

**VILLAGE COUNCIL  
VILLAGE OF NASHVILLE  
COUNTY OF BARRY, MICHIGAN**

At a regular meeting of the Village Council of the Village of Nashville, County of Barry, Michigan, held in said Village on the 27 day of March, 2003, there were:

PRESENT: Ralph Kirk, Ronda Edinger, Mary Coll, Ed Sheldon, Steve Wheeler, Carroll Wolff, Frank Dunham.

ABSENT: None.

The following resolution was offered by Wheeler and seconded by Sheldon:

**RESOLUTION NO. 3-27-03**

**RESOLUTION IMPLEMENTING VILLAGE OF NASHVILLE  
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 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 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 previously adopted Ordinance No. 3-13-03 (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 provide instruction and direction to the Village administrators charged with implementing the Ordinance;

**NOW, THEREFORE**, it is resolved that:

1. The Village will comply with the Act, regarding any telecommunications providers seeking permission to use the Village's public rights-of-way.
2. The Village Clerk is authorized and directed to identify all telecommunications providers holding right-of-way permits or authorizations issued by the Village and, as part of that process, to compile a list of telecommunications providers who have paid fees to the Village since 1990 and telecommunications providers identified in the Village's engineering or construction permit files.
3. The Village Clerk is authorized and directed, independently or in conjunction with other municipalities, to provide a copy of the Ordinance to cable companies providing service in the

Village, and to telecommunications providers using the public rights-of-way, in satisfaction of the requirements of Section 13(4) of the Act.

4. The Village President, Treasurer, Clerk, and all other personnel of the Village are hereby directed to return, to telecommunications providers or others affected by the Act, any checks or portion of checks received by the Village from such providers for access and use of the public rights-of-way in the Village after November 1, 2002 (other than the \$500 application fee allowed under the Act, other fees authorized by the Act and any fees or funds received from the Authority).

5. The Village will comply with the limitation of the Act regarding the payment of franchise fees on cable modem service by cable television operators reserving any rights it may have to fees due for the period ending October 31, 2002.

6. From and after November 1, 2002, the Act shall control the establishment and payment of annual rights-of-way maintenance fees for the use of the public rights-of-way relative to permits issued by the Village prior to October 31, 2002. Permittees shall pay all such fees required by Section 8 of such Act in lieu of any such fees otherwise payable under a permit issued by the Village prior to October 31, 2002.

In the event that the rights-of-way maintenance fee provisions of the Act are held to be unconstitutional, or are for any other reason prohibited from taking or continuing in effect, then the fees applicable to permits issued prior to October 31, 2002 shall continue in effect for such permits.

7. Telecommunications providers and others applying for a permit pursuant to the Ordinance shall, after the effective date of the Act, use only those application forms approved by the Michigan Public Service Commission ("MPSC"). Copies of such applications shall be maintained in the office of the Village Clerk. In processing such applications Village personnel shall comply with the following:

a. No permit application shall be deemed complete unless filed in triplicate with one copy being supplied to each of the following: the Village Clerk, the Village President, and the Village Attorney.

b. Except as otherwise provided by the Act, all applications shall be accompanied by a one-time nonrefundable application fee made payable to the Village in the amount of \$500.

c. Permit applications shall contain all information required by the Ordinance.

d. The Village Clerk shall approve or deny a permit application within 45 days from the date a telecommunications provider files a completed application in accordance with the Ordinance.

e. The Village Clerk shall provide written notice to the MPSC when he or she grants or denies a permit, including the date the completed application was filed and the date of final action by the Village.

f. When issuing permits the Village shall, as a condition of approval, require that the applicant post a performance bond in an amount sufficient to ensure that the public rights-of-way are restored to their original condition during and after the telecommunications provider's use of the same.

g. Not more than 90 days after substantial completion of a telecommunications provider's project in the public rights-of-way, the provider shall supply to the Village route maps in accordance with the Ordinance.

8. All funds received in accordance with the Act shall be used solely for rights-of-way related purposes. The Village Clerk shall maintain records that satisfactorily identify that amounts received under the Act and how those funds were spent.

9. Annually, on such forms as are prescribed by the State of Michigan, the Village may file a report with the State regarding the use and disposition of funds received under the Act.

10. All resolutions or parts of resolutions in conflict herewith are, to the extent of such conflict, hereby repealed.

Adopted this 27 day of March, 2003.

YEAS: Kirk, Coll, Wolff, Sheldon, Edinger, Wheeler, Dunham

NAYS: None

ABSENT: None

RESOLUTION NO. 3-27-03 ADOPTED

Cathy Lentz  
Village Clerk

#### CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Village Council of the Village of Nashville, County of Barry, and State of Michigan, at a meeting held on March 27, 2003, the original of which is on file in my office and available to the public. Public notice of said meeting was given pursuant to and in compliance with the Open Meetings Act, Act No. 267 of the Public Acts of Michigan 1976, including in the case of a special or rescheduled meeting, notice by posting at least eighteen (18) hours prior to the time set for said meeting.

Dated: March 27, 2003.

Cathy Lentz, Village Clerk

## TELECOMMUNICATION ACT APPLICATION/TRACKING/REPORTING PROCESS

Application must meet MPSC requirements and contain all information required by the Ordinance No 3-13-03

The following are required to file an application under this Act:

- (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.

1. File one copy each to: the Village Clerk, the Village President, and the Village Attorney.
2. Collect a one-time nonrefundable application fee of \$500.
3. Village Clerk shall approve or deny a permit application within 45 days from the date a completed application is filed.
4. Village Clerk shall provide written notice to the MPSC when a permit is granted or denied, including the date the completed application was filed and the date of final action by the Village.

MPSC Address:

Michigan Public Service Commission  
PO Box 30221  
Lansing, MI 48809

michigan.gov/mpsc -  
phone – 517-241-6180  
fax – 517-241-6181

Forms at  
communications  
broadband

Metro act information – Michigan.gov/metro

5. Upon gaining approval for a permit, the applicant must post a performance bond in an amount sufficient to ensure that the public rights-of-way are restored to their original condition during and after the telecommunications provider's use of the same.
6. Within 90 days after substantial completion of a telecommunications provider's project in the public rights-of-way, the provider shall supply to the Village route maps.
7. All funds received from the Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority or application fees will be deposited into Major St/Local St. equally in the line item set up for this purpose. These funds can be used for rights-of-way projects only where telecommunication provider has a right-of-way as listed below.

*Brush removal / tree trimming or removal / replacement of gravel or paving of alleyways*

8. An annual report is to be filed with the State of Michigan on their form.