

PLEASE RETURN TO:
DIANNE H AUBREY
CITY RECORDER
10000 CENTENNIAL PARKWAY
SANDY UT 84070-3280

SANDY CITY, UTAH
ORDINANCE #95-26

6184304

AN ORDINANCE OF SANDY CITY, UTAH, PROVIDING FOR THE ESTABLISHMENT OF A POWER LINE REVIEW COMMITTEE AND THE IMPOSITION OF TEMPORARY ZONING REGULATIONS REGULATING AND RESTRICTING OVERHEAD POWER TRANSMISSION LINES IN THE BOUNDARIES OF SANDY CITY FOR A PERIOD OF ONE HUNDRED (100) DAYS, OR UNTIL THE COMPLETION AND IMPLEMENTATION OF REVISED AND UPDATED GENERAL PLAN FOR THE CITY, WHICHEVER OCCURS FIRST; PROVIDING FOR THE EXTENSION OF SUCH PERIOD IF NECESSARY; PROVIDING A TITLE; PROVIDING FINDINGS; PROVIDING FOR APPLICABILITY; PROVIDING FOR INVOCATION OF THE PENDING ORDINANCE DOCTRINE; PROVIDING FOR ADMINISTRATIVE REVIEW; PROVIDING FOR THE EFFECT OF THIS TEMPORARY ZONING REGULATION ORDINANCE ON EXISTING CITY ORDINANCES AND CODES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, citizen concerns with high-voltage power lines and the desire to place them underground, are being expressed in many communities across the United States; and

WHEREAS, a citizens group has been formed in Sandy City to oppose the construction of overhead high-voltage power lines on principles of need, aesthetics, property values, and health concerns; and

WHEREAS, in December 1994, Sandy City employed Commonwealth Associates Inc. to perform an "Electric Power Needs Study" to evaluate alternatives to overhead power lines in certain areas of the City; and

WHEREAS, such study recognizes several alternatives to overhead power lines within the area of study; and

WHEREAS, the City Planning Commission has recommended the establishment of a committee to evaluate power line alternatives and to propose updates to the City's general plan and land use regulations relating to the subject; and

WHEREAS, because of anticipated power demands, it is imperative that the City take appropriate action before problems become unsolvable and planning options are irretrievably lost; and

WHEREAS, the City Council is authorized by the Utah Code Section 10-9-404, to adopt, without a public hearing, an ordinance establishing temporary zoning regulations, for any part or all of the area within the City to be effective for a period not to exceed six (6) months if the city

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council makes a finding of compelling, countervailing public interest; and

WHEREAS, said temporary zoning regulations may prohibit, restrict, or regulate the erection, construction, reconstruction, or alteration of any building or structure or subdivision approval.

NOW, THEREFORE, the City Council of Sandy City, Utah ordains as follows:

SECTION 1. TITLE

This Ordinance shall be known and may be cited as the "1995 Temporary Zoning Regulation Ordinance of Sandy City, Utah."

SECTION 2. PURPOSE AND INTENT

- A. The purpose of this ordinance is to promote the health, safety and the general public welfare of the residents of Sandy City by establishing an Power Line Review committee to examine the consequence of the installation of power transmission lines throughout the City and to impose restrictions on the installation of new such lines during the period of Committee's study. The Committee will make findings of fact and recommendations to the City Council within 75 days or less.
- B. The City Council intends by this ordinance to exercise its power to deliberate and balance citizen and utility company needs, and protect the future political, legal, economical, aesthetic, health and safety, and conservation interests of its residents through the gathering of facts, testimony, affidavits and witnesses via the public hearing process by passing this ordinance; and
- C. It is the City's objective to hereby exercise its authority to deliberate whether to allow or disallow overhead high-voltage power lines by selecting volunteers to devote full attention to this matter in order to (1) expedite the City's decision to allow or disallow overhead lines into the City, and (2) examine the situation from as many perspectives as possible, independent of any financial, political, or other influence.

SECTION 3. FINDINGS OF COUNTERVAILING INTEREST

- A. The City Council hereby finds that amendments are needed to the presently enacted Sandy City General Plan and Development Code (containing the zoning regulations for the City) to better deal with the location and installation of transmission lines in order to provide for the health, safety and welfare, and promote the prosperity, improve the good order, comfort, convenience, and aesthetics of the municipality and its present and future inhabitants and businesses, to protect the tax base, protect both urban and nonurban development, and protect property values.
- B. The City Council hereby finds that more study is needed prior to amendment to such

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plan and development code. The City Council finds that more planning is particularly critical relating to transmission lines associated with the proposed Dimple Dell Substation.

- C. The City Council hereby finds that development codes and administrative procedures, necessary to address general plan goals and objectives and facility deficiencies require amendment; and,
- D. The City Council hereby finds, pursuant to Section 10-9-404, *Utah Code Annotated*, that the potential adverse effects of allowing overhead transmission lines in Sandy, while the City conducts the public process specified herein, is not in the best interests of the City; further, that it is a matter of compelling, countervailing public interest to establish temporary zoning regulations as set-out in this ordinance.

SECTION 4. POWER LINE REVIEW COMMITTEE

- A. A Power Line Review Committee is hereby established as specified in Appendix "A" of this ordinance.
- B. The purpose of the Committee is to advise the Mayor and City Council on measures addressing the installation and maintenance of power lines within the City, as specified in Appendix "B" of this ordinance.

SECTION 5. APPLICABILITY

- A. Term of Ordinance. This Ordinance shall remain in effect from the earlier of: (1) one hundred days from its effective date following its adoption by the City Council; or (2) the date of the adoption of the permanent zoning regulations necessary to carry out the intent and purposes of this ordinance. The term of this ordinance may also be extended by enactment as determined necessary by the City Council, provided that the total effective period of the temporary regulations does not exceed six months.
- B. Affected Area. This Ordinance shall apply within the boundaries of Sandy City and all zoning districts thereof.
- C. Types of Uses Affected. This ordinance shall apply, as and to the extent set forth herein, to the installation of all overhead transmission lines, poles, and other support structures, within the City after 5:00 p.m. on September 8, 1995.

SECTION 6. RESTRICTIONS ON OVERHEAD TRANSMISSION LINES

Notwithstanding any provision of the Development Code to the contrary, no new overhead transmission lines shall be erected or approved in the Affected Area during the term of this Ordinance unless authorized under Section 8 of this Ordinance.

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SECTION 7. PENDING ORDINANCE DOCTRINE.

- A. With Respect to this Ordinance. Pursuant to Section 10-9-102, *Utah Code Annotated*, and in order to protect the public health, safety and welfare and to implement the planning and zoning objectives of the City, the City Council hereby expressly initiates its consideration of comprehensive amendments to the City's General Plan and Development Code and invokes the Pending Ordinance Doctrine: (1) as to the pendency of this Ordinance after August 1, 1995, and any subsequent extension thereof, up to a maximum of six months; and (2) and as to the pendency of comprehensive amendments to the permanent zoning ordinance regulations, all as will be further studied during the period of time these temporary zoning regulations are in effect.
- B. The Mayor may adopt such other administrative rules and regulations as are necessary for the proper administration and implementation of the purposes, procedures, intent, findings and substance of this ordinance.

SECTION 8. REVIEW OF CITY ACTIONS

- A. If an applicant for overhead transmission lines asserts that said applicant has been deprived of, or has been subject to a taking of property without just compensation or asserts other invalidity by the passage or application of this ordinance, said applicant may apply for administrative review under the provisions of Sandy City Ordinance #94-81.

SECTION 9. EFFECT ON EXISTING CITY ORDINANCES: CONFLICT.

- A. Effect. This Ordinance is not intended to amend or repeal any existing City ordinance or regulation. To the maximum extent possible, the requirements of this Ordinance shall be deemed to be supplemental to, and not in substitution of, existing City ordinances and regulations. Wherever possible, both shall be given effect.
- B. Conflict. To the extent of any conflict between other City ordinances or regulations and this ordinance, the more restrictive is deemed to be controlling.

SECTION 10. SEVERABILITY.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

This Ordinance shall become effective on its first publication and the City Recorder is instructed to record this ordinance with the Salt Lake County Recorder.

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APPENDIX "A"
Power Line Review Committee
(A Special Committee)

- Purpose:** The purpose of the Committee is to advise the Mayor and City Council on measures addressing the installation and maintenance of power lines within the City, as specified herein [see study questions on Appendix "B"].
- Appointments:** The City Council shall appoint six members to the Committee. The mayor shall appoint three members. The committee members selected shall appoint a chairman, a vice chairman, and a secretary.
- Qualifications:** The Committee should include, where practical, the Public Utilities Director, a senior City planner, and one or more health care professionals, Jordan School District administrators, planning commission members, and electrical engineers. The Committee may include persons who are not City residents.
- Terms of Appointment:** The terms of appointment for Committee members shall expire on December 17, 1995, unless otherwise reappointed.
- Quorum:** Five members of the Committee shall constitute a quorum for the conduct of Committee business and no act of the Committee shall be effective unless a majority of a quorum concur in respect to it.
- Meeting Schedule:** The Committee shall set its own meeting schedule.
- Budget:** Funding for the Committee shall be established annually by the City Council. Budget control and responsibility shall be vested in the Director of Public Utilities, to the extent funding is required from the budget of such department.
- Reporting:** The Committee shall advise the City Council regarding legislative matters and advise the Mayor regarding administrative matters.
- Staff Support:** The Public Utilities Director may assign staff support to the Committee. The level of staffing shall be determined by the Director in consultation with the Committee.
- Removal of Members:** Members who are appointed by the Mayor may be removed by the Mayor at any time without cause. Members appointed by the City Council may be removed at any time by the City Council without cause.
- Special Intents:** It is the intent of the Mayor and City Council that future appointees to the Committee not be members of any other board or committee of the City, in order to promote wider community participation on such committees.
- Authority:** Ordinances #84-53 (Special Committees.)

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Appendix "B"

Study Questions

1. *The City's general plan calls for the eventual underground installation of all power lines.*
 - Is it realistic and in the public interest to convert overhead power lines to underground locations in all or part of Sandy?
 - Should the City adopt a utility master plan, as an element of it's general plan to further define this objective?
 - Should the general plan be amended to specify utility corridors within the City?
2. *Cities have broad authority to regulate for the safety and welfare of the public.*
 - Have other cities been successful in requiring transmission lines to be installed underground?
 - What standard should the City use in determining whether transmission lines pose an inappropriate risk to safety or property values or whether community interests such as aesthetics have been or will be impinged?
3. *The City currently requires distribution lines to be buried as a condition of development.*
 - Are the ordinances which require line burial fair to developers.
 - Should additional safeguards be adopted to insure that costs imposed by the Power Company for such improvements are reasonable?
4. *A new power substation has been proposed adjacent to Dimple Dell Regional Park.*
 - Are the substation and the associated overhead transmission lines necessary?
 - Would the power lines, as planned, pose a risk to public health or property or impinge community interests such as aesthetics?
 - Who should bear the burial costs of any necessary transmission lines and what is the best mechanism for allocating such costs?

PASSED this 12 day of September, 1995.

SANDY CITY COUNCIL



ATTEST:

By: _____

~~Stanley L. Priede, Chairman~~
George R. McNeill

By: _____

Thomas M. Dolan
Thomas M. Dolan, Mayor

Dianne H. Aubrey
City Recorder

PRESENTED to the Mayor this 20th day of September, 1995.

SUMMARY PUBLISHED this 28th day of September 1995. *ED*

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10/06/95 09:45 AM**NO FEE**
NANCY WORKMAN
RECORDER, SALT LAKE COUNTY, UTAH
SANDY CITY
REC BY:R ZITO ,DEPUTY - MP

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