

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2018-08 Passed April 17, 2018

AN ORDINANCE DESIGNATING CERTAIN AREAS IN THE CITY OF BROOKVILLE AS STRICTLY FOR UNDERGROUND UTILITIES, AND DECLARING IT AN EMERGENCY.

WHEREAS, the Ohio General Assembly has adopted legislation which authorizes the location of small cell facilities and wireless support structures within the boundaries of municipal corporation; and

WHEREAS, the City may require designate certain areas within the City as strictly for underground utilities, and require all structures and facilities to be placed underground in the public way or a utility easement subject to certain requirements in Chapter 4939 of the Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BROOKVILLE, OHIO THAT:

SECTION I: This Ordinance is adopted to designate certain locations in the City of Brookville that the City of Brookville shall require all utility structures and facilities to be placed underground or elsewhere in the public right of way or a utility easement.

SECTION II: The City hereby designates the following areas as strictly underground areas for utilities structures and facilities, and further sets forth and describes these areas in Exhibit A attached hereto and incorporated by reference:

- a. All sections of following residential subdivisions:
  - (i) Arlington Woods Subdivision
  - (ii) Wolf Run Subdivision
  - (iii) Meadows of Brookville Subdivision
  - (iv) Sterling Meadows Subdivision
  - (v)Golden Gate Estates, Golden Gate Condominiums, Golden Gate Subdivision
  - (vi) Wenger Woods Subdivision
  - (vii) Hunters Run Subdivision
  - (viii) Behnken Subdivision
  - (ix) Lehman Estates
- b. All sections of the following commercial and industrial subdivisions
  - (i) Northbrook Industrial Park
  - (ii) Brookville Retail and Industrial Campus
  - (iii) Harvest Wing Development
  - (iv) McGregor Subdivision
  - (v) Brookhaven Retirement Community
  - (vi.) Brookwoode Commercial Development
- c. All undeveloped areas of the City of Brookville where underground utilities will be required in future development of the area.
- d. All other areas of the City of Brookville where no overhead or aboveground utilities, utility facilities, overhead lines, or associated overhead structures used or useful in supplying electric, communication, or similar or associated services currently exist.

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SECTION III:

(a) Subject to the provisions of Ohio Revised Code Chapter 4939, the City of Brookville does not prohibit the replacement of wireless support structures or the collocation of small cell facilities on wireless support structures in the designated areas.

(b) The City of Brookville shall permit applicants to seek a waiver of the undergrounding or alternative location requirements for a new wireless support structure to support small cell facilities if the operator is unable to achieve its service objective using a small cell facility:

(i) from a location in the public right of way where the prohibition against above ground facilities does not apply.

(ii) In a utility easement the operator has the right to access, or

(iii) in or on other suitable locations or structures made available by the City of Brookville at reasonable rates, fees and terms. The City shall process the waiver application in a reasonable and nondiscriminatory manner that does not have the effect of prohibiting the provision of wireless service.

SECTION IV: It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council were in meetings open to the public and in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

SECTION V: This Ordinance is hereby declared to be an emergency necessary for the immediate preservation of the public peace, health, safety, or welfare for the reason that it is necessary to have this legislation in effect ninety days prior to any application for a permit to locate a small cell facility in the City of Brookville. Therefore, this Ordinance shall take effect immediately after passage by at least two-thirds of the members of the Council of the City of Brookville as provided by the Charter of the City of Brookville.

PASSED this 17th day of April, 2018.

ATTEST:

  
Meghan Wheeler, Clerk

  
David E. Seagraves, Mayor

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CERTIFICATE

The undersigned, Clerk of the City of Brookville, does hereby certify that the foregoing is a true and correct copy of Ordinance No. 2018-08 , passed by the Council of the City of Brookville, Ohio, on the 17th day of April, 2018.

  
Meghan Wheeler, Clerk

CERTIFICATE OF POSTING

The undersigned, Clerk of the City of Brookville, Ohio, hereby certifies that the foregoing Ordinance No. 2018-08 was posted at the City Building, US Post Office and the Brookville Branch of the Montgomery County Public Library, Brookville, Ohio, on the 19th day of April, 2018, to the 19th day of May, 2018, both days inclusive.

  
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Meghan Wheeler, Clerk

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David E. Seagraves, Mayor