

ORDINANCE NO. 2003-12

**AN ORDINANCE TO AMEND ARTICLE II OF CHAPTER 70  
OF THE MERIDIAN CHARTER TOWNSHIP  
CODE OF ORDINANCES REGARDING CABLE TELEVISION**

THE CHARTER TOWNSHIP OF MERIDIAN ORDAINS:

Sec. 1. Article II of Chapter 70 of the Meridian Charter Township Code of Ordinances is amended to read as follows:

ARTICLE II CABLE COMMUNICATIONS

DIVISION 1. GENERALLY

Sec. 70-26. Definitions.

For purposes of this article, terms, phrases, words and abbreviations shall have the meanings ascribed to them in the Cable Communications Policy Act of 1984, as amended from time to time, 47 U.S.C. 521 *et seq.*, unless otherwise defined in this article.

Sec. 70-27. Declaration of Purpose.

The purpose of this article is to provide fair regulation of cable service in the township in the interest of the public; to promote and encourage adequate, economical and efficient cable service to the residents of the township; to promote and to encourage harmony between cable television companies and their subscribers; and to provide for the furnishing of cable television system service to the residents of the township without unjust discrimination, undue preferences or advantages.

Sec. 70-28 Cable Communications Commission.

(a) The township shall establish a commission to be known as the Meridian Township cable communications commission. The township board shall solicit from the public and from the franchise names of persons interested in serving on the Commission, but is not limited to names submitted.

(b) The commission consists of five residents of the township appointed by the township board. Each member shall serve a term of three years. Any vacancy in the office shall be filled by the township board for the remainder of the term. No employee or person with an ownership interest in a cable television franchise granted pursuant to this article shall be eligible for membership on the commission. Members of the commission may

be compensated at a rate to be determined by the township. Such rate of compensation, if any, be established and may be revised, from time to time, by resolution of the township board.

(c) Subject to federal law, the commission, in addition to the functions and responsibilities that the township board may delegate to it from time to time by resolution, shall have the following functions:

- (1) Discuss this article and franchises with prospective franchise applications.
- (2) Advise the township board on applications for franchises.
- (3) Advise the township board on matters that might constitute grounds for revocation of a franchise under this article.
- (4) Recommend to the township board, after hearing, resolutions of disputes between franchisees, between franchisee(s) and subscribers, between franchisee(s) and access users, and between access users.
- (5) Advise the township board on the regulation of rates under this article and make recommendations on requested changes in rates, services or classifications.
- (6) Recommend to the township board general policy relating to access channels with a view to maximizing the diversity of programs and services to subscribers.
- (7) Encourage the use of access channels by institutions, groups and individuals within the township. The township board shall budget a minimum of 80 percent of franchise fees for use by the commission to operate a government access channel and administer this ordinance and cable television franchises. Such budgeted funds shall be kept by or under the control of the township treasurer. The township treasurer shall draw checks on said account only when a majority of the members of the township board has authorized such expenditure.
- (8) Encourage and supervise interconnection of systems.
- (9) Review and report to the township board concerning records and reports that the franchisee is required to submit under this article.
- (10) The commission shall annually prepare a proposed budget and submit that proposed budget to the township board for its consideration and adoption. Prior to adopting a budget for the commission, the township board shall conduct a public hearing. The commission shall also prepare and submit to the township board an annual report including an accounting of budgeted

fees received and distributed by the commission and a report of the type and amount of use of access channels.

- (11) Conduct evaluations of the system at least every three years and make recommendations to the township board regarding amendments to this article or to the franchise agreement.

#### Sec. 70-29. Non-Recourse for Losses.

Any person granted a franchise pursuant to this article shall have no recourse whatsoever against the township, its officers, boards, commissions, agents or employees for any loss, cost, expense or damage arising out of any provision or requirement of this article or its enforcement except as allowed by 47 USC 555a, as amended.

#### Section 70-30. Priority of Use.

Any right or privilege granted to any person under this article to use or occupy any street, alley, public right-of-way or public place shall be subordinate to any prior lawful occupancy of such property. Nothing in this article shall be construed as limiting in any way the township in the lawful exercise of the police power.

#### Sec. 70-31 Condition for Grant of Special Use Permit.

In order to achieve a uniform, comprehensive, township-wide standard of service, the grant of any special use permit pursuant to this code shall be conditioned upon satisfactory completion of all necessary easements, licenses and arrangements to permit a connection in each dwelling unit to a cable system, open video system or other multichannel video provider using or occupying the public right of way duly franchised by the township board.

#### Section 70-32. Hearing and Determination of Complaints; Procedure; Local Office.

(a) Subject to federal law, the township board, or any person or department designated by it, shall, upon its own motion or upon complaint of any person or subscriber of a Grantee, have authority to hear and determine all complaints concerning the rates, charges, rules, regulations, practices, quality of service rendered or refused to be rendered, equipment furnished or refused to be furnished, or any other matter relating to the service or operation of the cable system or any person franchised under the terms of this article.

(b) Upon the filing of any complaint against any Grantee pursuant to the preceding subsection, the township board shall give such person at least 20 days notice of the time and place of a hearing to be given such person upon the matters alleged in the complaint. Subject to federal law, the township board shall have the power to order such changes in the rates, charges, rules, regulations, services, equipment or other matters

relating to the service or operation of the Grantee as in its judgment, based upon the record of the hearing and findings of fact made thereon, appear to be just, reasonable and lawful based upon the record of the hearing and the board's findings of fact.

(c) Every Grantee a franchise pursuant to this article shall have a business office conveniently located for residents of the township, suitably staffed for the purpose among others of receiving and investigating complaints, dealing with its subscribers, receiving payment for service and otherwise conducting business, unless otherwise provided in the franchise agreement.

Secs. 70-33 – 70-55. Reserved.

## DIVISION 2. FRANCHISE

Sec. 70-56. Franchise Required.

(a) No person may construct, install, maintain or operate a cable system, open video system or other multichannel video provider using or occupying the public right of way in the township nor may any person provide a cable service or acquire ownership or control of a Grantee of a franchise under this article in the township without such person having first obtained a franchise from the township in the form of a franchise agreement between the township and the franchisee, which franchise agreement includes, at a minimum, compliance with the specifications of this article. However, franchise is required from the township in order to use, occupy or traverse under the surface of the ground of a single public street for the purposes of installing, constructing, maintaining or operating a single cable, or other similar conductor, which connects one or more multiple family dwellings with one or more multiple family dwellings, all under the same ownership, where the resulting cable system does not serve more than 500 occupancy units. Any such person shall be required to first obtain the necessary street-crossing permit.

(b) Except as specifically provided in this code, no person may use, occupy or traverse the township streets, alleys, lanes, avenues, boulevards, sidewalks, bridges, viaducts, rights-of-way or any other public place or public way in the township or any extensions or additions, whether on, above, or under the surface of the ground, for the purposes of installing, construction, maintaining or operating a cable system, open video system or other multichannel video provider using or occupying the public right of way or facilities therefor or for the purpose of furnishing a cable service without such person having first obtained a franchise therefor from the township in the form of a franchise agreement between the township and the franchisee, which franchise agreement includes, at a minimum, compliance with all the specifications of this article.

(c) The specifications required by this article are minimum requirements of a franchise agreement. Additional requirements including, but not limited to, rates, charges, deposits, specifications regarding required interconnections, studios or other signal origination facilities, number of channels to be equipped and available for immediate use upon initial construction of the system, use of channels by the township,

schools, and other educational institutions, quality of community access, availability of equipment to users, required establishment and expansion of service area, other use of channels and other specifications or requirements of a cable television franchisee or system may be established in the franchise agreement.

Sec. 70-57. Franchise; Application; Contents; Fees; Issuance; Transfer.

(a) The initial and transfer applications for a franchise to install, construct, maintain or operate a cable system, open video system or other multichannel video provider using or occupying the public right of way in the township or to furnish a cable service must:

(1) Be made in writing to the township board in such form as may be prescribed.

(2) Include a description and map of the territory within the township in which the cable system, open video system or other multichannel video provider system using or occupying the public right of way is to be installed, constructed, maintained or operated or to furnish cable service is to be provided.

(3) Be accompanied by a showing of the applicant's legal, financial, technical and other qualifications to be a franchisee which must contain:

a. In establishing legal qualifications, if other than a single individual, a certified copy of the partnership agreement, articles of association, or articles of incorporation, as the case may be, and also, if a foreign corporation, a certified copy of its authorization to do business in the State of Michigan.

b. In establishing financial qualifications, a copy of applicant's current balance sheet as of a date not more than 60 days prior to the date of the application shall be furnished. If a loan or other credit arrangement is to be consummated to finance the establishment and operation of the proposed facilities, full particulars shall be disclosed, including the identity of the creditor.

c. In establishing technical qualifications, a statement of the arrangements to ensure the rendition of good service, including the type and kind of facilities to be employed, the technical standards to be followed, the maintenance and repair facilities to be used, the number and description of technical personnel, including copies of any contracts, agreements or arrangements relating to any of the above.

d. A statement as to the location of the antenna site or sites and the location of any places of business in the township.

e. A statement as to any affiliated corporations or business organizations engaged in providing service, or Interlocking directorships or

ownerships held by any owners, officers or directors of applicant with any other business engaged in providing cable service.

f. A detailed statement as to the arrangements and timetable by which applicant proposes to construct its cable facilities and system including detailed descriptions of portions of the township to be served by the system within one year, 18 months, two years, 30 months, and three years of the making of the franchise agreement.

(4) The applicant shall furnish information as to the programming services and public services which it shall provide including:

- a. The number of channels offered and the potential for diversified services to local government, educational institutions, community groups, householders and local commercial interests.
- b. Projected development of customer and community services, indicating priorities in development, and estimated time schedules.
- c. Cost estimates of development, installation, and maintenance of system, which items shall be deemed to include, but not be limited to, the proposed cost of acquisition of the system where approval of a transfer of the franchise has been requested.
- d. Revenue forecasts for the next five years of service.
- e. A proposed schedule of rates for installation charges, monthly service fees and relocation charges.
- f. Such other information as the township may request.

(b) The application for an initial franchise must be accompanied by a fee of \$5,000.

(c) Upon the filing of such an application and the payment of the fee as prescribed, the township board will consider the application and may request such additional information as it may deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide a cable service in the township.

(d) If the township board determines that the applicant possesses the necessary qualifications, legal, financial, technical and otherwise, to reasonably assure applicant's ability to satisfactorily install, construct, maintain or operate a cable television system, open video system or other multichannel video provider using or occupying the public right of way or to furnish a cable service to the public in the township, the township board may issue applicant a nonexclusive franchise. No franchise shall be issued:

(1) Until the franchise application has been on file and available for public inspection in the office of the township clerk for at least 30 days and

(2) Until the township board holds a public hearing on such application after due notice of the time and place of such hearing has been given the public.

(d) In determining whether such a franchise will be issued, the township board will take into consideration, among other things, the legal, technical and financial qualifications of the applicant; including the prior experience, if any, of the applicant in providing cable systems or furnishing cable service; the proposed rate schedule; the nature and scope of the applicant's proposed system; and the timetables for development of applicant's proposed system.

(e) No franchise may be sold, transferred or assigned unless such transaction is first approved by the township board after receipt of a written application containing the same information regarding transferee as would be required of an original application and any application fee prescribed by the Grantee's franchise agreement. Prior approval of the township board shall be required where ownership or control of more than 25 percent of the right of control of a Grantee is acquired by a person or group of persons acting in concert, none of whom already own or control 25 percent or more of such right of control, singularly or collectively.

(f) The township may acquire the cable system, open video system or other multichannel video provider using or occupying the public right of way if a renewal is denied or revoked for cause subject to 47 USC 547, as amended.

#### Sec 70-58. Surrender of Other Franchises.

By the application for and acceptance of a franchise pursuant to this article, a Grantee agrees that upon subsequent additions of areas to the township, either by annexation, consolidation or otherwise, any and all franchises and/or licenses held by it to provide a cable service or to install, construct, maintain or operate a cable system in such areas shall be surrendered and any rights or privileges in streets, alleys, public right-of-way or public places to install, construct, maintain or operate a cable system or to furnish a cable service in such areas as may subsequently be added to the township by annexation, consolidation or otherwise is subject to and authorized by this article.

#### Section 70-59. Rights of Township.

Any franchise granted under this article is made subject to all applicable provisions of law relating to the township and ordinances and specifically subject to the rights and powers of the township and limitations upon a Grantee holding such franchise as are set forth in the statutes of the State of Michigan pertaining to charter townships, which are incorporated by reference, and such Grantee must abide by and be bound by said rights, powers and limitations

Sec. 70-60. Franchise; Nonexclusive; Term; Form.

(a) Any franchise issued pursuant to this article must be a nonexclusive franchise for a term of years, not to exceed 15 years, as the township board may approve and will be issued in such form as shall be determined by the township board.

Sec. 70-61. Fees, Reporting, Records.

(a) During the term of any franchise granted pursuant to this article, the person granted such franchise shall pay to the township, for the use of its streets, public places, and other facilities, as well as their maintenance, improvements, and supervision and for the regulation activities required by virtue of the franchise, an annual franchise fee in an amount equal to five percent of all revenues derived from the operation of the cable system, open video system or other multichannel video provider using or occupying the public right of way to provide cable service in the township. The township shall be furnished a statement with each payment, certified as correct by the franchisee, and an annual statement for the entire year, prepared by a certified public accountant. All statements shall reflect the total amount of local gross subscriber revenues and the above charges, deductions and computations for the period covered by the statement.

(b) Such franchise fee shall be paid quarterly within 45 days of the close of each quarter during the existence of the franchise at the office of the township treasurer during regular business hours. If the township treasurer's office is closed on said 45th day, then payment may be made during regular business hours on the next following day on which the township treasurer's office is open for business.

(c) Subject to 47 USC 551, as amended, the township shall have the right to inspect at all reasonable times the customer records of any person granted a franchise from which its franchise fee payments are computed and shall have the right of audit and recomputation of any and all franchise fees paid. No acceptance of any payment shall be construed as a release or as an accord and satisfaction of any claim the township may have for further or additional sums payable as a franchise fee under this article or for the performance of any other obligation under this article.

Sec. 70-62. Construction of Facilities; Right to Use Streets; Restrictions; Disposal; Duties.

(a) *Right to Use Streets.* A franchise granted pursuant to this article confers upon the Grantee the nonexclusive right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above and across the streets, avenues, highways, sidewalks, bridges and other public ways, easements, and rights-of-way existing as of the date of the grant of said franchise and all subsequent extensions in and belonging to the township, all necessary towers, poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduits, manholes, and other television and/or radio conductors, equipment and fixtures for the installation, construction,

maintenance and operation of a cable system (including audio, video and radio signals) or the furnishing of a cable service.

(b) *Submission of description; approval by director of public works/engineering.* Prior to the erection or installation of any towers, poles, guys, anchors, underground conduits, manholes, or fixtures for use in connection with the installation, construction, maintenance or operation of a cable system under a franchise granted pursuant to this article, the Grantee desiring to erect or install such facilities for use in connection with its cable system must first submit to the director of public works/engineering or designee for review and approval a concise description of the facilities proposed to be erected or installed, including engineering drawings, if requested or required, together with a map indicating the proposed location of such facilities. No erection or installation of any tower, pole, guy, anchor, underground conduit, manhole, or fixture for use in a cable system, open video system or other multichannel video provider using or occupying the public right of way may be commenced by any person until approval has been received from the director of public works/engineering or designee. Such approval may not be unreasonably withheld.

(c) *Grant of attachment spaces.* Any person accepting a franchise pursuant to this article and erecting or installing towers or poles must, upon written request by the township, grant the township reasonable attachment space or spaces upon such towers or poles without a rental charge for the attachment of wire or cable owned and used by the township. The township shall pay any costs incurred by such person in providing attachment space or spaces to said township, including all necessary costs of rearrangement of such person's wires, cables or equipment and tower or pole replacement cost for a larger tower or pole, if required.

(d) *Right of township to purchase system; removal by Grantee.* Upon the expiration, termination or revocation of any franchise granted pursuant to this article, or should any person wish otherwise to dispose of any tower or pole erected or installed for use in connection with a cable system, open video system or other multichannel video provider using or occupying the public right of way or any portion of said system, the township retains the first right and option to purchase such towers or poles as it may require or such portion of the system at their fair market value. The township shall be under no obligation to purchase all or any part of the system upon expiration, termination or revocation for cause of any franchise granted pursuant to this article. Further, upon the expiration, termination or revocation for cause of any franchise granted pursuant to this article, should the township determine that it does not desire to purchase the system or any part of the system, the franchisee shall have a period of six months from the date of expiration, termination or revocation to remove its towers, poles, wires, cables, fixtures or all other facilities from the streets, alleys, public rights of way or public places. Grantee shall not disturb any underground conduit, manholes, or other facilities constructed underground. At the expiration of such six-month period, any property not removed by franchisee may, at the township's election, become the property of the township to do with as it may choose. Any cost to the township in removing said property from the streets, alleys, public rights of way or public places may be claimed

against franchisee under the letter of credit or other surety arrangement as required under this article.

(e) *Commencement of construction.* Any person granted a franchise pursuant to this article shall commence construction or installation of its cable system, open video system or other multichannel video provider using or occupying the public right of way within 120 days after issuance of a certificate of compliance by the Federal Communications Commission (FCC).

(f) *Completion of construction.* Any person granted a franchise pursuant to this article shall, within such period as designated in the franchise agreement complete construction in the area designated in the franchise agreement. Any person granted a franchise pursuant to this article who is unable to commence or complete construction according to the provisions of this section, for good cause, must notify the township board in writing within 30 days of the occurrence of any delay or interruption of construction of more than 15 working days , which interruption or delay would affect its ability to construct according to schedule.

(g) *Underground.* In areas or portions of the township where transmission or distribution facilities of public utilities providing telephone service and electric service are underground, or may be placed underground when installed, any person granted a franchise pursuant to this article must likewise install, construct, maintain and operate its transmission and distribution facilities in like manner underground to the maximum extent feasible and permitted by existing technology and conditions, subject to the approval of the township director of public works/engineering or designee. Such approval may not be unreasonably withheld.

(h) *Compliance with law.* All construction, installation, maintenance and operation of any facilities must be in compliance with the provisions of the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, the Bell Telephone System's Code of Pole Line Construction, any standards issued by the FCC or other federal or state regulatory agencies, and applicable regulations of public utilities operating in the township. Every cable system, open video system or other multichannel video provider using or occupying the public right of way installing, constructing, maintaining or operating in the township must be so designed, constructed, installed, maintained and operated as not to endanger or interfere with the safety of persons or property in the township.

(i) *Openings.* Any opening, obstruction in, disturbance of or damage to the streets, alleys, public rights-of-way or public places by any person in the exercise of any right granted pursuant to this article must be properly guarded by adequate barriers, lights, signals, and warnings, as to prevent danger to any person or vehicle using such streets, alleys, public rights-of-way or public places. Such opening, obstruction in, disturbance of or damage shall be properly and promptly repaired. all in a manner specified and approved by the director of public works/engineering or designee, at such person's expense.

(j) *Cooperation with public projects.* Any person owning or maintaining a cable system or facilities in or on the streets, alleys, public rights-of-way or public places in the township must, at its expense and without reimbursement from the township, upon request of the township, protect, support, temporarily disconnect, relocate or remove from the street, alley, public right-of-way or public place, any property of such person when required by reason of traffic conditions, public safety, street vacation, freeway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, tracks, the construction or change of the transmission or distribution facilities of any telephone or electric public utility or other public improvements. Any such person must also, at the request of any private party holding an appropriate permit issued by the township, temporarily raise or lower its cable transmission or distribution wires or cables to permit the moving of any building or other structure, provided that the actual expense of such temporary raising or lowering shall be paid in full by the party requesting the same other than the township.

(k) *Township may complete repairs, charge Grantee.* If any person fails to commence, pursue or complete any work required by law or by the provisions of this article to be done in any street, alley, public right of way or public place as designated by the director of public works/engineering or designee, who may cause such work to be done and such person shall pay to the township the cost within 30 days of the receipt of an itemized statement of such cost.

Sec. 70-63. Indemnity; Letter of Credit or Other Surety Arrangement; Proof of Insurance; Effective Date of Franchise.

(a) Every Grantee shall, within 30 days of the grant of a franchise to it pursuant to this article, file with the township clerk, and at all times maintain in full force and effect for the term of the franchise, at its expense, a letter of credit or such other surety arrangement as the township board may approve in a franchise agreement, in the minimum amount of \$25,000. The surety arrangement or letter of credit shall guarantee the faithful performance by such Grantee of its obligations under its franchise and upon the further condition that if such Grantee shall fail to comply with any one or more provisions of this article, there shall be recoverable any damages or loss suffered by the township, including the full amount of any compensation, indemnification, or cost of removal of any property of such Grantee as provided in this article plus attorney's fees and costs, up to the full amount of the letter of credit, or other surety arrangement. The surety arrangement or letter of credit shall be a continuing obligation for the duration of any franchise granted under this article and any renewal term until such Grantee has liquidated all of its obligations with the township which may have arisen under the franchise or from the exercise of any privilege or right granted. Nothing in this article shall be construed to excuse faithful performance by any Grantee or in any way to limit its liability for damages or otherwise. The letter of credit or other surety arrangement may be reduced to \$10,000 at such time as franchisee is actively providing cable service to 1,000 or more subscribers within the township.

(b) Any Grantee within 30 days of the grant of a franchise pursuant to this article shall file with the township clerk:

(1) An indemnity agreement to indemnify, defend and save the township harmless from and against any or all claims, suits, actions or liability for damages which may arise in any way from the grant of a franchise to such Grantee, or its operation in the township, including all expenses incurred by the township in defending itself against any claim, action or suit.

(2) Proof of a commercial general liability insurance policy, including completed operations liability, independent contractors liability, contractual liability, railroad protective, XCU coverage, an automobile liability insurance policy all issued by companies licensed to do business in Michigan, protecting the township, its officers, boards, commissions, agents and employees against liability for loss or damage for personal injury, death and property damage, occasioned by the installation, construction, maintenance or operation of a cable television system in the township with liability limits of up to \$5 million for personal injury or death and up to \$3 million for the damages to property resulting from any one occurrence and proof of adequate insurance as required by the Michigan Workers Disability Law applicable to it.

(c) All policies shall contain a provision that a written notice of cancellation, material change or reduction in coverage shall be provided to the township clerk at least 30 days in advance of the effective date.

(d) All insurance required by this section shall be with insurance companies licensed and admitted to do business in the State of Michigan, who are acceptable to the township and who have a minimum A.M. Best Company rating of A or A- (Excellent). The Grantee shall submit evidence to the township of the insurance company's status to do business in the State of Michigan and A.M. Best Company rating.

(e) No franchise is effective until the provisions of this section above have been fully complied with and failure to file with the township clerk within 30 days after grant of a franchise, the letter of credit or other surety arrangement, indemnity agreement, proof insurance as required by this section shall render the franchise null and void without notice or further proceedings.

#### Sec. 70-64 Termination; Revocation or Surrender of Franchise

(a) *Term.* Any franchise granted pursuant to this article shall expire without further proceedings in the event the person granted such franchise has not commenced construction of a cable system, open video system or other multichannel video provider using or occupying the public right of way within one year after its effective date.

(b) *Revocation for failure to provide service.* If any person granted a franchise pursuant to this article fails to provide cable service within and throughout the franchise areas as

required under the terms of its franchise agreement, said franchise shall, on the anniversary of the effective date of such franchise next following the 12 month period during which cable service has not been extended as required under the terms of the franchise agreement, be deemed revoked without the necessity of township board action, unless prior to said date, such person shall have applied to the township board and the township board shall have, for good cause shown, granted an extension of the construction or service periods set forth in the franchise agreement.

(c) *Termination upon appointment of receiver.* Any franchise granted pursuant to this article shall be terminated without further proceedings 120 days after the appointment of a receiver or trustee to take over and conduct the business of a Grantee, whether in receivership, reorganization, bankruptcy or other action or proceedings unless such receivership or trusteeship shall have been vacated prior to the expiration of such period. Such receiver or trustee may apply for a transfer or assignment of such franchise, as before provided in this article within 60 days of the appointment of such receiver or trustee, if duly approved by the court having jurisdiction in the premises. In case of a foreclosure or other judicial sale of the plant, property or facilities, with or without the appointment of a receiver or trustee, a franchise shall be terminated without further proceeding upon 30 days written notice of termination served upon the Grantee and the purchaser unless within such thirty 30 day period, the purchaser applies to the township for a transfer or assignment to it of the same as provided in this article. Such approval may not be unreasonably withheld.

(d) *Revocation.* Any franchise granted pursuant to this article is revocable for cause by the township board prior to its expiration where the Grantee has failed substantially to comply with any material provision or requirement of this article or the provisions of its franchise agreement or other authorization. The township board may give a written notice containing full particulars as to the material provision or requirement with which compliance is claimed deficient and allow such Grantee 60 days to comply. At the expiration of such 60 days, such franchise or authorization shall be deemed terminated and revoked without further board action, unless such Grantee shall request a hearing before the township board upon its alleged failure to substantially comply with any material provision or requirement of this article or of its franchise or authorization. Such hearing shall be public with the Grantee being permitted to fully participate including the right to introduce testimony and exhibits and to examine and cross examine witnesses. The hearing shall be recorded and at the conclusion the township board, if it finds that a Grantee has not substantially complied with any material provision or requirement of this article or its franchise agreement or authorization, may terminate and revoke the franchise or authorization. Such decision is subject to any and all lawful remedies and rights of appeal.

(e) *Surrender.* Any person granted a franchise pursuant to this article may surrender it by written notice of intent to surrender its franchise filed with the township clerk not less than 60 days prior to the surrender date. On the surrender date specified in such notice, all rights, privileges, and authority under such franchise shall terminate. Such person shall have a period of six months thereafter to remove its towers, poles, wires, cables,

fixtures, or other facilities from the streets, alleys, public rights-of-way, or public places, subject to the rights of the township as set forth in subsection this article. At the expiration of such six-month period, any property not removed by such person shall become the property of the township to do with as it may choose. Any cost to the township in removing such property from against such person under the surety arrangement or letter of credit required under this article.

### DIVISION 3. OPERATING REQUIREMENTS AND STANDARDS

#### Sec. 70-91 Standard of Service

(a) *Installation according to industry standards.* Grantees of a franchise pursuant to this article shall install, construct, maintain and operate its cable television system, open video system or other multichannel video provider using or occupying the public right of way in accordance with the accepted standards of the industry, in conformity with the state of the art and any standards of operation or maintenance for a cable system which may be established or issued by the FCC. Further, it is the intention of the township board that any person granted a franchise to furnish a cable service to the public within the township shall possess the financial and technical qualifications necessary to provide a cable system, open video system or other multichannel video provider using or occupying the public right of way which will assure its subscribers high quality technical and public service.

(b) *Availability of public access channels.* Every cable system, open video system or other multichannel video provider using or occupying the public right of way franchised under this article, at a minimum, shall maintain and make available without charge such public access channels, education access channels and local government access channels as may from time to time be designated, established, required, or regulated by the rules and regulations of the FCC as may from time to time be in force and effect.

(c) *Interconnection.* Every cable system, open video system or other multichannel video provider using or occupying the public right of way franchised under this article shall maintain such capacity, capability and technical standards as will enable it to interconnect with any other cable system, open video system or other multichannel video provider using or occupying the public right of way located in any adjacent community. It is the intention of the township board to require that all access channels in the Lansing metropolitan area be interconnected to the cable television system, open video system or other multichannel video provider using or occupying the public right of way.

#### Sec. 70-92. Service; Provision to Township Government, Schools; Public Emergencies.

(a) Every person holding a franchise under this article shall, without charge for installation or service, provide one installation of its cable service to each department of

the township and each fire and police station in the township, each primary school, secondary school and public library within the Grantee's service area.

(b) Every person holding a franchise under this article shall make its cable system, open video system or other multichannel video provider using or occupying the public right of way, available, without charge, to the township, the County of Ingham, the State of Michigan, the United States of America and/or emergency operations agencies for the prompt and simultaneous communication to subscribers and the public within the township of any information resulting from or required by war, threat of war, natural catastrophe, riot or insurrection, that is necessary to save or protect life or property.

#### Sec. 70-93 Reports

Every Grantee must file reports and maps to the extent required under the franchise agreement.

Secs. 70-94 – 70-115. Reserved

#### DIVISION 4. BASIC RATE REGULATION

Section 70-116. Basic Cable Rate Regulation.

The township adopts by reference basic service rate regulations promulgated by the FCC, as amended from time to time, as if fully set forth here. The township may pursue any and all legal and equitable remedies, including, without limitation, all remedies provided under a franchise with the township, for failure to comply with the Act, the FCC rules, any orders or determinations of the township pursuant to this division, any requirements of this division, or any rules or regulations promulgated under this division. Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the township pursuant to this division, any requirements of this division, or any rules and regulations promulgated under this division shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

#### DIVISION 5. CUSTOMER SERVICE STANDARDS

Sec. 70-117. Customer Service Standards.

(a) When used in this section:

(1) "Normal business hours" mean 9:00 a.m. to 5:00 p.m., Monday through Friday and some hours on Saturday, excluding holidays.

(2) "Normal operating conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil

disturbances, power outages, telephone network outages and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods and maintenance or upgrade of the cable system, open video system or other multichannel video provider using or occupying the public right of way.

(3) "Service interruption" means the loss of picture or sound on one or more cable channels.

(b) Nothing in this section is intended to prevent or prohibit:

(1) The township and a Grantee from agreeing to customer service requirements that exceed the standards set forth in this article.

(2) The township from enforcing through the end of the franchise term pre-existing customer service requirements that exceed the standards set forth in this article that are contained in current franchise agreements.

(3) The township from enacting or enforcing any consumer protection law.

(4) The establishment or enforcement of any ordinance or regulation concerning customer service that imposes customer service requirements that exceed or address matters not addressed by the standards set forth in this article.

(c) A person holding a franchise awarded under this article is subject to the following customer service standards certified quarterly:

(1) The Grantee will maintain a local, toll-free or collect call telephone access line which will be available to subscribers 24 hours a day, seven days a week.

(2) Trained representatives shall be available to respond to customer telephone inquiries 9:00 a.m. to midnight seven days a week. From midnight to 9 a.m., the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received from midnight to 9:00 a.m., shall be responded to by a trained representative on the next business day.

(3) Under normal operating conditions, telephone answer time by a representative, including wait time, excluding calls routed to automated response units, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than 90 percent of the time under normal operating conditions measured on a quarterly basis.

(4) Under normal operating conditions, the customers may receive a busy signal less than three percent of the time measured on a quarterly basis.

(5) Reasonably convenient customer service center/bill payment locations will be open at least during normal business hours.

(6) Under normal operating conditions, each of the following five standards must be met no less than 95 percent of the time measured on a quarterly basis:

a. Standard installations will be performed seven business days after an order has been placed. Standard installations are those that are located not more than 150 feet from the existing distribution system.

b. Excluding conditions beyond the control of the operator, a Grantee shall begin working on service interruptions promptly and in no event later than 24 hours after the interruption becomes known. The Grantee must begin actions to correct other service problems the next business day after notification of the service problem.

c. The appointment window for installations, service calls, and other installation activities will be either a specific time or, at maximum, a 4 hour block during normal business hours. The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

d. A Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

e. If a representative is running late for an appointment and will not be able to keep the appointment as scheduled, the customer will be contacted, the appointment rescheduled, as necessary, at a time which is convenient for the customer.

(d) A Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

(1) Products and services offered.

(2) Prices and options for programming services and conditions of subscription to programming and other services.

(3) Installation and service maintenance policies.

(4) Instructions on how to use the cable service.

(5) Channel positions of programming carried on the system.

(6) Billing and complaint procedures, including the business address and telephone number of the Grantee.

(e) Customers and the township will be notified of any changes in rates, programming services or channel positions as soon as possible by any reasonable means. Notice must be given to subscribers and the township a minimum of 30 days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding paragraph.

(f) Bills shall be clear, concise and understandable. Except as otherwise required by a franchise agreement, bills must be fully itemized with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall clearly delineate all activity during the billing period, including operational charges, rebates and credits. In case of a billing dispute, a Grantee must respond to a written complaint from a subscriber within 30 days.

(g) Refund checks shall be issued promptly, but not later than:

(1) The customer's next billing cycle following resolution of the request or 30 days, whichever is earlier, or upon the return of the equipment supplied if service is terminated by the Grantee.

(h) Credits will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

Section 70-121 – 70-150. Reserved.

Section 2. Validity and Severability. The provisions of this Ordinance are severable and the invalidity of any phrase, clause or part of this Ordinance shall not affect the validity or effectiveness of the remainder of the Ordinance.

Section 3. Repealer Clause. All ordinances or parts of ordinances in conflict with this Ordinance are repealed only to the extent necessary to give this Ordinance full force and effect.

Section 4. Savings Clause. This Ordinance does not affect rights and duties matured, penalties that were incurred, and proceedings that were begun, before its effective date.

Section 5. Effective Date. This Ordinance shall be effective upon its publication.

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Susan McGillicuddy, Township Supervisor

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Mary M.G. Helmbrecht, Township Clerk

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Michael Woodworth, Township Attorney