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ANDREW M. CUOMO
GOVERNOR

CESAR A. PERALES
SECRETARY OF STATE

October 28, 2011

Lisa L DeVona
Village Clerk/Treasurer
240 N. Main Street
Minoa NY 13116

RE: Village of Minoa, Local Law 3 & 4 2011, filed on October 27, 2011

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.state.ny.us.

Sincerely,
State Records and Law Bureau
(518) 474-2755

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VILLAGE OF MINOA

MAYOR
Richard J. Donovan
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William F. Brazill
John H. Champagne
Ronald L. Cronk
Eric S. Christensen
CLERK-TREASURER
Lisa L. DeVona
LEGAL COUNSEL
Primo, Primo & Kirwan, LLP



VILLAGE OF MINOA
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MINOA, NEW YORK 13116
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October 21, 2011

State Records and Law Bureau
State of New York Department of State
One Commerce Plaza
99 Washington Avenue
Albany, NY 12231

Dear Secretary of State:

Enclosed is one (1) original copy of **Local Law #3** for 2011 and **Local Law #4** for 2011 for the Village of Minoa.

If there are any questions on this law, please contact this office.

Sincerely,

Lisa L. DeVona
Village Clerk/Treasurer

Enclosure

Local Law Filing

41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Village of Minoa

Local Law No. Four (4) of the year 2011.

A local law enacting a new Chapter 67 to the Village of Minoa Municipal Code entitled "Fire Department Rules & Regulations."

Be it enacted by the Board of Trustees of the Village of Minoa as follows:

Section One (1). PURPOSE AND INTENT.

The purpose of this local law is to amend certain existing provisions of the Village of Minoa Code and to establish new rules and regulations relative to the Village of Minoa Fire Department. More specifically, the present Village Code provisions provides only limited provisions related to disciplinary proceedings conducted by the Board of Trustees. The existing Village Code also provides no provisions relative to procedures for purchasing by and for the Fire Department.

Section Two (2). Chapter 67 of the Code of the Village of Minoa is hereby enacted with the following language:

CHAPTER 67 FIRE DEPARTMENT RULES & REGULATIONS

§67-1. Title.

This Chapter 67 of the Code of the Village of Minoa is entitled "Fire Department Rules & Regulations."

ARTICLE I Authority of the Board of Trustees

§67-2. Authority of Board of Trustees; Fire Department Defend.

Pursuant to Village Law §4-412, the Board of Trustees of the Village of Minoa shall have the authority to exercise any right or discharge any obligation conferred by law upon a Board of Fire Commissioners. Generally, the Board of Trustees shall in particular have the right and authority to exercise any right of the Chief's, Line Officers, Executive Officers and Membership referenced under the Bylaws however only as relates to the Fire Department of the Village. This is to be contrasted with such rights and authorities of those individuals and bodies pursuant to the certificate of incorporation and Bylaws of the incorporated Fire Company. Reference herein to the Fire Department shall mean the Fire Department of the Village. Reference

to the Fire Company shall mean the Minoa Fire Department, Inc. (i.e., that Fire Company serving as the Village of Minoa Fire Department).

ARTICLE II

Membership and Organization

§67-3. Membership/Member Defined.

The membership of the Fire Department shall consist of those persons elected to membership pursuant to the Bylaws of the Fire Company. Such membership shall become effective only upon subsequently being approved by resolution of the Board of Trustees. The Board of Trustees may approve or disapprove of a membership applicant as a Member of the Fire Department based upon their own independent review and application of any criteria established under the Bylaws or otherwise as membership criteria independently established by the Board of Trustees based upon any legally permissible and fairly applied rationale and grounds and established by resolution duly adopted from time to time. Any person so approved shall be a Member of the Fire Department. Such criteria may include and mandate as a condition of application, and, without limitation, the submission of a detailed, sworn to application for Membership, and applicant authorized criminal and vehicle and traffic related background searches and personal reference checks. Any person elected to membership in the Fire Company but not subsequently approved as a Member of the Fire Department by the Board of Trustees may be permitted to continue such membership in the Fire Company but shall not enjoy any benefits accruing to a Member, may not participate in any firematic or training activities or duties of the Fire Department, and shall not be deemed a Member of the Fire Department for and to the extent such membership is necessary for entitlement to any such benefits, entitlements, insurance coverages and the like provided or available to duly appointed Members of the Village Fire Department. All such unapproved applicants shall pursuant to the Bylaws be classified as a type of member different from any classification of membership duly appointed/approved Members of the Fire Department shall be classified as. All Officers of the Fire Department shall be Members and any reference to "Member" herein shall mean inclusive of Officers.

§67-4. Election of Members.

Election to membership in the Fire Department shall be pursuant to the Bylaws. The membership of any person so elected to the Fire Company shall become effective as a Member of the Fire Department only upon approval (appointment) by duly adopted resolution of the Board of Trustees. Membership shall however be deemed to have been approved pursuant to this section in the event that no action is taken by the Board of Trustees, either approving or disapproving of such appointment, within 40 days after the service of written notice of election to membership shall have been made by the Secretary of the Fire Department upon the Village Mayor and the Village Clerk, either personally or by mail.

§67-5. Assumption of Duties and Obligations.

A member, in accepting election and approval/appointment to the Fire Department, assumes the duty and obligation to obey and support the Bylaws and these Fire Department Rules & Regulations.

§67-6. Approval of Bylaws; Distribution of Copies of Bylaws and Rules & Regulations.

The Bylaws of the fire company comprising the Village of Minoa Fire Department and any amendments to same shall be subject to approval of the Village Board of Trustees by resolution duly adopted. No Bylaws of the Fire Company nor amendments thereto shall be deemed as effective in relation to the conduct and operations of the Fire Department unless and until such time as approved by the Village Board of Trustees. The Board of Trustees may approve or disapprove of the Bylaws and/or any amendments to same in whole or in part, and in their sole discretion based upon any rationally based and clearly articulated concern, including such as that same may violate, by its language per se or in its potential or actual application, any applicable laws, rules, regulations of the federal, state, county or local governments, that as proposed the language is ambiguous, vague, or otherwise unclear, that same proposes policies or practices that while per se legal may be contrary to the intent of the Village Board on such issue or that may, as explicitly stated or in application or effect include or impose provisions or policies contrary to this Chapter, or to any other expression of Fire Department policy clearly articulated by Village Board resolution, and which policy may be so articulated in response to consideration of the proposed objectionable provision.

The Board of Trustees may, but is not obligated to, hold a public hearing prior to consideration of the adoption of Bylaws proposed by the Fire Company. A copy of the Rules and Regulations of the Fire Department established hereunder and such approved Bylaws of the Fire Company, any approved amendments to the foregoing and any resolutions of the Village Board of Trustees duly adopted hereunder shall be provided by the Fire Company to each and every member of the Fire Department as soon as practicable from the date hereof and to each new Member upon the commencement of his or her respective probationary period. Every present Member and prospective new Member shall sign and acknowledge the receipt of copies of the Rules & Regulations and the Bylaws. Reference herein to the "Bylaws" shall mean only those Bylaws (and amendments or parts thereof) that have been approved by the Village Board of Trustees. Any unapproved Bylaws or provisions purporting to amend same shall not be effective unless and until approved by the Board of Trustees. Such Board approval of the Bylaws and the foregoing notwithstanding, in the event of any conflict or contradiction between the provisions of the Bylaws and the provisions hereof, the provisions hereof shall control and prevail over those of the Bylaws and shall be deemed, for all intents and purposes an amendment to the Bylaws.

ARTICLE III Officers

§67-7. Election & Vacancies.

Election of Executive and Line Officers and the filling of vacancies shall be held pursuant to the Bylaws. Such elected Officers shall be subject to approval of the Board of Trustees.

ARTICLE IV Suspension, Removal and Discipline

§67-8. Emergency Suspension.

The Board of Trustees, or the Chief, or in the Chief's absence, his assistant next in line of command may immediately suspend any member whose action recklessly endangers life, health or property or who refuses to obey a lawful order. In addition, the Board of Trustees may exercise their authority for emergency suspension based upon any violation of the criteria established under §67-10 hereof and which under the circumstances

warrants an emergency suspension. In its resolution authorizing suspension, or ratification of same at the next following regular or special meeting of the Village Board of Trustees, the reason(s) for exercise of this right shall be articulated in detail. Any suspension hereunder shall be temporary and made so pending further action by the Fire Department or Board of Trustees. A written report of any such action taken by the Chief or next in line assistant shall be made to the Board of Trustees within 24 hours of the suspension. The Board, at that time, may assume responsibility for further action pursuant to these Rules and Regulations.

§67-9. Action by Fire Department.

In the event that the Fire Department, pursuant to its Bylaws, takes an action against a Member or Officer, the following procedure will apply:

- A. Any suspension or removal (except as set forth in §67-8) of a member or officer taken by the members of the Fire Department pursuant to its Bylaws shall not be deemed final until recognized by duly adopted resolution of the Board of Trustees. A suspension or removal pursuant to or related to a violation or enforcement of the Bylaws may also comprise, or be inclusive of charges of incompetence or misconduct. The Chief shall notify the Board of Trustees of such action within 5 days of the date thereof. Such notification to the Board shall consist of detailed statement of the alleged violation of the Bylaws, a copy of the pertinent Bylaws alleged to have been violated, and any statements, documentation or other evidence upon which the action and decision of the Fire Department were based (the foregoing collectively the "Record"). The Board of Trustees will notify the member affected prior to consideration of the action of the Fire Department and shall give said member an opportunity to be heard. The Department shall be required to deliver the entire Record to the Board of Trustees to assist in their consideration.
- B. The Board of Trustees, upon review of the action taken by the Fire Department and subject to the limitations stated herein, may modify its decision including any punishment or penalty. Additionally, the Board of Trustees may reverse the decision of the Fire Department and reinstate the member or officer of the alleged charges or may confirm the decision of the Fire Department. Such decision shall be made within 15 days of receipt of the notice from the Fire Department as set forth in §67-9(A). In reviewing the action taken by the Fire Department, the Board of Trustees shall only modify or reverse the decision of the Fire Department, and/or any penalty or punishment imposed if it determines after a review of the Record that the decision by the Fire Department was expressly, or in substance based upon a consideration of charges relating to incompetency or misconduct. Accordingly, the Board of Trustees shall not modify, reverse or otherwise affect a decision of the Fire Department suspending or removing a member or officer for a violation of the Bylaws not involving acts or omissions of alleged incompetency or misconduct.
- C. The foregoing review procedure of the Board of Trustees is not exclusive in nature. Accordingly, the Board of Trustees may independently act, including where the Fire Department has failed or refused to do so, pursuant to the procedures under §67-10 hereof.

§67-10. Action by the Board of Trustees.

A. The following may be considered by the Board of Trustees (non-exclusively) as acts or omissions of misconduct and/or incompetency constituting cause for the removal or suspension of a member or officer of the Fire Department:

- 1) Failure to comply with these Rules and Regulations or a material provision of the Bylaws of the Fire Department;
- 2) Dereliction of duty;
- 3) Insubordination to Department Officers or the Board of Trustees;
- 4) Misuse of Village or Fire Department property and equipment;
- 5) Failure to report a required incident, injury or accident to the Board of Trustees.
- 6) Inability to perform the duties of a firefighter due to reasons of health, mental or physical incapacity shall be considered cause for removal, but, if of a temporary nature, these may be considered as a legal excuse for temporary nonperformance.
- 7) Absence or failure to appear at fires, incidents, drills and meetings as required by the Fire Department, its Bylaws, these Rules and Regulations or the Village Board of Trustees or authorized officer thereof.
- 8) Any other acts or omissions constituting incompetency or misconduct.
- 9) A violation of the Department's Code of Ethics.
- 10) Discovery of any material fact required to be, and not so disclosed by a Member in connection with his or her application for membership, or otherwise not disclosed or made available to the Village Board in connection with its appointment/approval of the Member for admission into the Fire Department.

B. Procedure:

- 1) Charges. The Board of Trustees or any other officer of the Fire Department may file charges with the Board of Trustees that a member or officer of the Fire Department has violated any of the provisions of §67-9(A).
- 2) Notification. The Board of Trustees shall notify the member or officer concerned that charges have been filed against him. Such notification shall contain a copy of such charges and a notice that the officer or member shall answer said charges, in writing, within 20 days or receipt of same.

- 3) **Hearing.** The Board of Trustees shall promptly schedule a hearing of the charges within 30 days after the filing of an answer or within 30 days after the time to file an answer has expired. The charging party shall first present evidence substantiating the charges, followed by evidence to be presented by the accused, if any. The accused person or officer may be represented by counsel, produce the testimony of witnesses in his favor and cross-examine witnesses against him. The burden of proving incompetency or misconduct shall be upon the Board. Compliance with technical rules of evidence shall not be required. A stenographic or other verbatim record of the proceeding shall be kept, and a copy shall be supplied to the accused. As an alternative, the Board of Trustees may designate another individual to conduct the hearing, to make a record of the hearing and, after the conclusion of the hearing, to make a recommendation to the Board as to the guilt or innocence of the member. No disciplinary proceeding shall be commenced more than six (6) months after the alleged incompetency or misconduct has been brought to the attention of the Board.
 - 4) **Temporary Suspension.** Pending a disciplinary hearing and determination of disciplinary charges, the member or officer against whom charges have been preferred may be suspended by majority vote of the Board of Trustees.
 - 5) **Written Determination.** Board of Trustees shall make a written determination upon the record before it within 20 days of the public hearing.
 - 6) **Appeal.** A member or officer of the Fire Department who may be aggrieved by a final determination of the Board of Trustees in the exercise of its authority pursuant to this Article may initiate a judicial proceeding in accordance with the provisions of Article 78 of the Civil Practice Law and Rules.
- C. The procedure set forth in §67-10(B) shall be utilized only in the event that a majority of the Board of Trustees might seek to impose suspension or removal upon a member or officers for acts or omissions of misconduct or incompetency for which such due process is legally required. As to any other disciplinary decisions, including other adverse action taken by the Board of Trustees against a member or officers of the Fire Department, such member may request a hearing before the Board of Trustees to address the action taken by the Board if same has not previously been provided, however the Board of Trustees shall not be obligated to grant same.

ARTICLE V
Resignation/Reinstatement

§67-11. Resignation; Reinstatement.

- A. Resignations shall be presented in writing or in person, but shall not be accepted by the Board of Trustees if the member or officer is under pending charges or is indebted to the Fire Department or has not turned over to the Department all property belonging to it in the possession of the member.
- B. A former member or officer who has resigned while a member in good standing may apply for reinstatement as a member. The procedure governing such reinstatement shall be in accordance with §67-3 hereof.
- C. A member who is expelled for non-payment of fines may be reinstated as a member pursuant to the Bylaws of the Fire Department.
- D. A member or officer expelled from the Fire Department after a hearing on the charges shall not be eligible for reinstatement.

ARTICLE VI
Apparatus, Equipment and Apparel

§67-12. Supervision.

All Village owned firematic property referred to in this Article VI shall be under the supervision of the Chief. Non-firematic village owned property shall be under the supervision of the President of the fire company comprising the Fire Department.

§67-13. Usage and Care.

All such village firematic and non-firematic equipment, apparatus and apparel assigned to the members of the Fire Department are for their individual or collective use and shall be given proper usage and care to ensure maximum wear and performance.

§67-14. Surrender.

In the event of death, suspension, resignation or removal of a member, all apparatus, equipment and/or apparel, firematic or otherwise, shall be surrendered to the Fire Department immediately, provided that any member of the Department may be buried in his uniform.

ARTICLE VII
Duties

§67-15. Duties of the Chief & President; Chain of Command.

- A. The Chief of the Fire Department, subject to the direction of the Board of Trustees:

- 1) Shall have command at all fires, drills and inspections and all other firematic activities, functions or occasions so designated. Except in the case of routine training drills, the Fire Department shall obtain the prior approval of the Board of Trustees for all exercises and drills, upon 10 days' notice in writing. If there is not sufficient time for 10 days notice in writing, the officer in charge will advise the Board of Trustees by telephone. Copies of all necessary permits required in connection with the drill will be given to the Village Clerk prior to commencement of the drill.
 - a) The Board of Trustees shall promulgate by resolution, after consultation with the Chief, those activities considered to be routine training drills.
 - b) Such resolution shall be deemed a part of these rules and regulations and may be amended from time to time after consultation with the Chief.
- 2) Shall secure the prior consent, by submission of written request to the Board of Trustees, 10 days in advance, to absent any fire apparatus from the village to participate in drills, inspections or any other functions, except in emergencies or in mutual-aid situations, and during such absence, shall have at least one piece of appropriate apparatus at the firehouse for any other fire emergency.
- 3) Shall requisition any firematic supplies, appliances or other items or expenses that are necessary for the proper maintaining and functioning of the Fire Department pursuant the Village's procurement policies and, where applicable, the provisions of GML §103.
- 4) Shall prescribe and post general orders for the conduct of the Fire Department and care and use of equipment, apparatus, apparel, etc.; and shall prescribe special orders, verbal or written, for the conduct of the Fire Department and care and use of equipment, apparatus and apparel. The Chief's general orders and special orders upon so prescribing, posters and in addition advising the Board of Trustees of same in writing are to be considered part of these rules and regulations as though set forth here in full.
- 5) Shall prepare and submit to the Board of Trustees such names of men as are qualified to serve, in the opinion of the Fire Department, as driers of any or all apparatus.
- 6) Shall be responsible for the proper filling out and filing of all fire reports.
- 7) Shall ensure issuance of all uniform and turn out gear.

B. When necessary, due to the absence of some or all Fire Department officers, the chain of command shall descend to the subordinate line officers, as provided for in the Bylaws of the fire company comprising

the Fire Department or otherwise as provided for in the established procedures and policies of the Fire Department.

ARTICLE VIII Code of Ethics

§67-16. Purpose.

Officers and members of the Fire Department hold their positions to serve and benefit the public, and not for obtaining unwarranted personal or private gain in the exercise and performance of their official powers and duties.

§67-17. Disclosure of interest in legislation.

Every officer, member and employee of the Fire Department must disclose the nature of any interest, in any matter coming before the Fire Department or Village Board of Trustees for action.

§67-18. Holdings of investments in conflict with official duties.

No officer, member or employee of the Fire Department may hold the following investments:

- A. Personal investments that will be directly affected by the exercise or performance of the person's official powers and duties; or
- B. Personal investments that would otherwise impair the person's independence of judgment in the exercise of his or her official powers and duties.

§67-19. Private employment in conflict with official duties.

No officer, member or employee of the Fire Department may accept employment which actually impairs or gives the appearance of impairing the person's independence of judgment in the exercise or performance of his or her official powers and duties without first notifying the Fire Department and Village Board of Trustees in writing, of such employment.

§67-20. Future Employment.

No officer, member or employee of the Fire Department at any time after serving as an officer, member or employee of the Fire Department may appear, practice or render services to another person or organization in connection with any particular matter in which he or she personally participated while serving as an officer, member or employee of the Fire Department, unless disclosed at the time of the appearance, practice, or rendering of the service.

§67-21. Recusal and Abstention.

Except as otherwise required by law, no officer, member or employee of the Fire Department may participate in the discussion or vote on any matter, or exercise or perform any other official powers or duties in connection with any matter when the officer, member or employee of the Fire Department may have an interest in the matter.

§67-22. Posting and Distribution.

The Village Board of Trustees and Fire Department must promptly cause a copy of this Code of Ethics, and a copy of any amendment thereafter to same, to be posted publicly and conspicuously in each building under the Fire Department's control. The Code of Ethics must be posted within ten (10) days following the date on which the Code takes effect. An amendment to the Code of Ethics must be posted within (10) days following the date on which the amendment takes effect.

§67-23. Enforcement.

Any officer, member or employee of the Fire Department who violates this Code of Ethics may be fined, suspended or removed from office, employment or membership in the Fire Department in a manner provided by law. A violation of this Code of Ethics is deemed "misconduct" with the meaning of section 209-1 of General Municipal Law.

Section Three (3). ILLEGALITY/SEVERABILITY.

If any part of this local law or the application thereof to any person or circumstances is adjudged unconstitutional, illegal or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation or the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity, legality or constitutionality of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such provision illegal, invalid or unconstitutional, the court shall endeavor to modify same to a provision which is not invalid, illegal or unconstitutional, and which best achieves the intent of the invalid, illegal or unconstitutional provision.

Section Four (4) EFFECTIVE DATE.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 4 of 2011 of the ~~(County)~~(City)(Town)(Village) of Minoa was duly passed by the Village Board of Trustees of the Village of Minoa on October 17, 2011 in accordance with the applicable provisions of law.

~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed

(Name of Legislative Body)
disapproval) by the _____ and was deemed duly adopted on _____, 199__
(Elected Chief Executive Officer)*

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 199__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 19__. Such local law was _____

(Elected Chief Executive Officer)*

to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 19__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 19__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 19__, and was (approved)(not approved)(repassed after

(Name of Legislative Body)

disapproval) by the _____ on _____, 19__. Such local law was subject to

(Elected Chief Executive Officer)*

permissive referendum and no valid petition requesting such referendum was filed as of _____, 19__, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 19__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 19__ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____, 19__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one (1) above.

(Seal)

Lisa DeVona

Lisa DeVona, Village Clerk

Date: October 21, 2011

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature

Steven J. Primo

Attorney for the Village

Title

County

City of Minoa

Town Village

Date: October 17, 2011

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.