

ALLEN COUNTY CODE TITLE 5 HIGHWAY DEPARTMENT

ARTICLE 7 UNDERGROUND AND BURIED UTILITY DISTRICT

5-7-1: Definitions

The definitions as outlined in I.C. 8-1-32.3 are hereby incorporated by reference.

5-7-2: The District

The Board of Commissioners of the County of Allen (“County”) hereby establishes an Underground and Buried Utilities District (“District”) to be in effect April 28, 2017, and apply throughout the County’s right of way and granted utility easements, and is hereinafter defined as follows:

- a. All areas of unincorporated Allen County 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. All areas of unincorporated Allen County where proposed 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 associated services;
- c. All areas of unincorporated Allen County that are or become platted subdivisions and/or have neighborhood covenant restrictions that require underground buried utilities and utility facilities, including but not limited to electric, communication or similar associated services;

5-7-3: Restriction

No person, corporation, utility, or other entity shall construct within the County’s District any poles, overhead lines, or associated overhead structure used or useful in supplying electric, communication, or similar associated services.

This restriction does not prohibit:

- a. The collocation of small cell facilities on existing utility poles and wireless support structures within the District; or
- b. The replacement of existing utility poles and wireless support structures within the District.

5-7-4: Waivers

5-7-4-1

Notwithstanding subsections (a) through (c) in ACC 5-7-2, any utility that requires construction, placement, or use of a small cell facility in a District designated strictly for underground or buried utilities, may submit an application to the Allen County Highway Department (“ACHD”) requesting a waiver to install new utility poles or new wireless support structures within the District pursuant to provisions as outlined in ACC 5-7-2 and I.C. 8-1-32.3.

5-7-4-2

Unless authorization through a waiver has been obtained by the ACHD, all utilities located within the District shall be buried or placed underground.

5-7-5: Notification

If a waiver is applied for, the ACHD will notify post notification on the County’s website in accordance with I.C. 8-1-32.3-15.

5-7-6: Severability

If any portion of this ordinance 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.

5-7-7: Effective Date

This ordinance shall be in full force and effect from and after the date of its adoption.

Ordinance adopted 4-28-17 by Ordinance#04-28-17-05