

RESOLUTION NO. 2017-09

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF SPEEDWAY, INDIANA, ESTABLISHING AN UNDERGROUND AND BURIED UTILITY DISTRICT

WHEREAS, the Town of Speedway, Indiana ("Town"), pursuant to Ind. Code § 36-9-2-7, may regulate the use of public ways; and

WHEREAS, pursuant to Ind. Code § 8-1.5-3 *et seq.*, the Town Council serves as a board of works (the "Council") to administer public utilities and regulate the Town's rights-of-way ("ROW"); and

WHEREAS, public necessity, health and safety now require that all new utilities located within the Town's ROW and/or a granted utility easement shall be placed underground or be buried in the future except as otherwise provided by the Council or the Town's Street Department ("Street Department"); and

WHEREAS, the Town, by and through the Council, now finds that it is in the best interests of the public health, safety, and general welfare of its citizens and critical to safe operation to prohibit the erection of all new poles, overhead lines, and associated overhead structures used or useful in supplying electric, communication or similar and associated services within the Town's ROW or granted utility easement or within a five foot radius of underground water mains and sanitary sewer mains except as otherwise provided by the Council or the Street Department; and

WHEREAS, to further the aforementioned public necessity, and to comply with the provisions required under Ind. Code § 8-1-32.3-15, as added by P.L. 145-2015, Section 3 and amended by Senate Enrolled Act No. 213 in 2017 (collectively the "Act"), the Council 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 Town, as further described below.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Speedway, Indiana, as follows:

Section 1. The Town hereby establishes an Underground and Buried Utilities District ("Area") to be in effect as of April 29, 2017, to apply throughout the Town's ROW and granted utility easements, and as further described below:

- a. All areas of the Town where there currently are 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.
- b. All areas of the Town where planned road projects, redevelopment areas, economic development areas, planned unit developments or other approved plans 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 areas of ROW that contain a water main or a sanitary sewer main owned by the Town that currently exist or where future development will necessitate a water main or sanitary sewer main. This subsection is limited to five feet on either side of an underground water main or sanitary sewer main.
- d. All other areas of ROW or proposed ROW throughout the Town, or in a utility easement granted by the Town, whether or not above ground utilities or utility facilities currently exist.

Section 3. From and after the effective date of this Resolution, no person, corporation, or utility shall erect or construct within the Town's ROW or granted utility easement, any new pole, overhead line, or associated overhead structure used or useful in supplying electric, communication or similar associated services except as approved by the Council or the Street Department.

Section 4. Except as otherwise expressly authorized by the Council or the Street Department, all utilities and utility facilities hereafter located within the Town's ROW or a granted utility easement shall be placed underground and/or buried.

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

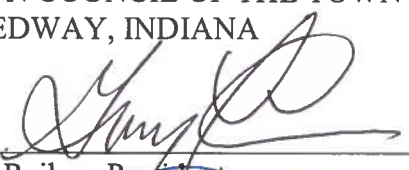
Section 6. The Street Department is hereby directed to prepare and submit to the Council for approval a plan which provides for a waiver, zoning process, permitting process or other procedure that addresses requests to install new utility poles or new wireless support structures and to replace and collocate structures and facilities within the Area consistent with the Act and other applicable statutory requirements.

Section 7. 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 8. This Resolution shall be in full force and effect from and after the date of its passage.

Adopted and passed this 29th day of April, 2017.

TOWN COUNCIL OF THE TOWN OF
SPEEDWAY, INDIANA



Gary Raikes, President

Jeffery R. Matthews, Councilor

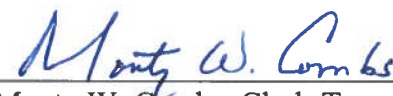
Eileen Fisher, Councilor

David Lindsey, Councilor

ABSENT

Jason DeLisle, Councilor

Attest:



Monty W. Combs, Clerk-Treasurer