

ORDINANCE NO: 2009-32

STATE OF ALABAMA)

COUNTY OF RUSSELL)

AN ORDINANCE FOR UNDERGROUND INSTALLATION OF WIRES AND FACILITIES FOR THE SUPPLYING OF ELECTRIC, COMMUNICATION OR RELATED SERVICES.

WHEREAS, the City Council of the City of Phenix City has determined that it in the best interest of the City of Phenix City to adopt an Ordinance that establishes a policy to require underground installation of wires and facilities for the supplying of electric, communication or related services.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Phenix City, Alabama, as follows:

REGULATIONS FOR UNDERGROUND UTILITIES

Section 1 Definitions. As used in this section, the words and phrases hereinafter defined shall have the following meanings:

- (a) Poles, Overhead Wires, and Associated Overhead Structures shall mean and include, but not be limited to poles, towers, supports, wires, conductors, guys, stubs, platforms, cross-arms, braces, line transformers, insulators, cut-outs, switches, communication circuits, appliances, attachments and appurtenances located above ground upon, along, across or over the streets, alleys, and easements and used in supplying electric, communication or similar or related services.

Section 2 Underground Installation Required. From and after the effective date of this ordinance, it shall be unlawful, except as specifically provided herein, for any person or utility to erect or construct, poles, overhead wires and associated overhead structures to supply electric, communication or other similar or associated service to any new subdivision development within the corporate limits of the City of Phenix City. All electric installations shall be in accordance with rules and regulations of the Alabama Public Service Commission and the National Electric Safety Code.

The subdivider, developer, or owner of any such area or a portion thereof shall make the necessary arrangements and payment for the installation of underground facilities, including circuits for street lights. Such arrangements shall be made with each of the companies or persons supplying the electrical and communications service therein, in accordance with the established rules, policies and charges of such company or persons.

Section 3 Exceptions.

- A. **Temporary Exceptions.** The City Manager, or his designee, may grant special permission in cases where temporary electrical power or communication service is reasonably required for emergencies or for building construction purposes, or for other temporary purposes, to erect, construct, install or maintain poles, wires and other overhead structures.
- B. **Permanent Exceptions.** The provisions of this ordinance shall not apply to any of the following uses.

1. All electric power lines rated at or above “feeder” line class.
 2. All telecommunications cable and cable television trunk lines.
 3. Poles, overhead wires, and associated overhead structures, when part of a continuous line, or services to individual properties from such existing overhead lines when such services and lines are within a subdivision approved and recorded prior to the adoption of this ordinance.
 4. Radio and television antennae.
 5. Structures on corner lots, in streets and alleys, and on easements adjacent thereto, in cases where electrical and communication wires cross a street or other district boundary from an area where overhead wires are not prohibited, may be connected to said overhead wires, and hereby are excepted from the provisions of this ordinance.
 6. Overhead lines attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building, or to an adjacent building without crossing a property line.
 7. Poles used for street or area lighting or for traffic control facilities.
 8. Service terminals, risers, transformers, regulators, meters, or other on and above ground facilities normally used with and as a part of underground distribution system provided such facilities are not located in the required front or side yards.
 9. Electric substations, transmission poles, towers and lines, and the accompanying equipment and apparatus necessary to provide reliable electric service.
 10. The underground installation of electric facilities of public utilities regulated by the Alabama Public Service Commission are governed by and subject to the rules and regulations of the Commission and, to the extent any exclusions, conditions or requirements of the Commission rules apply, they will govern, notwithstanding any provisions of this ordinance. No installation is required to be made by any public utility until payment arrangements have been made in accordance with Commission rules.
- C. **Special Exception.** Notwithstanding any other provisions of this ordinance, the City Council may grant special exceptions on a permanent or temporary basis to the provisions hereof on such terms as the Council may deem appropriate in cases of emergency or unusual circumstances to any party to erect, construct, install, maintain use or operate poles and overhead wires and associated overhead structures.

Section 4 Hold Harmless. The public utility, cable television, telecommunications company or other entity installing underground facilities pursuant to this ordinance, its successors and assigns, shall save and hold harmless the City of Phenix City, Alabama, from all liability, costs, damages, and expenses of every kind, for the payment of which said City may become liable to any person, firm or corporation to the extent any such liability, costs damages or expenses are caused by the negligence by such entity in the construction, maintenance, and operation of this its underground facilities within said City of Phenix City, Alabama.

Section 5 Underground Wiring Prohibited. The installation, placement or maintenance of any and all underground electrical or communication wiring or associated structures or facilities, whether they be above or underground, shall be prohibited in all floodplains, flood prone areas, drainage easements, major drainageways, or any other area where the possibility of standing water exists. Where electrical or communication service wiring must cross such areas, easements or ways, they must be elevated and so installed as to be reasonably free from flood or storm water runoff damage.

The provisions of this ordinance are severable. If any section, subsection or provision thereof be for any reason declared void or invalid, such invalidity shall not affect any other section, subsection or provision of this Ordinance.

This ordinance shall become effective upon its adoption and publication as required by law.

PASSED, APPROVED AND ADOPTED this 21st day of July, 2009.

/s/ H. S. Coulter
MAYOR

/s/ Jimmy Wetzel

/s/ Max Wilkes

/s/ Michelle E. Walker

/s/ Arthur L. Sumbry
MEMBERS OF THE CITY COUNCIL OF
THE CITY OF PHENIX CITY, ALABAMA

ATTEST:

/s/ Charlotte L. Sierra
CITY CLERK