

RESOLUTION NO. 8 - 2017

**A RESOLUTION OF THE
CITY OF BEECH GROVE, INDIANA BOARD OF PUBLIC WORKS
TO ESTABLISH AN UNDERGROUND AND BURIED UTILITY DISTRICT**

WHEREAS, the City of Beech Grove, Indiana (“City”), pursuant to I.C. 36-9-2-7, may regulate the use of public ways; and

WHEREAS, Board of Public Works of the City (“Board”) has the power to administer public utilities and regulate the City’s rights-of-way (“ROW”) in conjunction with the Common Council; and

WHEREAS, public necessity, health, and safety now require that all utilities located within the City’s ROW shall be placed underground or buried; and

WHEREAS, the Board, now finds that it is in the best interests of the public health, safety, and general welfare of its citizens to prohibit the erection of all poles, overhead lines, and associated overhead structures used or useful in supplying electric, communication or similar and associated services within the City’s ROW; and

WHEREAS, to further the aforementioned public necessity, the Board now hereby establishes an Underground and Buried Utilities District (“Area”) and designates the Area to be in effect throughout all ROW within the corporate boundaries of the City.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Public Works of the City of Beech Grove, as follows:

Section 1. The foregoing Recitals are fully incorporated herein by this reference.

Section 2. The City hereby establishes an Underground and Buried Utilities District (“Area”) to be in effect and to apply throughout the City’s ROW, and is hereinafter defined as follows:

- a. In all areas of the City where no overhead or above ground utilities, utility facilities, overhead lines, or associated overhead structures used or useful in supplying electric, communication or similar and associated services currently exist;
- b. In all areas of the City where planned road projects, redevelopment areas and/or economic development areas provide for and require underground buried utilities and utility facilities, including but not limited to electric, communication or similar and associated services; and
- c. All other areas of ROW or proposed ROW throughout the City, whether or not above ground utilities or utility facilities currently exist.
- d. Notwithstanding subsections (a) through (c) above, any utility that requires construction,

placement, or use of a small cell facility in an Area designated strictly for underground or buried utilities, may submit an application to the Works Board requesting a waiver to install new utility poles or new wireless support structures within the Area.

Section 3. From and after the effective date of this Resolution, no person, corporation, or utility shall erect or construct within the City's ROW, any pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services.

Section 4. Unless otherwise expressly authorized by the Board, all utilities located within the City's ROW shall be placed underground and/or buried.

Section 5. All existing overhead poles, wires, and/or utility transmission lines may remain within the City's ROW, but may not be replaced or relocated without prior written authorization of the Board.

Section 6. If any portion of this Resolution is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Ordinance so long as enforcement of same can be given the same effect.

Section 7. This Resolution shall be in full force and effect from and after the date of passage.

THE FOREGOING WAS ADOPTED AND PASSED BY THE CITY OF BEECH GROVE, INDIANA BOARD OF PUBLIC WORKS ON THIS _____th DAY OF _____, 2017.

Dennis Buckley, Mayor

David Harrison

Sandra Seward

ATTEST:

Dan McMillan, Clerk-Treasurer