

ORDINANCE NO. 90

AN ORDINANCE TO REGULATE CROSS CONNECTIONS WITH THE PUBLIC WATER SUPPLY SYSTEM; ADOPTION OF RULES; CROSS CONNECTION DEFINED; CROSS CONNECTION PROHIBITED; INSPECTION; ENTRY UNTO PRIVATE PROPERTY; DISCONTINUATION OF WATER SERVICE; LABELING REQUIREMENT; STATE PLUMBING CODE SUPPLEMENTAL; PENALTY; EFFECTIVE DATE.

THE VILLAGE OF NEW LOTHROP ORDAINS:

Section 1. Adoption of Rules. The Village of New Lothrop, Michigan does hereby adopt by reference the "Water Supply Cross Connection Rules" of the Michigan Department of Public Health, being R 325.431 to R 325.440 of the *Michigan Administrative Code*.

Section 2. Cross Connections Unlawful. It is unlawful and a misdemeanor for any person owning or leasing any real estate in the Village of New Lothrop to establish or maintain a cross connection to the Village of New Lothrop water system.

Section 3. Definitions:

a. Cross Connection: is defined as a connection or arrangement of piping or appurtenances through which a back flow could occur.

b. Back Flow: is defined as water of questionable quality, waste or other contaminants entering a public water supply system due to a reversal of flow.

Section 4. Inspection Official. It shall be the duty of the Water Superintendent or his designee to cause inspections to be made of all properties served by the public water supply system where cross connections to the public water supply system are deemed possible. The frequency of inspections and re-inspections based upon potential health hazards involved shall be as established by the Water Superintendent and as approved by the Michigan Department of Public Health.

Section 5. Entry Unto Private Property. The Water Superintendent or his designee shall have the right, at all reasonable times, to enter any property served by a connection of the water supply system of the Village of New Lothrop for the purpose of inspecting or re-inspecting the piping system or systems thereof for cross connections.

On request, the owner, lessees or occupants of any property so served shall allow access to the inspector or shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of access or the refusal of such information, when requested, shall be deemed evidence of the presence of a cross connection.

Section 6. Reduced Pressure Principle Backflow Preventers. In the event that a property is connected to the public water supply system and the property has a reduced pressure principle backflow preventer (RPZ), the RPZ device must be inspected and the device tested at least once every five (5) years. A certified person must perform the actual testing of the device. If the RPZ device is located in an area declared by the water superintendent to be a high hazard situation, the device must be tested annually. The owner of the device must be able to provide documentation that the device was tested by a certified tester and the device was certified to be working properly. The documentation shall be provided to the Village upon request or at the time of any inspection by the Village Water Department.

Section 7. Discontinuation of Water Service. The Water Superintendent is hereby authorized and directed to discontinue water service after reasonable notice to the owner, lessees or occupants of any property wherein any connection in violation of this Ordinance exists or where inspection and/or pertinent information are refused pursuant to Section 5, above. He or she shall take such other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the cross connection(s) has been eliminated.

Section 8. Warning. The public water system is hereby deemed to be the potable water supply on properties served by the public water system. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the public water supply system must be labeled in a conspicuous manner as water unsafe for drinking.

Section 9. State Plumbing Code. This Ordinance does not supercede the State Plumbing Code. This Ordinance is designed to supplement said Code. Every provision contained in this Ordinance is subject to the State Plumbing Code.

Section 10. Penalty. Any person found guilty of violating this Ordinance is guilty of a misdemeanor and is subject to a fine not exceeding \$500.00.

Section 11. Effective Date. This Ordinance shall become effective immediately upon publication.

Date Enacted: 4-11-01

Date Posted: _____

Date Published: _____



~~Jerry Burns~~, President
Ken Birchmeier



Karen Maksimchuk, Village Clerk

PREPARED BY:
CHARLES R. McKONE
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ORDINANCE NO. 93

AN ORDINANCE TO PROHIBIT THE OPEN BURNING OF LEAVES; PUBLIC PURPOSE; PENALTY; EFFECTIVE DATE.

THE VILLAGE OF NEW LOTHROP ORDAINS:

Section 1. Public Purpose. It is hereby deemed to be in the best interests of the health, safety and welfare of the citizens of the Village of New Lothrop to prohibit open burning within the Village.

Section 2. Prohibition. No person shall burn leaves in the open within the Village limits of the Village of New Lothrop.

Section 3. Exception. Leaf burning may be allowed by permit upon application by a property owner on property containing a minimum of one acre. The official from whom a permit shall be sought, the fee for the permit and the standards upon which a permit may be granted shall be established by Resolution of the Village Council.

Section 4. Penalty. Any person found guilty of violating this Ordinance is guilty of a misdemeanor and is subject to a fine of up to Five Hundred (\$500.00) Dollars or imprisonment for a period of up to ninety (90) days, or a combination of such fine and imprisonment.

Section 5. Effective Date. This Ordinance shall become effective fifteen (15) days after adoption and after publication or posting. Enforcement shall commence upon approval by the Commission.

Date Enacted: _____

Date Posted: _____

Date Published: _____

Kenneth Birchmeier, President

Karen Maksimchuk, Village Clerk

PREPARED BY:

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ORDINANCE NO. 94

TELECOMMUNICATIONS ORDINANCE

AN ORDINANCE TO REGULATE ACCESS TO AND ONGOING USE OF PUBLIC RIGHT-OF-WAY BY TELECOMMUNICATIONS PROVIDERS; DEFINITIONS; PERMIT PROCEDURES; UTILITY POLES; MAPS; DAMAGES; FEES; REPORTING; CABLE TELEVISION; RESERVATION OF POWERS; PENALTY; REPEAL AND EFFECTIVE DATE.

THE VILLAGE OF NEW LOTHROP ORDAINS:

Section 1. Purposes. The purposes of this Ordinance are to regulate access and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety, and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002 ("Act")) and other applicable law, and to ensure that the Village qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.

Section 2. Conflict. Nothing in this Ordinance shall be construed in such a manner as to conflict with the Act or other applicable law.

Section 3. Terms Defined. The terms used in this ordinance shall have the following meanings:

Act means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Act No. 48 of the Public Acts of 2002), as amended from time to time.

Village means the Village of New Lothrop.

Village Council means the Village Council of the Village of New Lothrop.

Village President means the Village President or his or her designee.

Permit means a non-exclusive permit issued pursuant to the Act and this Ordinance to a telecommunications provider to use the public rights-of-way in the Village for its telecommunications facilities.

All other terms used in this Ordinance shall have the same meaning as defined or as provided in the Act, including without limitation the following:

Authority means the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to Section 3 of the Act.

MPSC means the Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term "Commission" in the Act.

Person means an individual, corporation, partnership, association, governmental entity or any other legal entity.

Public Right-of-Way means the area on, below, or above a public roadway, highway, street, alley, easement or waterway. Public right-of-way does not include a federal, state or private right-of-way.

Telecommunication Facilities or Facilities means the equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify, or provide telecommunications services or signals. Telecommunications facilities or facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in section 332(d) of part I of title III of the communications act of 1934, chapter 652, 48 stat. 1064, 47 U.S.C.332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communication device.

Telecommunications Provider, Provider and Telecommunications Services mean those terms as defined in Section 102 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in Section 332(d) of Part I of the communications act of 1934, chapter 652, 48 stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this Ordinance only, a provider also includes all of the following:

- (a) A cable television operator that provides a telecommunications service.
- (b) Except as otherwise provided by the Act, a person who owns telecommunication facilities located within a public right-of-way.
- (c) A person providing broadband internet transport access service.

Section 4. Permit Required.

- (a) ***Permit Required.*** Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the Village for its telecommunication facilities shall apply for and obtain a permit pursuant to this Ordinance.
- (b) ***Application.*** Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with Section 6(1) of the Act. A telecommunications provider shall file one copy of the application with the Village Clerk, one copy with the Village President and one copy with the Village Attorney. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with Section 6(5) of the Act.
- (c) ***Confidential Information.*** If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary, or confidential information, which is exempt from the Freedom of Information Act, 1976 PA 442, MCL 15.231 to 15.246, pursuant to Section 6(5) of the Act, the telecommunications provider shall prominently so indicate on the face of each map.
- (d) ***Application Fee.*** Except as otherwise provided by the Act, the application shall be accompanied by a one-time non-refundable application fee in the amount of \$500.00.
- (e) ***Additional Information.*** The Village President may request an applicant to submit such additional information which the Village President deems reasonably necessary or relevant. The applicant shall comply with all such requests in compliance with reasonable deadlines for such additional information established by the Village President. If the Village and the applicant cannot agree on the requirement of additional information requested by the Village, the Village or the applicant shall notify the MPSC as provided in Section 6(2) of the Act.
- (f) ***Previously Issued Permits.*** Pursuant to section 5(1) of the Act, authorizations or permits previously issued by the Village under Section 251 of the Michigan telecommunications act, 1991 PA 179, MCL 484.2251 and authorizations or permits issued by the Village to telecommunications providers prior to the 1995 enactment of Section 251 of the Michigan telecommunications act but after 1985 shall satisfy the permit requirements of this Ordinance.

- (g) **Existing Providers.** Pursuant to Section 5(3) of the Act, within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the Village as of such date, that has not previously obtained authorization or a permit under Section 251 of the Michigan Telecommunications Act, 1991 PA 179, MCL 484.2251, shall submit to the Village an application for a permit in accordance with the requirements of this Ordinance. Pursuant to Section 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500.00 application fee required under subsection (c) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in Section 5(4) of the Act.

Section 5. Issuance of Permit.

- (a) **Approval or Denial.** The authority to approve or deny an application for a permit is hereby delegated to the Village President. Pursuant to Section 15(3) of the Act, the Village President shall approve or deny an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit under Section 4(b) of this Ordinance for access to a public right-of-way within the Village. Pursuant to Section 6(6) of the Act, the Village President shall notify the MPSC when the Village President has granted or denied a permit, including information regarding the date on which the application was filed and the date on which a permit was granted or denied. The Village President shall not unreasonably deny an application for a permit.
- (b) **Form of Permit.** If an application for a permit is approved, the Village President shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with Section 6(1), 6(2) and 15 of the Act.
- (c) **Conditions.** Pursuant to Section 15(4) of the Act, the Village President may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.
- (d) **Bond Requirement.** Pursuant to Section 15(3) of the Act, and without limitation on subsection (c) above, the Village President may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

Section 6. Conduit or Utility Poles. Pursuant to Section 4(3) of the Act, obtaining a permit or paying the fees required under the Act or under this Ordinance does not give a telecommunications provider a right to use conduit or utility poles.

Section 7. Route Maps. Pursuant to Section 6(7) of the Act, a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the Village, submit route maps showing the location of the telecommunication facilities to both the MPSC and to the Village. The route maps should be in paper or electronic format unless and until the Commission determines otherwise, in accordance with Section 6(8) of the Act.

Section 8. Repair of Damage. Pursuant to Section 15(5) of the Act, a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the Village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below, or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.

Section 9. Establishment and Payment of Maintenance Fee. In addition to the non-refundable application fee paid to the Village set forth in subsection 4(d) above, a telecommunications provider with telecommunications facilities in the Village's public right-of-way shall pay an annual maintenance fee to the Authority pursuant to Section 8 of the Act.

Section 10. Modification of Existing Fees. In compliance with the requirements of Section 13(1) of the Act, the Village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority. In compliance with the requirements of Section 13(4) of the Act, the Village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the Village's boundaries, so that those providers pay only those fees required under Section 8 of the Act. The Village shall provide each telecommunications provider affected by the fee with a copy of this Ordinance, in compliance with the requirement of Section 13(4) of the Act. To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, such imposition is hereby declared to be contrary to the Village's policy and intent, and upon application by a provider or discovery by the Village, shall be promptly refunded as having been charged in error.

Section 11. Savings Clause. Pursuant to Section 13(5) of the Act, if Section 8 of the Act is found to be invalid or unconstitutional, the modification of fees under Section 10 above shall be void from the date the modification was made.

Section 12. Use of Funds. Pursuant to Section 9(4) of the Act, all amounts received by the Village from the Authority shall be used by the Village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the Village from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the Village under Act No. 51 of the Public Acts of 1951.

Section 13. Annual Report. Pursuant to Section 10(5) of the act, the Village President shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.

Section 14. Cable Television Operators. Pursuant to Section 13(6) of the Act, the Village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.

Section 15. Existing Rights. Pursuant to Section 4(2) of the Act, except as expressly provided herein with respect to fees, this Ordinance shall not affect any existing rights that a telecommunications provider or the Village may have under a permit issued by the Village or under a contract between the Village and a telecommunications provider related to the use of the public rights-of-way.

Section 16. Compliance. The Village hereby declares that its policy and intent in adopting this Ordinance is to fully comply with the requirements of the Act, and the provisions hereof should be construed in such a manner as to achieve that purpose. The Village shall comply in all respects with the requirements of the Act, including but not limited to the following:

- (a) Exempting certain route maps from the Freedom of Information Act, 1976 PA 442, MCL 15.231, 215.246, as provided in Section 4(c) of this Ordinance;
- (b) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with Section 4(f) of this Ordinance;
- (c) Allowing existing providers additional time in which to submit an application for a permit, and excusing such providers from the \$500 application fee, in accordance with Section 4(g) of this Ordinance;
- (d) Approving or denying an application for a permit within forty-five (45) days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the Village, in accordance with Section 5(a) of this Ordinance;

- (e) Notifying the MPSC when the Village has granted or denied a permit, in accordance with Section 5(a) of this Ordinance;
- (f) Not unreasonably denying an application for a permit, in accordance with Section 5(a) of this Ordinance.
- (g) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in Section 5(b) of this Ordinance;
- (h) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with Section 5(c) of this Ordinance;
- (i) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with Section 5(d) of this Ordinance;
- (j) Not charging any telecommunications providers any additional fees for construction or engineering permits;
- (k) Providing each telecommunications provider affected by the Village's right-of-way fees with a copy of this Ordinance, in accordance with Section 10 of this Ordinance;
- (l) Submitting an annual report to the Authority, in accordance with Section 13 of this Ordinance; and
- (m) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with Section 14 of this Ordinance.

Section 17. Reservation of Police Powers. Pursuant to Section 15(2) of the Act, this Ordinance shall not limit the Village's right to review and approve a telecommunications provider's access to and ongoing use of a public right-of-way or limit the Village's authority to ensure and protect the health, safety, and welfare of the public.

Section 18. Severability. The various parts, sentences, paragraphs, sections, and clauses of this Ordinance are hereby declared to be severable. If any part, sentence, paragraph, section, or clause of this Ordinance is adjudged unconstitutional or invalid by a court or administrative agency of competent jurisdiction, the unconstitutionality or invalidity shall not affect the constitutionality or validity of any remaining provisions of this Ordinance.

Section 19. Authorized Village Officials. The Village President or his or her designee is hereby designated as the authorized Village official to direct enforcement of this Ordinance. Any citations shall be issued by the Police Department upon request of the Village President.

Section 20. Penalty. Any person, firm or corporation convicted of violating any provision of this ordinance shall be guilty of a misdemeanor and may be fined up to Five Hundred (\$500.00) Dollars and/or imprisoned for a period not to exceed ninety (90) days or both.

Section 21. Repealer. All Ordinances and portions of Ordinances inconsistent with this Ordinance are hereby repealed.

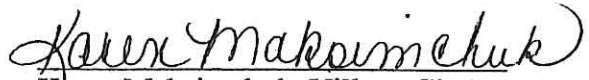
Section 22. Effective Date. This Ordinance shall take effect on November 1, 2002.

Date Enacted: 10-9-02
Date Published: 10-20-02

THE VILLAGE OF NEW
LOTHROP



Kenneth Birchmeier, President



Karen Maksimchuk, Village Clerk

PREPARED BY:
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TELECOMMUNICATIONS RESOLUTION

**VILLAGE OF NEW LOTHROP
SHIAWASSEE COUNTY, MICHIGAN**

At a regular meeting of the Village Council of the Village of New Lothrop, Shiawassee County, Michigan, held in said Village on the _____ day of October, 2002, there were:

PRESENT: _____

ABSENT: _____

The following Resolution was offered by _____ and
seconded by _____

**RESOLUTION IMPLEMENTING VILLAGE
TELECOMMUNICATIONS ORDINANCE**

WHEREAS, the State of Michigan recently enacted the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act, Act No. 48 of the Public Acts of 2002 (the "Act"); and

WHEREAS, the Act, among other things, provides for a uniform permit and permit fee for access to and use of the public rights-of-way by telecommunications providers; and

WHEREAS, The Act further provides, among other things, for a distribution of funds from the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority (the "Authority"), established pursuant to Section 3 of the Act, *provided* the Village takes certain action in compliance with the Act; and

WHEREAS, the Village has, contemporaneously with this resolution, adopted Ordinance No. _____ (the "Ordinance") for purposes of complying with the requirements of the Act, so as to ensure that the Village qualifies for distributions from the Authority under the Act; and

WHEREAS, the Village desires to give additional instruction and direction to the Village President and other Village personnel charged with implementing the Ordinance;

NOW, THEREFORE, it is hereby

RESOLVED, that the Village President or his or her designee is hereby authorized and directed to identify all telecommunications providers holding permits or authorizations issued by the Village and, as part of this process, to compile a list of all telecommunication providers who have paid fees to the Village since 1990, all telecommunications providers identified in the Village's engineering or construction permit files and all regulated telephone interexchange carriers and competitive access providers listed on the web site of the Michigan Public Service Commission and all regulated local telephone companies licensed in Michigan listed on such web site;

FURTHER RESOLVED, that the Village President is hereby authorized and directed to provide a copy of the Ordinance to the cable company(ies) providing service in the Village, and to all telecommunications providers identified above, in satisfaction of the requirements of Section 13(4) of the Act; and

FURTHER RESOLVED, that the finance department of the Village is hereby directed to return, to telecommunications providers, any checks or portion of checks received by the Village, and to all telecommunications providers identified above, in satisfaction of the requirements of Section 13(4) of the Act; and

Adopted this _____ day of October, 2002.

YEAS:

NAYS:

Repeals # 36
38
52
60
66
72

Repealed
by:
99

ORDINANCE NO. 97

AN ORDINANCE TO AMEND SECTION 7 OF ORDINANCE NO. 36, OF THE VILLAGE OF NEW LOTHROP ALLOWING THE VILLAGE COUNCIL TO ESTABLISH ALL SEWER RATES INCLUDING TAP CHARGES AS SET FORTH IN SECTION 4 OF ORDINANCE NO. 36, AS AMENDED, BY RESOLUTION OF THE VILLAGE COUNCIL; EFFECTIVE DATE.

THE VILLAGE OF NEW LOTHROP ORDAINS:

Section 1. Purpose. It is the purpose of this Ordinance to amend Section 7 of Ordinance No. 36 of the Village of New Lothrop to provide for the establishment of all sewer rates including tap charges as set forth in Section 4 of Ordinance No. 36, as amended, by Resolution of the Village Council

Section 2. Amendment. Section 7 of Ordinance No. 36 is hereby amended to read as follows:

"Section 7. Rates.

- (a) Consideration. The rates fixed are to be established sufficient to provide for the payment of the expenses of administration and operation; such expenses for the maintenance of the said System as are necessary to preserve the same in good repair and working order; to provide for this payment of the contractual obligations of the Village to the County of Shiawassee, pursuant to the aforesaid contract between said County and the Village of New Lothrop, as the same become due; and to provide for such other expenditures and funds for said System as this Ordinance may require. Such rates shall be fixed and revised from time to time as may be necessary to produce these amounts.
- (b) Setting Rates. The Village Council shall set rates as provided in 7 (a) above by resolution of the Council adopted by a majority of the entire Council, from time to time as necessary."

Section 3. Effective Date. This Ordinance shall become effective immediately upon publication.

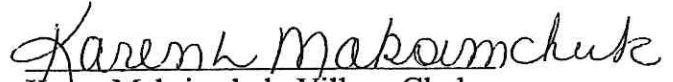
Date Enacted: 11-13-02

Date Posted: 12-11-02

Date Published: 12-15-02



Kenneth Birchmeier, President



Karen Maksimchuk, Village Clerk

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