

**VILLAGE OF BERRIEN SPRINGS  
ORDINANCE NUMBER 364**

**AN ORDINANCE TO ADD ARTICLE III TO CHAPTER 37 OF THE CODE  
OF THE VILLAGE OF BERRIEN SPRINGS ENTITLED "DAS/SMALL  
CELL TELECOMMUNICATION FACILITIES"**

**NOW THEREFORE**, The Village of Berrien Springs ordains:

**Section 1.** Article III is hereby added to Chapter 37 of the Code of the Village of Berrien Springs, entitled "Das/Small Cell Telecommunication Facilities", to read as follows:

**ARTICLE III  
DAS/SMALL CELL TELECOMMUNICATION FACILITIES**

**Sec. 37-41. Definition.**

*DAS/Small Cell or DAS/Small Cell Network* means any telecommunications facilities or related equipment installed and/or operated by a licensee for the provision of telecommunication services including fiber optic or other cables, antennas, brackets, devices, conduits, poles, shelters, houses, cabinets and all other related equipment to be deployed, installed and/or operated by a licensee as described in an agreement between the licensee and the Village.

**Sec. 37-42. Agreement.**

A person may not install or operate, in whole or in part, a DAS/Small Cell or DAS/Small Cell Network in a public right-of-way or other public place, without having entered into a **DAS/Small Cell License Agreement** with the Village in a form and subject to such terms and conditions acceptable to the Village.

**Sec. 37-43. Right-of-Way Permit.**

A person may not install or operate, in whole or in part, a DAS/Small Cell Facility or a DAS/Small Cell Network in a public right-of-way or other public place, without having entered into a **Modified Metro Act Right-of-Way Telecommunication Permit for DAS/Small Cell System Lines Only**, in accordance with the terms of the permit issued by the Village.

**Sec. 37-44. Compliance with Applicable Law.**

The Village in reviewing and authorizing the permit and agreement and the licensee in the establishment and operation, in whole or in part, of any DAS/Small Cell System or facilities shall comply with all applicable federal and state laws.

**Sec. 37-45. Fees.**

Fees for the agreement and permits required shall be as provided for in those documents and as periodically authorized by resolution of the Village Council.

**Sec. 37-46. Design Standards.**

No permit shall be issued by the Village unless the system and facilities are in compliance with Design Standards established by the Village. The Village shall establish and make available Design Standards for installations in the public right-of-way or other public places in order to protect public safety and as determined by the Village to be in the best interest of the Village and its citizens.

**Section 2.** This ordinance and its various parts, sections, subsections, provisions, sentences and clauses are severable. If any part, section or clause contained in this ordinance is adjudged unconstitutional or otherwise legally invalid, it is hereby provided that the remainder of the ordinance shall not be affected thereby.

**Section 3.** The headings used in each section of this ordinance are for the purpose of identification and are not a substantive part of this ordinance.

**Section 4.** This Ordinance shall take effect twenty (20) days after publication.

**Section 5.** The Village Clerk shall certify to the adoption of this Ordinance and cause the same to be published as required by law.

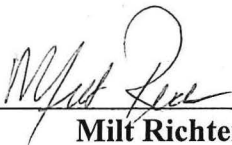
**Section 6.** All ordinances or parts of ordinances in conflict herewith are hereby repealed.

YEAS: : Lonna Johnson/Aye; Barry Gravitt/Aye; Sandy Swartz/Aye; Claudia Ruppel/Aye; Jesse Hibler/Aye; President Milt Richter/Aye.

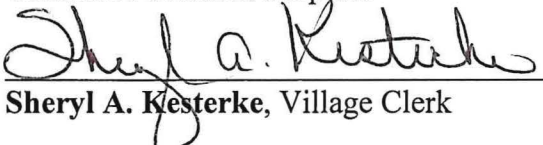
NAYS: None.

ABSENT: Trustee Jim Allred

Dated: March 06, 2017

  
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**Milt Richter**, Village President

Ordinance declared adopted:

  
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**Sheryl A. Kesterke**, Village Clerk

I hereby certify that the above and foregoing Ordinance was duly adopted by the Village Council of Berrien Springs and published in the *Journal Era*, a weekly newspaper published in the Village of Berrien Springs, in the issue of said newspaper dated and published on the 8th day of March, 2017.

  
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Sheryl A. Kesterke, Village Clerk