

02-2017

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

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

WHEREAS, the City, pursuant to I.C. 36-7-4-205, may exercise territorial jurisdiction and provide municipal services to contiguous unincorporated areas and the City has exercised this jurisdiction; and

WHEREAS, pursuant to I.C. 36-4-9-5, the City has established the Board of Public Works and Safety (“BPW”) to administer public utilities and regulate the City’s rights-of-way (“ROW”); and

WHEREAS, public necessity, health and safety now require that all new utilities located within the City’s ROW and/or a granted utility easement shall be placed underground or buried, and the City, by and through the BPW, 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 or granted utility easement; and

WHEREAS, to further the aforementioned public necessity, and to comply with the provisions required under I.C. 8-1-32.3-15, as added by P.L. 145-2015, Section 3, the BPW now hereby establishes an Underground and Buried Utilities District (“Area”) and designates the Area to be in effect throughout all ROW within the boundaries of the City and contiguous unincorporated areas under the territorial jurisdiction of the City.

Drafted by City Attorney W. Erik Weber 04-26-2017

NOW, THEREFORE, BE IT ORDAINED AND RESOLVED, by the City of Auburn Board of Public Works and Safety 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 April 27, 2017, and to apply throughout the City and the areas under the City’s territorial jurisdiction’s ROW and granted utility easements, and is hereinafter defined as follows:

a. In all areas of the City and the areas under the City’s territorial jurisdiction 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 and the areas under the City’s territorial jurisdiction 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;

c. All other areas of ROW or proposed ROW throughout the City and areas under the territorial jurisdiction of the City, or in a utility easement granted by 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 BPW 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 and the areas under the City’s territorial jurisdiction’s ROW or granted utility easement, 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 City’s BPW, all utilities located within the City and the areas under the City’s territorial jurisdiction’s ROW or a granted utility easement shall be placed underground and/or buried.

Drafted by City Attorney W. Erik Weber 04-26-2017

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


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 Resolution 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 its passage.

SO RESOLVED this 27 day of April, 2017.

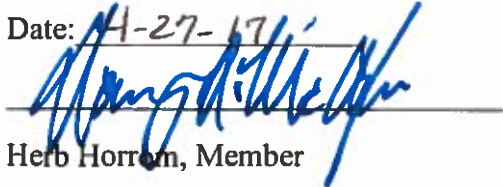
CITY OF AUBURN, INDIANA

BY:



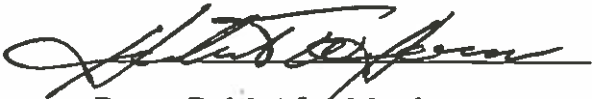
Norman E. Yoder, Member

Date: 4-27-17



Herb Horron, Member

Date: 4-27-17



Danny D. McAfee, Member

Date: 4-27-17

ATTEST:



Patricia Miller, Clerk-Treasurer

Date: 4-27-17

Drafted by City Attorney W. Erik Weber 04-26-2017