

**VILLAGE OF LAKEVIEW
MONTCALM COUNTY
RIGHT OF WAY ORDINANCE
ORDINANCE NO 07-04**

Adopted: April 9, 2007
Effective: May 2, 2007
Published: April 12, 2007

**AN ORDINANCE TO REGULATE PUBLIC RIGHTS-OF-WAY TO
THE FULL EXTENT PERMITTED BY LAW**

THE VILLAGE OF LAKEVIEW ORDAINS:

Section 1. Adoption of Ordinance. The following Ordinance is hereby adopted to read in its entirety as follows:

A. PURPOSE.

The purposes of this ordinance are to ensure that uses of public rights-of-way within the Village of Lakeview are regulated to the full extent permitted by law in order to protect public health, safety and welfare and to exercise all reasonable control of public highways, streets, alleys and rights-of-way granted and/or reserved to the Village by Section 29, Article 7 of the Michigan Constitution of 1963 and the General Law Village Act, Act No. 3 of 1895, in compliance with applicable law/

B. DEFINITIONS.

The terms used in this ordinance shall have the following meanings:

Franchise Agreement means an agreement entered into by the Village to a service provider to use and occupy public rights-of-way for the delivery of specific services, subject to applicable laws and the police powers of the village.

Permit means a nonexclusive permit issued by the Village to a service provider to use the public rights-of-way in the Village.

Public right-of-way means the area on, below, or above public roadway, highway, street, alley, sidewalk, easement or thoroughfare. *Public right-of-way* does not mean a federal, state, or private right-of-way.

Village means the Village of Lakeview.

C. CONTROL RESERVED TO VILLAGE.

The Village shall exercise all control and authority over public rights-of-way as is granted or reserved to the Village by law, including without limitation, Section 29 of Article 7 of the Michigan Constitution of 1963 and the General Law Village Act, Public Act 3 of 1895. The Village shall exercise such control and authority concurrently with federal and/or state authorities of competent jurisdiction to the full extent permitted by law, unless preempted by express and complete state and/or federal occupation of the field of regulation.

D. EFFECT OF GRANTING PERMITS OR FRANCHISES.

The granting of permits or franchise agreements as required by state and/or federal law does not affect or diminish the right of the Village, in the exercise of its police powers, to enact and enforce ordinances intended to promote the safety, welfare and convenience of the public in the use of its public rights-of-way. Approval of a permit or franchise agreement does not waive or limit Village control of authority over its public rights-of-way or prevent the Village from issuing and enforcing additional ordinances and regulations pertaining to access to, and ongoing use of, public rights-of-way.

Section 2. Severability. If any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

Section 3. Effective Date. This Ordinance shall take effect twenty (20) days after its publication.

The foregoing Ordinance was offered by Schottle, supported by Earhart, the vote being as follows:

YEAS: Winter, Earhart, Farrell, Lobert, Lund, Collard and Schottle

NAYS: None

ABSENT: None

Ordinance No. 07-04 Declared Adopted.

Ed Winter, Village President

Wally Delamater, Clerk

I hereby certify the foregoing to be a true copy of an ordinance adopted at a regular meeting of the Village Council held on April 9, 2007.

Wally Delamater
Clerk

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