The undergrounding requirement shall not apply to the normal maintenance and repair of existing utility poles and lines. Temporary overhead line installations used to facilitate construction projects, maintenance activities or emergency restoration of power and communications will be allowed subject to approval of the city engineer.

(h) The undergrounding requirements shall apply regardless of the existence of easements for overhead lines.

(i) Equipment appurtenant to the underground facilities, such as surface-mounted transformers, pull boxes, pedestal cabinets, service terminals, telephone splice closures, concealed ducts, or other similar on-the-ground facilities normally used with or as part of an underground utility system, may be maintained above ground. The city maintains the right to approve the location and appearance of all surface-mounted communication equipment.

(j) The undergrounding requirements of this article shall not apply to electrical transmission lines.

Section 3. The Mayor is hereby authorized to execute any documents that may be necessary to carry out the provisions of this Ordinance. Pursuant to City Charter, Section 2.12, ordinances are effective thirty (30) days after adoption.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA,

this _____ day of March, 2008.

_____
MAYOR

ATTEST:

_____
City Clerk

APPROVED AS TO FORM:

_____
City Attorney