

**CABLE COMMUNICATIONS FRANCHISE
TOWNSHIP OF HOWELL, MICHIGAN
Ord. No. 26A eff. Nov. 14, 1991**

An Ordinance to grant to the Township of Howell the right to provide for and establish a franchise for cable television, and to provide for the submission of information in connection therewith.

THE TOWNSHIP OF HOWELL, COUNTY OF LIVINGSTON, STATE OF MICHIGAN, ORDAINS:

**ARTICLE I
SHORT TITLE, PURPOSE,
NECESSITY OF FRANCHISE, DEFINITIONS**

Section 1.1 SHORT TITLE.

This Ordinance shall be known and cited as the Howell Township Cable Communications Franchise Ordinance No. 26A, replacing that certain Cable Communications Franchise Ordinance adopted April 23, 1990, as amended by Ordinance adopted February 25, 1991, which is hereby repealed.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 1.2 PURPOSE.

The purpose of this Ordinance is to promote and encourage the furnishing of high quality, economical cable communication service to the residents of the Township and to regulate such service in the public interest.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 1.3 NECESSITY OF FRANCHISE.

No person shall own or operate a Cable System except under a Franchise Agreement which complies with all the requirements of this Ordinance and all other applicable law, except where a person provides Cable Communications Service to those areas of the Township which are within the geographic boundary of a franchise authority other than the Township.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 1.4 DEFINITIONS.

For the purpose of this Ordinance, any Franchise Agreement and any Proposal hereunder, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words *shall* and *will* are mandatory and *may* is permissive. Words not defined shall be given their common and ordinary meaning.

1. **Administrator** - Anyone appointed by the Township under Section 8.1.
2. **Advisory Commission** - Any Cable Advisory Commission appointed by the Township under Section 8.2.
3. **Applicant** - Any Person submitting a Proposal.
4. **Basic Service** - All services provided to Subscribers by a Grantee, including the delivery of broadcast signals, covered by the regular monthly charge, if any, paid by all Subscribers, excluding optional services for which a separate charge is made.
5. **Cablecast** - To distribute programs (both from broadcasting sources and original programs) through the Cable System.
6. **Cable Communications Service** - The business, in whole or in part, of receiving directly or indirectly over the air, and amplifying or otherwise modifying signals transmitting programs broadcast by one (1) or more signals, sound signals, pictures, visual images, digital signals, telemetry, or any other type of closed circuit transmission by means of electrical or light impulses, whether or not directed to originating signals or receiving signals off the air and redistributing such signals by wire, cable or other means through the Cable System.

7. **Cable System** - A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Communications service, and such other uses which are compatible therewith as are designated by Grantee, which Cable Communications Service includes video programming and which is provided to multiple Subscribers within the Township, but does not include:
 - A. **Exclusion - Retransmission of TV signal.** A facility that serves only to retransmit the television signals of one or more television broadcast stations.
 - B. **Exclusion - Multiple Dwelling Unit.** A facility that serves only subscribers in one or more multiple dwelling units under common ownership, control, or management, unless such facility or facilities use any Public Right-of-Way.
 - C. **Exclusion - Common Carrier.** A facility of a common carrier being excluded by Federal law from franchise regulation, except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to subscribers.
 - D. **Exclusion - Electric Utility.** Any facility of any electric utility used solely for operating its electric utility system.
8. **Community Specific Cablecasting** - Programming or channel allocation which selectively Cablecasts to individual communities to meet their unique needs or interests. "Community" refers to any unit with common needs or interests such as individual cities or neighborhoods, school districts or groups with common characteristics.
9. **Connect** - The act of making Connection.
10. **Connection** - The attachment of the Drop to the first radio or television set of the Subscriber.
11. **Converter** - An electronic device, which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate channel selector also permits a Subscriber to view all signals included in the Basic Service delivered at designated converter dial location. The Converter may also allow reception of Pay TV programming and/or services.
12. **Drop** - The cable that connects the Subscriber=s Connection to the nearest Feeder.
13. **FCC** - The Federal Communications Commission and any legally appointed, designated or elected agent or successor.
14. **Feeder** - An intermediate line of the Cable System that carrier signals from Trunk Line to Drops.

15. **Franchise** - An authorization or renewal thereof, issued by the Township, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a Cable System.
16. **Franchise Agreement** - An agreement between a Grantee and the Township setting specific rights and responsibilities of each with respect to the Cable System.
17. **Fraud or Deceit** - Shall not be limited to common law fraud and deceit but shall include the meaning of those words under federal securities law.
18. **Grantee** - A person to whom a Franchise has been granted.
19. **Gross Revenues** - All revenues directly or indirectly received by a Grantee (based upon actual receipts and not on constructive receipt, billings or accruals) from the operation of a Cable System within the Township's geographic area. Any paid advertising or other revenues (other than subscriber fees) received by a Grantee for advertising or services carried or provided both within and without the Township's geographic area shall be prorated based upon the number of Subscribers who use Basic Service and who are located within and without the Township's geographic area, respectively. Gross Revenues do not include deposits and are net of refunds or credits made to Subscribers and taxes imposed upon or with respect to services/programming furnished by the Grantee. Grantee shall not deduct from Gross Revenues any tax imposed upon Grantee's income.
20. **Headend** - The equipment at the antenna site in a Cable System. The point of origination that collects all the signals (from broadcast stations, cable station and satellite station) and sends them to the Subscribers.
21. **Hub** - One of two or more elements in a large Cable System from which Trunk Lines originate, from which programming and data is sent out via Trunk, and where upstream messages are received and where switching is accomplished.
22. **Installation** - The connection of the Cable System from Feeder to the Connection.
23. **Institutional Loop** - A completely interactive closed-circuit net connecting specified municipal, educational, medical or commercial facilities within a Cable System which also has the capacity to be interconnected to the main Cable System.
24. **Interactive System** - A Cable System having Two-Way Capability.
25. **Interconnect** - To link Headlinks, so that Subscribers to different Cable Systems can see the same programming simultaneously.

26. **Local Origination** - Programs produced locally, the content of which may be original or produced elsewhere and sold or licensed to a Grantee for use.
27. **Ordinance** - This Ordinance No. 26A, and all amendments thereto as may be adopted from time to time.
28. **Pay TV** - Channels on a Cable System for which Grantee requires an additional fee.
29. **PEG Access Channels** - Specified public, educational and governmental channels which are dedicated to the public interest and may be used by the Township or others without cost, which channels include the following categories:
 - (a) community;
 - (b) education;
 - (c) local government;
 - (d) health and medical ; or
 - (e) other.
30. **Person** - An individual, partnership, corporation, or other entity as the context may indicate.
31. **Proposal** - An Applicant=s response to an RFP, or any other application to build, own or otherwise operate a Cable System within the Township.
32. **Public Right-of-Way** - the surface of and the space above and below any street, land, path, public way, court, sidewalk, drive or any easement or right-of-way now or hereafter held by the Township for its use or for use by the general public.
33. **RFP** - Request for a Proposal by the Township.
34. **Security System** - Optional two-way service(s) offered to Subscribers which may alert authorities and/or Subscribers of potential emergencies in the Subscriber=s home, or public or private buildings.
35. **Service Tier** - A category of Cable Communications Service or other services provided by a Grantee and for which a separate rate is charged by the Grantee.
36. **Street** - All streets, roads, freeways, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, parkways, waterways, alleys, and all other public grounds or waters within or belonging to the Township being subject to this Ordinance.
37. **Subscriber** - A person who pays an Installation charge and/or monthly fee to a Grantee for Connections to the Cable System and for programs and services carried thereon.

38. **Township** - The local government of the Township of Howell, and all the territory within its legal boundaries.
39. **Trunk, Trunk Line** - Main line of Cable System that carrier signals from the Headend to the extremities of the Cable System.
40. **Two-Way Capability** - Ability of Cable System to conduct signals to a Headend as well as from the Headend. See also Interactive System.
41. **User** - A person or organization utilizing a Cable System channel as a producer, for purposes of production and/or transmission of material, or as a Subscriber, for purposes of receipt of material.

(Ord. No. 26A eff. Nov. 14,1991)

**ARTICLE II
SELECTION OF FRANCHISE**

Section 2.1 AWARD OF FRANCHISE.

The Township may award a Franchise to an applicant after a public hearing on the proposal, notice of which hearing shall be (i) given to the applicant by certified mail, return receipt requested, at least fourteen (14) days prior to such hearing and (ii) published in a local newspaper of general circulation at least twenty (20) days prior to the date of the hearing. The Township may reject all applicants.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 2.2 PROPOSALS - FORM, CONTENTS AND FEES.

All Proposals shall be submitted in writing and shall be accompanied by a nonrefundable fee in an amount determined by the Township which shall be the actual expenses incurred by the Township for processing the Proposal, to include but not be limited to, publication and notice requirements and attorneys' fees. All proposals submitted in response to an RFP shall contain the information and be presented in the manner called for by the RFP, and all proposals, whether or not submitted in response to an RFP, also shall contain such other information as may be requested by the Township. Nothing herein shall prevent or preclude an Applicant from submitting a Proposal which is not in response to an RFP. A draft of a Franchise Agreement can constitute a Proposal.

- A. If required by the Township, information contained in a Proposal shall include, without limitation, the following:
1. The identity of the Applicant.
 2. Biographical data of the Applicant's principal owners and proposed management, including the experience of such persons in the cable communications field.
 3. Audited financial statements for the Applicant's last fiscal year together with the Applicant's most current interim financial statements, which shall be reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants and which interim statements shall be accompanied by the accountant's report thereon.
 4. A financial plan for the proposed Cable System and a projection, covering the term of the Franchise, of revenue and expense in sufficient detail to permit a determination to be made of the financial viability of the Proposal.
 5. A detailed description of the Cable System and proposed facilities, including the matters to which a response is required hereby, and a schedule of projected initial rates for all charges and fees to subscribers.

- 6. A detailed timetable for the construction and activation of the Cable System, including the matters to which a response is required hereby.
 - 7. Such other matters and information deemed important by the Township.
- B. The Proposal shall constitute an offer by the Applicant which may be accepted by the Township.
 - C. The Township shall be entitled to verify any information furnished by the Applicant. The township may exercise such right by requiring reports from the Applicant, or from third parties having knowledge of the Applicant, or by conducting such other kinds of investigation as the Township may deem proper. The Applicant shall furnish the Township with such written authorization regarding release of information as may be necessary to carry out the intent and purpose of the foregoing provisions. The Franchise Agreement shall contain covenants on behalf of the Applicant to provide the Township with the information required by Section 7.1 hereof and with such additional information and reports about the Applicant and/or the operation of the Cable System, as are mutually acceptable to the Grantee and the Township.
 - D. No Applicant, nor any person on behalf of any Applicant, shall, in responding to an RFP or in responding to any other request for information of the Township or by any officer or agency thereof, make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading in any material respect. A violation of this provision shall constitute a Fraud or Deceit upon the Township.

(Ord. No. 26A eff. Nov. 14,1991)

Section 2.3 CRITERIA FOR SELECTION.

The Award of a Franchise Agreement shall be based upon the information as may be obtained by the Township regarding such Applicant and that Applicant=s Proposal. Such award shall be based upon the criteria set forth below together with such other factors as the Township may deem relevant.

- A. The experience of the Applicant in the cable communications field and the credentials of its owners and managers.
- B. The Applicant=s financial resources, including both present financial condition and the availability of committed funding to finance the proposed Cable System; and the specificity and credibility of the Applicants projections of the revenue and expenses attributable to the construction and operation of the Cable System.
- C. The Applicant=s Cable System design including channel capacity, range of services and conformity with the highest quality standards of the cable industry.
- D. The applicant=s response to specific local concerns or needs.

(Ord. No. 26A eff. Nov. 14,1991)

**ARTICLE III
FRANCHISE AGREEMENT; GRANT OF FRANCHISE.**

Section 3.1 FRANCHISE AGREEMENT.

The Franchise Agreement shall conform to the terms of this Ordinance and shall be in such form and contain such terms and provisions as shall be approved by the Township. The Franchise Agreement may be adopted, and amended, by resolution or Ordinance of the Township's governing body or by any other mode of adoption or amendment authorized or required by law.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.2 GRANT OF FRANCHISE.

A Grantee shall be awarded a Franchise Agreement either by resolution of the Township's governing body or by any other means authorized or required by law. The Grantee shall be promptly notified of the award by written notice thereof, sent by registered or certified mail, which notice shall be accompanied by two or more unexecuted copies of the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.3 EXECUTED AND DELIVERY OF FRANCHISE AGREEMENT BY GRANTEE.

The Grantee shall properly execute and deliver the Franchise Agreement to the Township on or before fifteen days after the date the Township sends written notice of the award to the Grantee, which fifteen (15) day period may be extended by the Township's governing body for good cause. Upon its receipt of the timely delivered Franchise Agreement which has been executed by the Grantee, the Township shall cause the Franchise Agreement to be promptly executed on its behalf, and shall promptly deliver a fully executed copy thereof to the Grantee. Unless otherwise provided in the Franchise Agreement, the Franchise Agreement shall become effective when executed by representatives of both the Township and the Grantee. At the time of delivery of the Franchise Agreement, the Grantee shall also deliver all monies, documents and instruments required by this Ordinance or by the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.4 TERM AND OTHER PROVISIONS OF FRANCHISE AGREEMENT.

- A. The Franchise Agreement shall provide for a nonexclusive franchise for a term of not more than thirty (30) years from the effective date thereof.
- B. Throughout the term of the Franchise Agreement, the grantee shall pay the Township a fee of not less than five percent (5%) of the Grantee's Gross Revenues. The Grantee shall take any action which may be necessary or appropriate to make the payment of such fees lawful. Acceptance of any payment by the Township shall not be construed as a release of or as an accord and satisfaction regarding any claim the Township may have for further and additional sums or for the performance of any other obligation of the Grantee hereunder or under the Franchise Agreement.
- C. The Franchise Agreement shall be deemed, in substance, to contain the following express undertakings by the Grantee:
 - 1. That the Grantee agrees to and accepts all provisions of this Ordinance and the Franchise Agreement;
 - 2. That the grantee recognizes the right of the Township to make amendments to this Ordinance during the term of the Franchise pursuant to legitimate actions of the Township under its police power.
- D. The Franchise Agreement shall incorporate by reference the Proposal, the exhibits and schedules to the Franchise Agreement, if any, and all other representations of the Grantee, whether written or oral.
- E. Nothing contained herein shall be construed to limit the ability of the Township to award more than one Franchise hereunder, provided, however, that the Township may agree in any Franchise Agreement to limit or condition its authority to grant additional Franchises. Franchises granted pursuant to this Ordinance shall be nonexclusive and shall not, unless otherwise agreed to by the Township in any Franchise Agreement, affect the right of the Township to grant to any other cable operator a Franchise. The Township, at a minimum, shall give each existing Grantee no less than two weeks notice of the date of hearing on a Proposal for an additional Franchise and provide each such existing Grantee an opportunity to appear and be heard before the Township, prior to the Township's acting on said proposal.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.5 NEGOTIATED PROVISIONS OF FRANCHISE AGREEMENTS.

The Franchise Agreements may contain such further conditions or provisions as may be negotiated between the Township and the Grantee. The provisions of this Ordinance or other law shall prevail over any conflicting provision of the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.6 RIGHTS RESERVED BY THE TOWNSHIP.

- A. Any Franchise Agreement shall be subject to the right of the Township, by resolution of the Township=s governing body, to revoke the Franchise Agreement upon the occurrence of a material breach of the Franchise Agreement by the Grantee.
- B. Any Franchise Agreement shall be subject to all applicable provisions of other Township ordinances made pursuant to the police power of the Township and any amendments thereto, whether made prior to or after the inception of the Franchise Agreement.
- C. Any Franchise Agreement shall include but not limited to provisions respecting:
 - 1. Extension of plant and service and maintenance thereof.
 - 2. Standards of service and quality of products. No Franchise Agreement shall permit or be deemed to permit discrimination in service or rates.
 - 3. Continuity of service to the public.
 - 4. Inspection of construction and installation work and the standards of such construction and installation.
 - 5. At the expiration of the term of the Franchise Agreement, or upon termination and cancellation as provided therein, any Franchise Agreement shall be deemed to permit the Township to require the Grantee to remove at Grantee's sole expense any and all portions of the Cable System from the Public Rights-of-Way.
 - 6. Any Franchise Agreement shall be deemed to require Grantee to safeguard and keep private Subscriber information,
 - 7. Such other matters as may be conducive to the safety, welfare and accommodation of the public.

(Ord. No. 26A eff. Nov. 14,1991)

Section 3.7 PROCEDURE FOR TERMINATION.

Any termination or cancellation of the Franchise Agreement prior to the expiration date thereof shall be made by resolution of the Township's governing body only after a public hearing thereon. Grantee shall be entitled to thirty days' written notice of such hearing, and the notice shall specify with reasonable particularity the grounds upon which the contemplated termination is based. Any such termination shall be subject to any requirements of higher law and any provision contained in the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14,1991)

**ARTICLE IV
DESIGN OF CABLE SYSTEM**

Section 4.1 CHANNEL CAPACITY.

The Cable System shall be capable of carrying not less than the channel capacity specified in the Franchise Agreement, and Grantee shall initially activate and maintain throughout the term of the Franchise Agreement not less than such channels as are required by the Franchise Agreement. If required by the Franchise Agreement, Grantee shall activate additional channel capacity and shall upgrade the Cable System's facilities, equipment, and service pursuant to the terms and conditions of the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14,1991)

Section 4.2 PICTURE QUALITY AND TECHNICAL REQUIREMENTS.

- A. The Cable System shall produce a picture upon each Subscriber's television screen in black and white or color, depending upon whether color is being telecast and provided the subscriber= television set is capable of producing a color picture. The Cable System shall produce a picture which is undistorted and, except as otherwise provided herein or in the Franchise Agreement, free from ghost images, without material degradation of color fidelity; the Township acknowledges that off-air pictures may have some ghost images due to the Township's proximity to the off-air transmitting facilities. The Cable System shall produce a sound which is materially undistorted on a properly operating standard receiver of a Subscriber.
- B. The Cable System shall transmit or distribute signals to all television and radio receivers of all Subscribers without causing cross-modulation in the cables or interfering with other electrical or electronic systems or the reception of other television or radio receivers.
- C. The Cable System shall at all times meet not less than minimum FCC technical standards.

- D. The Cable System shall be designed for and operated on a twenty-four (24) hour a day continuous operation basis, although this shall not require that all Channels must actively carry signals on a 24-hour-a-day, continuous basis.
- E. The Franchise Agreement shall specify the procedure for initially and subsequently testing the technical capacity of the Cable System. Representatives of the Township may be present during testing, and all expenses for all of such tests shall be paid by Grantee.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.3 TWO-WAY CAPABILITY.

Grantee shall provide and maintain a Cable System which has Two-Way Capability.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.4 FACILITIES.

The Franchise Agreement and each Proposal shall describe the location of Headends, Hubs, distribution system, studios, equipment and other facilities and shall include a plan for implementing the construction, utilization and maintenance of those facilities.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.5 SPECIAL CHANNEL AND ACCESS REQUIREMENTS.

- A. Grantee shall carry broadcast stations in accordance with FCC rule as from time to time revised.
- B. Each Franchise Agreement and Proposal shall describe, in detail, the utilization of Converters or other equipment which Subscribers are to receive and any charge for them.
- C. Grantee shall provide not less than the number of PEG Access Channels required by the Franchise Agreement. All residential Subscribers who receive all or part of the Cable communication Services shall also receive all PEG Access channels. If required by the Franchise Agreement, these PEG Access Channels shall be activated when the Cable System is activated, and, shall thereafter be maintained by the Grantee unless otherwise provided in the Franchise Agreement.
- D. The Franchise Agreement and each Proposal shall describe in detail all other channels' offerings.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.6 SERVICE TO PUBLIC BUILDINGS.

Each Franchise Agreement and Proposal shall designate those publicly owned buildings (police department, fire department, schools, library, etc.) and any buildings owned or leased for governmental use by any state, federal or local government, to which Grantee intends to provide service and/or to which Grantee intends to extend an institutional network. The provisions for such service and/or institutional network shall be described in detail in the Franchise Agreement and shall be provided without charge. Each Franchise Agreement and Proposal shall include in such designation, plans for existing as well as future publicly owned or used buildings.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.7 INTERCONNECTION.

- A. If required by the Franchise Agreement, the Grantee shall Interconnect origination and access channels of the Cable System with any or all other systems in adjacent areas, which may be done by direct cable connection, microwave link, satellite, or other appropriate method.
- B. Interconnection procedure: if required by the Franchise Agreement and upon receiving the directive of the Township to Interconnect, Grantee immediately shall initiate negotiations with the owner and operator of the other affected system or systems in order that costs may be shared equitably for both construction and operation of the interconnection link.
- C. Relief: The Grantee, if requested to make such Interconnection, may be granted reasonable extensions of time to Interconnect or the Township may rescind its order to Interconnect upon petition by the Grantee to the Township. The Township shall grant said petition if it finds that the Grantee has negotiated in good faith and either has failed to obtain an approval from the owner and operator of the system or systems of the proposed Interconnect, or that the cost of the Interconnect would be unreasonable or would result in an unacceptable increase in Subscriber rates.
- D. Cooperation Required: the Grantee, if required to make such Interconnect, shall cooperate with any interconnection corporation, regional interconnection authority or local, City, County, State and Federal regulatory agency which hereafter may be established for the purpose of regulating, financing, or otherwise providing for the interconnection of cable systems beyond the boundaries of the Township.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.8 COMMUNITY SPECIFIC CABLECASTING.

Each Franchise Agreement and Proposal may describe the means and manner of providing Community Specific Cablecasting and the time of activation and points of delivery.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 4.9 EMERGENCY ALERT.

In case of any emergency or disaster, the Grantee, unless otherwise provided in the Franchise Agreement, shall make all channels available, without charge, to the Township or to any other governmental or civil defense agency that the Township may designate. The Cable System shall, if required by the Franchise Agreement, be engineered to provide an audio alert system to allow authorized officials to override automatically the audio signals on all channels and to transmit and report emergency information. The Cable System may, if required by the Franchise Agreement, also have the capability for visual transmission of emergency messages.

(Ord. No. 26A eff. Nov. 14, 1991)

**ARTICLE V
SERVICES AND PROGRAMMING
SUBSCRIBER, CONTRACTS, COMPLAINTS**

Section 5.1 SERVICES AND PROGRAMING.

Each Franchise Agreement and Proposal may describe the level of Grantee=s commitment to provide for all or any part of the following: a variety of origination programming; automated channels carrying information from local sources; local access programming; a home security system (with mechanisms to decrease incidents of false alarms); access support including color broadcast studio and location production equipment, post-production equipment, access promotion plans, use of video facilities; plans accommodating growth of access production centers; a system to accommodate data, audio and video transmissions between institution; service to public buildings; expending distant signals= offerings; broadcast station signals in late night and early morning hours.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 5.2 LOCAL ORINATION AND CABLECASTING.

Each Franchise Agreement and Proposal may describe the Grantee=s commitment for all or any part of the following: Local Origination, Cablecasts, automated channels carrying information from local sources, variety of origination programming, addressing the needs of the Township, channel allocations, estimated programming hours, equipment, personnel and other resources committed to Local Origination production.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 5.3 USE OF CHANNELS.

Charges made by Grantee to a User shall be established by the Grantee, except for Users of the PEG Access Channels, whose use of the PEG Access Channels shall be free of charge. Grantee shall not discriminate on any other grounds among Users or in favor of itself.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 5.4 MARKETING.

Each Franchise Agreement and Proposal may describe a marketing plan, advertising policy or other means to promote the use of the PEG Access Channels.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 5.5 INTERRUPTION OF SERVICE.

Whenever it is necessary to shut off or interrupt service, Grantee shall do so, to the extent practicable, during periods of minimum use of the Cable System. Except as may otherwise be expressly provided in the Franchise Agreement, the Township shall have no liability with respect to costs incurred in repairing the Cable System, and all such costs shall be paid by Grantee. The cause for any such interruption shall be removed, and service restored as promptly as reasonably possible.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 5.6 COMPLAINTS.

Grantee shall maintain a system to receive complaints and to respond to requests for service, repairs or adjustments at any time, seven (7) days per week.

- A. Notice of this system shall be provided to all new Subscribers at time of subscription and to existing Subscribers periodically.
- B. All complaints by the Township, subscribers, or other interested persons regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the Cable System, shall be investigated and responded to by a service representative of Grantee in the manner and timetable provided in the Franchise Agreement.

(Ord. No. 26A eff. Nov. 14, 1991)

**ARTICLE VI
CONSTRUCTION, INITIAL SERVICE AREA,
LINE EXTENSION AND CONSTRUCTION
STANDARDS**

Section 6.1 INITIAL SERVICE AREA; LINE EXTENSION.

- A. Each Franchise Agreement and Proposal shall clearly indicate the time by which Cable System engineering and design shall be completed and the time by which each stage of construction shall be completed.
- B. A map prepared by grantee reflecting the areas within the Township to be served by the Cable System along with the schedule for development of the Cable system may, but need not, be included in the Franchise Agreement.
- C. The Township shall assist Grantee in the development of its proposed service area by making available to Grantee for copying all maps, data and other statistical information, then in possession or under the control of the Township.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 6.2 CONSTRUCTION TIMETABLE.

- A. Grantee's construction timetable shall reflect the specific method and schedule of construction of the Cable System. The plan of Grantee may, but need not, reflect the location of all facilities including studios, Headends, microwave receivers and senders and all Hubs and wiring.
- B. Within thirty (30) days after commencement of the term of the Franchise Agreement, grantee shall apply for all necessary permits, licenses, certificates and authorizations (other than for permits under agreements with utility companies) which are required in the conduct of its business including, but not limited to, any joint use attachment agreement, microwave carrier licenses, or any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of Cable System.
- C. Promptly after Grantee has entered into each agreement with a utility company, Grantee shall apply for all permits thereunder which are necessary to construct the initial Cable System.
- D. After obtaining all necessary permits, licenses, certificates and authorizations, as well as the approval of the Township, which approval shall not be withheld unreasonably, Grantee shall commence construction and installations of the Cable System.

- E. The Grantee shall complete construction within the time periods specified in the Franchise Agreement.
- F. The Grantee shall promptly notify the Township of all material delays in the construction of the Cable System. The Township may extend the construction timetable in the event Grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 6.3 CONSTRUCTION STANDARDS.

- A. Grantee shall not open or disturb any Public Right-of-Way, without first obtaining all required permits. The lines, conduits, cables and other property placed in the Public Rights of Way shall be located in such part thereof as shall be determined by the Township. Grantee shall, upon completion of any work requiring the opening of any Public Rights of Way, restore the same including the pavement and its foundations to as good a condition as before such work was done. Such work shall be performed with diligence and due care and if Grantee shall fail within the time period specified in the Franchise Agreement to perform the work or to put the Public Right-of-Way back into the condition required hereby, the Township shall have the right to do the same at the expense of Grantee. Grantee shall, upon demand, pay to Township the cost of such work done.
- B. All wires, conduits, cable and other property and facilities of Grantee shall be so located, constructed, installed and maintained so as not to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon, or other use of, the Public Rights of Way. Grantee shall keep and maintain all of its property so that the same shall not menace or endanger the life or property of any person. Subject to any notice provision set forth in the Franchise Agreement, the Township, on the terms and conditions set forth in the Franchise Agreement, shall have the right to inspect and examine the property owned or used, in part or in whole, by Grantee in connection with the Cable System. Grantee shall furnish copies of such maps and records as required by the Franchise Agreement.
- C. All wires, conduits, cables and other property and facilities of Grantee shall be constructed and installed in an orderly and workmanlike manner. All wires, conduits and cables shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

- D. Grantee shall at all times comply with the following codes, rules, regulations, as amended, and any others supplemental to or in substitution thereof, if the same are applicable to Grantee or the Cable System:
- 1) National Electric Safety Code (National Bureau of Standards);
 - 2) National Electrical Code, NFPA (National Fire Protection Association);
 - 3) Bell System Code of Pole Line Construction; and Applicable FCC and other applicable Federal, state and local regulations and ordinances.
 - 4) Applicable FCC and other applicable Federal, state and local regulations and ordinances.
- E. Whenever the Township undertakes any public improvement or repair which affects Grantee's equipment or facilities, the Township may, with due regard to reasonable working conditions and with reasonable notice, direct Grantee to remove or relocate its wires, conduits, cables and other property located in Public Rights of Way, and Grantee shall relocate or protect its wires, conduits, cable and other property at its own expense.
- F. The construction of the Cable System, shall be in accordance with the Proposal and the Franchise Agreement, and shall, at a minimum, comply with the following:
- 1) Grantee shall construct underground in any area where both the electrical and telephone lines have been installed underground.
 - 2) Grantee shall change from aerial to underground, at its own expense, in any area where both the telephone and electric utilities are changed from aerial to underground, to the extent that such aerial poles are removed.
 - 3) The Township shall provide Grantee with written notice of the following (but without liability for failure to provide such notice):
 - a) Any changes known to the Township, or which the Township may order, regarding a change from aerial to underground of any utility line within its boundaries.
 - b) Any underground trenching that may be pending.
 - c) Circumstances where an extension of the Cable System is required hereunder.
 - d) All Ordinance changes affecting the wiring of the Cable System.

- G. Grantee shall, upon completion of any work on private property (or easements thereon), restore the same to as good a condition as existed before construction.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 6.4 CONDITIONS ON USE.

- A. Grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main.
- B. At the request, sole cost and expense of any person holding a valid building moving permit and with not less than seven (7) business days advance notice, Grantee shall temporarily remove, raise or lower its wires, conduits and cables. The Grantee shall have the authority to require payment in advance.
- C. Grantee shall have the authority, to the extent the Township has authority to grant the same, to trim trees upon or overhanging any Public Right-of-Way so as to prevent the branches of such trees from coming in contact with the wires, conduits and cables of Grantee. All trimming shall be done under the supervision and direction of the Township and at the expense of Grantee.

(Ord. No. 26A eff. Nov. 14, 1991)

**ARTICLE VII
SYSTEM OPERATIONS**

Section 7.1 INFORMATION AVAILABILITY.

- A. Throughout the term of the Franchise Agreement, Grantee shall maintain books and records in accordance with normal and accepted bookkeeping and accounting practices for the cable communications industry, and allow for inspection and copying of the same on the terms and conditions set forth in the Franchise Agreement. The books and records to be maintained by grantee shall include the following:
- 1) A record of all requests for service;
 - 2) A record of all Subscriber or other complaints, and the action taken;
 - 3) A file of all Subscriber contracts, if any; provided however, that Grantee will not have to disclose Subscriber records which would tend to invade Subscriber privacy;
 - 4) Grantee's policies, pursuant and rules;
 - 5) Financial records, pursuant to the terms and conditions of the Franchise Agreement; and
 - 6) Such other records as are required to be kept by the FCC with respect to the Cable System.
- B. The Franchise Agreement may contain provisions granting to the Township the right to inspect the books or records of Grantee, or to require the Grantee, after reasonable notice to Grantee, to make the foregoing items accessible to the Township for inspection within the Township.

- C. Grantee shall file with the Township, within 120 days after the end of each of its fiscal year the following:
- 1) A summary of the previous year's activities and development of the cable system, including, but not limited to, services begun or discontinued, total number of Subscribers, Subscribers added or discontinued and the number of Subscribers using various premium channels.
 - 2) Audit and certified financial statements including a statement of income, revenues, expenses and capital expenditures, depreciation with an attached depreciation schedule, interest and taxes paid, balance sheet, and a statement of sources and application of funds;
 - 3) If the Grantee is a partnership, a list of Grantee's general partners and the chief executive officer and directors of any corporate general partner of Grantee;

If the Grantee is a corporation, a list of all the Grantee's officers, directors and shareholders owning at least five percent (5%) of the Grantee's outstanding common stock
 - 4) Any technical or other reports required by the Franchise Agreement; and
 - 5) An analysis, by category, reflecting Grantee's Gross Revenues, which analysis shall also be provided by Grantee at such times as it pays franchise fees in accordance with Section 3.4B hereof and the Franchise Agreement.
- D. The Grantee shall provide the Township with reports setting forth the number of Installments completed since the previous report; such reports shall be filed monthly for the first twelve (12) months in which installations are made, and thereafter shall be provided within twenty (20) days following Township request, but no more frequently than monthly. Subject to applicable provisions of law relating to privacy, the Grantee shall, upon request, provide the addresses at which installations have been completed.
- E. Upon request, the Grantee shall deliver a copy of all pleadings, applications, reports, communications and documents of any kind, submitted by the Grantee to, and all decisions, correspondence and actions by, any Federal, state and local courts, regulatory agencies and other government bodies relating specifically to Grantee and its cable television operations within the Franchise area, and Grantee waives any right to claim confidential or privileged rights thereto.
- F. The Franchise Agreement shall require such other reports as are mutually agreed to by the Township and the grantee.

- G. The Township, its agents and representatives, shall at the Township's expense, have authority to arrange for and conduct and audit of and copy the books and records of Grantee as they relate to computation of the franchise fee due under Section 3.4B hereof; provided, however, that all books and records so audited shall remain the sole and exclusive property of Grantee. Grantee shall first be given not less than five (5) business days' notice of the audit, and the description, to the best of the township's ability, of the books, records and documents it wishes to review.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 7.2 GRANTEE'S RULES.

Grantee shall have authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as Grantee shall determine for the exercise of its rights and the performance of its obligations under the Franchise Agreement; provided, such rules, regulations, terms and conditions shall not be in conflict with the provisions of the Franchise Agreement, this Ordinance or the other ordinances of the Township, or the laws of the State of Michigan or the United States.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 7.3 SUBSCRIBER PRACTICES.

Refunds to Subscribers shall be made or determined in the following manner:

- 1) If the Grantee fails, upon request by a Subscriber, to Connect any service then being offered, Grantee shall promptly refund all deposits or advance charges paid for the service in question by said Subscriber. This provision does not alter Grantee's responsibility to Subscribers under any separate contractual agreement or relive Grantee of any other liability.
- 2) If any Subscriber terminates any monthly service prior to the end of a prepaid period, a proportionate amount of any prepaid Subscriber service fee, using the number of days as a basis, shall be refunded to the Subscriber by Grantee.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 7.4 SUBLIMINAL ADVERTISING.

Grantee is expressly prohibited from introducing any form of subliminal advertising at any time, it being acknowledged, however, that Grantee shall not have any liability or obligation with respect to subliminal advertising which is introduced into programming by someone other than Grantee unless Grantee has actual knowledge that subliminal advertising will be utilized, with sufficient prior notice and knowledge to permit Grantee to not Cablecast the same, and if Grantee nevertheless Cablecasts the same; provided however, that the Grantee shall not be in default under the Franchise Agreement if, as a result of Grantee's decision not to Cablecast the same, one or more channels have no programming carried thereon.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 7.5 TAMPERING; FRAUDULENT CONNECTIONS AND SALES.

No person, whether or not a Subscriber to the Cable System, may intentionally or knowingly remove or damage or cause to be damaged any wire, cable, conduit, equipment, or apparatus of the Grantee, or commit any act with an intent to cause such removal or damage, or tap, tamper with, or otherwise Connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the Grantee, or obtain a signal or impulse from the Cable System without authorization from or compensation to the Grantee, or obtain cable television or other communications, service or sell, rent, lend, offer or advertise for sale, rental or use any instrument, apparatus, device or plans, specification, or instruction for making or assembling the same to connect to the Grantee=s Cable System with intent to obtain cable television or other communication service without payment of any lawful charge to which Grantee is entitled; nor shall any person resell, without the express written consent of the Grantee and the Township, any Cable Communications Service transmitted by a Grantee.

(Ord. No. 26A eff. Nov. 14, 1991)

**ARTICLE VIII
ADMINISTRATION AND ADVISORY BODY.**

Section 8.1 ADMINISTRATOR.

The Township may appoint an Administrator who shall serve at the pleasure of the Township and who shall be responsible for the continuing administration of the Franchise Agreement on the part of the Township. The Township shall provide written notice to Grantee of the Appointment of any Administrator.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 8.2 ADVISORY BODY.

The Township may appoint an Advisory Commission to perform such duties and to have such powers as the Township's governing body may determine. The composition and terms of office of the members of the Advisory Commission, as well as the duties and powers of the Advisory Commission, shall be determined and established by resolution of the Township's governing body

(Ord. No. 26A eff. Nov. 14, 1991)

Section 8.3 DELEGATION OF AUTHORITY BY TOWNSHIP.

The Townships reserves the right to delegate from time to time any of its rights or powers under the Franchise to any person or organization if such delegation is authorized by law. Any such delegation shall be effective upon written notice thereof to Grantee. Upon receipt of such notice, Grantee shall be bound by all terms and conditions of the delegation not in conflict with this Ordinance or the Franchise Agreement. Any such delegation or revocation thereof, no matter how often made, shall not be deemed to be an amendment to the Franchise Agreement or require Grantee's consent.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 8.4 SEVERABILITY.

This Ordinance and each article, section, subsection, paragraph, subparagraph, part, provision, sentence, word and portion thereof are hereby declared to be severable, and if they or any part of them are declared to be invalid or unenforceable for any reason by a court of competent jurisdiction, it is hereby provided that the remainder of this Ordinance shall not be affected thereby. This Ordinance shall not cease to be effective upon the expiration date of any Franchise Agreement nor upon any change in the identity of the grantee.

(Ord. No. 26A eff. Nov. 14, 1991)

Section 8.5 EFFECTIVE DATE.

This Ordinance shall be published in full in a newspaper of general circulation in the Township, qualified under Michigan law to publish legal notices, after its adoption, shall take effect on the day following the date of its publication and shall be recorded in the Ordinance book of the Township, and such recording shall be authenticated by the signatures of the Township's supervisor and clerk.

(Ord. No. 26A eff. Nov. 14, 1991)