

CHAPTER 3

Underground Transmission and Distribution Lines

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SEC. 5-3-1 PURPOSE AND SCOPE.

The Town Board of the Town of Burke hereby declares it to be the policy of the Town of Burke to favor underground transmission facilities. The purpose of this Chapter is to create the legal framework for a comprehensive and balanced exercise of police power to facilitate greater harmony between people and their environment and to prevent the hazards of overhead public utility transmission lines. This Chapter is adopted to require the underground construction of future transmission lines. With this purpose in mind, it is the intent of this Chapter to preserve and protect the following values and benefits the Town Board finds will be harmed in the absence of this Chapter:

- (a) Scenic, aesthetic and other recreational values;
- (b) The improvement of general civic appearance;
- (c) Harmony between man's surroundings and activities;
- (d) The removal of safety hazards to pedestrians and motorists;
- (e) Protecting the integrity of trees and other vegetation;
- (f) Overcoming the loss of service and the attendant hazard to people and wildlife because of downed lines due to windstorm, ice, accident or equipment failure;
- (g) Eliminating damage to overhead lines and poles caused by vandalism, wildlife or accident;
- (h) Eliminating damage to wildlife caused by the presence of poles and overhead lines.

SEC. 5-3-2 DEFINITIONS.

All terms are to be broadly construed to effectuate the purposes of this Chapter, and shall have the following specific meanings:

- (a) **Construct.** Shall mean the building, erection, realignment, addition to or placement of a transmission line, but shall not be construed to mean:
 - (1) Maintenance and repair activity on a transmission line. Including the replacement of part of the transmission line for maintenance or repair purposes.
 - (2) The addition of an overhead transmission line to poles which are already in place.
- (b) **Conventional Construction Methods.** Shall mean the use of machine for trenching, backhoeing or plowing or for tunneling or boring under existing highway pavements or railroad tracks to excavate for the installation of an underground transmission line.

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- (c) **Economically Unfeasible Construction.** Shall mean construction requiring excavation by other than conventional construction methods.
- (d) **Overhead.** Shall mean above ground level.
- (e) **Person.** Shall mean a natural person, corporation, joint venture, partnership or any combination thereof.
- (f) **Pole.** Shall mean any tower or other structure of any material designed for the purpose of supporting overhead transmission lines.
- (g) **Public Utility.** Shall have the meaning prescribed in Section 196.01, Wis. Stats.
- (h) **Reconstruct.** Shall mean to substitute a new transmission line for an already existing transmission line.
- (i) **Reinforce.** Shall mean to increase the capacity of existing transmission lines attached to existing poles.
- (j) **Transmission Line.** Shall mean any wire used for the transmission of electrical energy and any equipment appurtenant thereto, but shall not mean wire or appurtenant equipment between a distribution transmission line and a customer's premises.
- (k) **Underground.** Shall mean below the surface of the earth in conformity with any other applicable ordinance or statute.
- (l) **Unusual Soil Conditions.** Shall mean any natural undisturbed soil conditions where underground transmission facilities cannot reasonably be installed by trenching, backhoeing or plowing, or where the following depths of workable soil does not exist above the water table or above the top of an area previously used for waste disposal:

| <u>Kilovolts</u> | <u>Depth</u> |
|------------------|--------------|
| 120-240 volts | 24" |
| 7.2 kilovolts | 36" |
| 12.4 kilovolts | 36" |
| 13.8 kilovolts | 36" |
| 69 kilovolts | 72" |
| 138 kilovolts | 72" |

- (m) **Utility.** Shall have the same meaning as "public utility".

SEC. 5-3-3 AREA OF APPLICATION.

All territory within the township limits of the Town of Burke shall be subject to the provisions of this Chapter.

SEC. 5-3-4 UNDERGROUND CONSTRUCTION REQUIRED.

- (a) All transmission lines hereafter constructed in the Town of Burke shall be constructed underground and it shall be unlawful for any person, firm, corporation or public utility to construct any above ground level transmission line in the Town of Burke or to maintain a transmission line constructed in violation of this Chapter.
- (b) Provided further, the provisions of this Section shall not apply:
 - (1) Where the construction of a temporary overhead transmission line is necessary to restore service to one or more customers in the event the loss of service was caused by defective plant, but this exception shall not apply for longer than five (5) months.

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- (2) Where an existing transmission line is being reinforced.
- (3) Where unusual subsoil conditions restrict underground transmission line construction using conventional construction methods and render underground construction economically unfeasible.
- (4) Where overhead service is needed to provide temporary service to construction sites until an occupancy permit is issued for the premises served or until the construction work performed on the construction site is substantially completed.
- (5) Where it has been determined by the Town Board or its designee, that such underground construction will have an adverse environmental or economic impact upon a part or all of the Town of Burke.

SEC. 5-3-5 APPROVAL OF LOCATION AND CONSTRUCTION OF TRANSMISSION LINES.

- (a) No person or public utility shall construct any overhead transmission line or its appurtenant poles, pipes or conduits therefor within the Town of Burke unless they shall have first submitted to the Town Board an application showing:
 - (1) The precise route of the proposed transmission line or its appurtenant poles, or conduits.
 - (2) The precise proposed area to be occupied.
 - (3) A description of the construction work and the estimated duration thereof.
- (b) No such transmission line or its appurtenant poles, pipes or conduits therefor shall be constructed or laid until a permit for such construction work shall have been first obtained from the Town Board of the Town of Burke or its designee.

SEC. 5-3-6 VARIANCE.

The Town Board reserves the right to grant a variance to this Chapter as follows, but not limited to: hardship, reinforcement, or unusual subsoil conditions. If a variance is necessary, the person, firm, corporation, or public utility shall advise on the permit application the reason for such variance. The granting of such variance shall be at the sole discretion of the Town Board.