

## **DEXTER TOWNSHIP ORDINANCE NUMBER 20**

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### CABLE COMMUNICATIONS ORDINANCE

AN ORDINANCE TO REGULATE CABLE COMMUNICATIONS SERVICE IN THE TOWNSHIP OF DEXTER; TO REQUIRE A FRANCHISE FOR CABLE COMMUNICATIONS SERVICE AND TO ESTABLISH FEES, CONDITIONS, REQUIREMENTS AND PROCEDURES FOR OBTAINING A FRANCHISE; TO ESTABLISH CONSTRUCTION STANDARDS AND OTHER REQUIREMENTS; TO PROVIDE FOR THE ESTABLISHMENT OF RATES FOR SERVICES AND PROCEDURES TO VARY RATES; TO ESTABLISH RULES APPLICABLE BETWEEN SUBSCRIBERS AND CABLE COMMUNICATIONS COMPANIES FOR CABLE COMMUNICATIONS SERVICE; AND TO ESTABLISH PROCEDURES AND REGULATIONS RELATING TO TERMINATION, REVOCATION OR SURRENDER OF FRANCHISES.

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THE TOWNSHIP OF DEXTER ORDAINS:

#### **SECTION I**

1. **TITLE.**

- 1.01- This Ordinance shall hereinafter be known and cited as the Dexter Township Cable Communications Ordinance.

#### **SECTION II**

1. **PURPOSE.**

- 2.01- The purposes of this Cable Communications Ordinance are to provide fair regulation and control (to the extent such regulation and control is not lawfully pre-empted by applicable state or federal statutes, rules or regulations) of cable communications service in the Township of Dexter in the interest of the public; to promote and encourage adequate, economical and efficient cable communications service to the residents of the Township of Dexter; to promote and encourage harmony between cable communications companies and their subscribers; and to provide for the furnishing of cable communications system service to the residents of the Township of Dexter without unjust discrimination or undue preferences or advantages.

#### **SECTION III**

1. **RULES APPLYING TO TEXT AND DEFINITIONS.**

- 3.01- The following listed rules of construction shall apply to the text of this Ordinance.
- A. The particular shall control the general.
- B. With the exception of those cases where the heading of a section is defined by that section, the headings which title a chapter or section are for convenience only and are not to be considered any construction or interpretation of this Ordinance or as enlarging or restricting the terms and provisions of this Ordinance in any respect.

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- C. The word “shall” is always mandatory and not discretionary. The word “may” is permissive.
- D. Unless the context clearly indicates to the contrary:
- 1) Words used in the present tense shall include the future tense;
  - 2) Words used in the singular number shall include the plural number; and
  - 3) Words used in the plural number shall include the singular number.
- 3.02- For the purposes of their use in this Ordinance, the following terms and words are hereinafter defined. Any word or term not defined herein shall be considered to be defined in accordance with its common or standard definition.
- A. Basic Service shall mean the simultaneous delivery by the Company to television receivers (or any other suitable types of audio-video communication receivers), of all subscribers in the Township of all signals of over-the-air television broadcasters required by the F.C.C. to be carried by a community antenna television system as defined by the F.C.C.; the Company Channels; the Township Channels (except as may be designed for special services by the Board for Public Channels); and Additional Channels at the option of the Company, or as directed by the Township.
- B. Additional Service shall mean any communications service other than Basic Service, provided over its System by the Grantee directly or as a carrier for its subsidiaries, affiliates or any other person engaged in communications services including, by way of example but not limited to, pay T.V. services, satellite services, burglar alarms, data or other electronic intelligence transmission, facsimile reproduction and home shopping.
- C. Board shall mean the Township Board of the Township of Dexter.
- D. Cable communications system, Cable system, Cable television system, CATB or System shall all mean a system of cables or other electrical conductors and equipment used or to be used primarily to receive television and/or radio signals directly or indirectly from the atmosphere and to transmit such signals via cable or other equipment to subscribers, including the origination, pictures, visual images, digital signals, telemetry or any other type of close circuit transmission by means of electrical or light impulses, whether or not directed to originating signals or receiving signals off the air.
- E. Channel shall mean a band of frequencies in the electromagnetic spectrum which is capable of carrying either one audio-video television signal and a number of non-video signals, or several thousand non-video signals.
1. Township Channel shall mean a channel on the System which is reserved by this Franchise for use by the Township of Dexter or reserved for the Township of Dexter’s use by the allocation or

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- reallocation of channels, including use of the CATV for police, fire, utility, emergency or community services and informative transmission.
2. Public Channel shall mean a channel on the System which is reversed for carriage of program material provided by persons who lease channel time from the Company for the presentation of programs in accordance with this Franchise.
  3. Company Channel shall mean a channel on the System which is reserved by this Franchise for the carriage of program material originated by the Company or by another person in accordance with the F.C.C.'s cablecasting rules and regulations.
- F. District means the area of the Township described in the franchise agreement in which the grantee is given rights under this Ordinance.
- G. FCC shall mean the Federal Communications Commission of the United States of America or any successor regulatory agency of the United States of America having similar jurisdiction over cable communications systems.
- H. FCC specifications, FCC requirements, and/or FCC standards shall mean the FCC technical standards including without limitation specifications for frequency boundaries, visual carriers, frequency levels, AURAL carrier frequency levels, channel frequency response, terminal isolation and radiation.
- I. FCC testing or FCC tested shall mean constructed, tested, and accepted to FCC technical standards for initiation of service and operations of a cable system.
- J. Franchise shall mean a license or permission granted pursuant to this Ordinance for the construction, maintenance, and operation of a CATV system in the Township of Dexter. Any franchise for the operation of a CATV system, shall incorporate the provisions of this Ordinance and may include such other requirements or protective restrictions as may be agreed to between the Township and the grantee.
- K. Franchisee shall mean any person having any right, power, privilege, duty, liability or obligation under this Ordinance and franchise agreement thereunder as well as all Persons having or claiming any title or interest in or to a System, whether by reason of the franchise authorizing such System itself or any subcontract, transfer, assignment, mortgage, pledge, hypothecation, security agreement, management agreement, operating agreement or any other kind of agreement.
- L. Grantee shall mean any holder of a CATV franchise granted pursuant to the provisions of this Ordinance.

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- M. Gross revenues shall mean all revenues from all sources received by the franchisee, its affiliates, and subsidiaries from and in connection with the operation of cable communications systems in the Township of Dexter.
- N. Person shall mean any individual, firm, partnership, joint venture, association, corporation, agency, company, organization, trust, or equivalent entity or any combination thereof.
- O. State-of-the-art equipment shall mean any component or equipment accepted and used by leaders in the industry that increases a system's performance, reduces its cost or improves the transmission or reception of audio, video or data signals.
- P. Subscriber shall mean any person who contracts with the grantee for, or is in any manner provided with, CATV services.
- Q. User shall mean any person who buys or is in any way provided the use of the grantee's channels for broadcasting or origination of programs.
- R. Township shall mean the Township of Dexter.

### **SECTION IV**

#### **1. PRIORITY OF ORDINANCE.**

- 4.01- The terms and provisions of this Ordinance, shall automatically be incorporated by reference into and become a part of the franchise agreement between the Township and the franchisee. In the event of conflict or ambiguity between the franchise agreement and this Ordinance, this Ordinance shall control.

### **SECTION V**

#### **1. FRANCHISE REQUIRED.**

- 5.01- No persons shall construct, install, maintain, own or operate a Cable Communications System in the Township without first obtaining a franchise therefore from the Board pursuant to a franchise agreement between the Board and the franchisee in accordance with the terms and provisions of this Ordinance.

### **SECTION VI**

#### **1. PROCEDURE FOR GRANTING FRANCHISE.**

- 6.01- Any person desiring a franchise to construct, install, maintain, own or operate a Cable Communications System in the Township shall prepare and file a written application therefor with the Township Clerk. Such application shall be accompanied by a filing fee as determined by resolution of the Township Board. The entire application fee shall be retained by the Township and no refund shall be made to an unsuccessful applicant. The entire application fee received from a successful application shall be retained by the Township.
- 6.02- Any application for a franchise filed pursuant to this Ordinance shall contain sufficient information to show the legal, financial, technical and other

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qualifications of the applicant to be a franchisee. Such application shall contain, at minimum, the following information:

- A. If the applicant is not an individual, a certified copy of the partnership agreement, articles of association, articles of incorporation, or other agreement or documentation governing the organization of the applicant;
- B. If the applicant is a foreign corporation, a certified copy of its authorization to do business in the State of Michigan;
- C. A copy of applicant's current balance sheet listing all assets and liabilities, as of a date not more than sixty (60) days prior to the date of application, such balance sheet to be certified as to accuracy by the applicant's chief financial officer.
- D. If a loan or other credit arrangement is to be utilized to finance the construction, installation or operation of the proposed System, full particulars relative thereto, including the identity and address of the lender(s);
- E. A statement of the construction, installation and technical particulars which will be met in order to insure the rendition of good System service, including the type and kind of facilities to be employed and the technical standards to be followed, including copies of any contracts, agreements, or arrangements relating to any of the above;
- F. A statement as to the location of the antenna site(s) and the location of any place(s) of business which are to be maintained in connection with the System, if the same have been ascertained;
- G. A statement as to any affiliated corporations or business organizations engaged in providing cable communications service and as to any interlocking directorships or ownerships held by any owners, officers or directors of the applicant with any other business engaged in providing cable communication service;
- H. A detailed statement as to the arrangements and timetable by which the applicant proposes to construct and complete the Cable Communications System including detailed descriptions of the portions of the Township projected for service by the System within eighteen (18) months, to (2) years, thirty (30) months, three (3) years, and forty-two (42) months after the filing of the notice of registration with the FCC;
- I. The programming services and public services which the applicant proposes to provide, including, but not limited to, the off-air signals to be carried initially, the number of channels to be offered, the projected development of the customer and community services, indicating priorities in development and the estimated time schedules therefor;
- J. Cost estimates for the construction, installation, and maintenance of the System, including, but **no be** limited to, the proposed cost of acquisition of

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the System where approval of a transfer of the franchise has been requested;

- K. Revenues forecast for the first five years the System will be operational;
- L. A proposed schedule of rates for installation charge, monthly service fees, relocation charges, and all other customer fees or charges;
- M. Such other information and materials as the Township Board may request.

6.03- Upon the filing of an application and the payment of the fee prescribed, the Board shall consider the application and may request such additional information and materials as it may deem necessary to establish the legal, financial, technical and other qualifications of the applicant to provide cable communications service in the Township and to determine whether or not a franchise should be granted to the applicant.

6.04- No franchise shall be issued by the Township to any applicant until;

- 1) The Applicant's legal character, financial, technical and other qualifications, including fulfillment of the requirements of this Ordinance, and the adequacy of, and feasibility of its contract arrangements have been approved by the Board.
- 2) Procedures have been adopted by the Applicant and the Board for the investigation and resolving of all complaints regarding CATV service to subscribers.
- 3) The Applicant establishes and maintains a business office for the purpose specified in paragraph 2, above, providing personnel to answer subscriber inquiries during regular business hours by toll-free telephone.
- 4) The Township Clerk, or other such Township official as the Board may designate, shall be appointed for the administration of the franchise and implementation of complaint proceedings; and
- 5) Provision is made in the franchise that the Applicant shall give notice of the proceedings for reporting and resolving complaints to each subscriber at the time of the initial subscription to the CATV system.

6.05- If the Board shall determine to grant a franchise to an applicant, and if it shall reach agreement with the applicant with respect to the terms and provisions of a franchise agreement, the Board may, by resolution, issue the applicant a non-exclusive franchise, provided, that no franchise shall be issued until the franchise application therefor and the ordinance granting the franchise has been on file and available for public inspection in the office of the Township Clerk for at least thirty (30) days. In addition, the Board shall before issuing a franchise, hold at least one (1) public hearing on such application. Notice of the time, place and purpose of such hearing shall be given by publication at least twice in a newspaper of general circulation in the Township, the first such publication to be not less than ten (10) days prior to the hearing.

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- 6.06- The applicant awarded a franchise by the Township Board shall within thirty (30) days after the passage of the Board's resolution granting the franchise, file with the Township Clerk its unconditional acceptance of the franchise. In addition, such applicant shall, within thirty (30) days after the date of passage of said resolution, file with the Township Clerk a copy of the filed version of the applicant's registration notice with the FCC. Failure of the franchisee to execute the franchise agreement or to file the application within the thirty (30) day time limit, shall immediately revoke any rights the applicant may have in the franchise and shall forfeit to the Township the applicant's entire application fee.

### **SECTION VII**

#### **1. TERMS, FEES, CONDITIONS AND TRANSFER OF FRANCHISE.**

- 7.01- A franchise shall grant to the franchisee the right to erect, install, construct, reconstruct, replace, remove, repair, maintain and operate in or upon, under, above and across all Township streets, avenues, highways, sidewalks, bridges, easements, rights of way and other public ways, as now existing, and all extensions and additions thereto, all necessary poles, wires, cables, coaxial cables, transformers, amplifiers, underground conduit, manhole, and/or radio conductors and fixtures required for the sole purpose of **maintain** and operating a Cable Communications System in the Township. However, all such rights shall be exercise only in accordance with provisions of this Ordinance and the franchise agreement executed pursuant hereto, and shall be subordinate to the extent that they conflict with any pre-existing rights granted by the Township or any other governmental entity to any public utility. Nothing herein shall be construed to be any grant over lands, properties, easements, or interests therein owned, used, or regulated, by the State of Michigan and the Washtenaw County Road Commission.
- 7.02- If the franchise is not terminated pursuant to any other section of this Ordinance or pursuant to the franchise agreement, then it shall expire by its own terms at the expiration of fifteen (15) years from the date of the resolution of the Township Board granting the franchise.
- 7.03- Any franchise granted pursuant to this Ordinance shall be non-exclusive and the Township reserves the right to grant similar franchises to any other persons.
- 7.04- All franchises shall at all times be subject to all other Township ordinances and all rules and regulations of the FCC and all other applicable Federal and State requirements.
- 7.05- No transfer of control of the Cable System shall take place whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior written notice to and approval by the Township Board by resolution, which approval shall not be unreasonably withheld. The term "control" as used in this section **in** not limited to majority stock ownership, but includes actually working control in whatever manner

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exercised. The franchisee shall give notice to the Township Board of the proposed transaction, such notice to include full **identifying** particulars of the proposed transaction. The Board shall have ninety (90) days after the receipt of such notice in which to approve or disapprove a transfer of control. If no action is taken within such ninety (90) days, the Township Board approval shall be deemed to have been given.

- 7.06- If the franchise is a corporation, a rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of twenty-five (25%) percent of the voting shares of the franchisee.
- 7.07- No mortgage, pledge, or grant of a security interest in System equipment or any part thereof or lease by a franchisee from another person of System equipment or any part thereof for financing purposes or otherwise, unless it is part of a transaction involving a substantial amount of other property not used as part of the System owned by the franchisee, shall take place without prior written notice to and approval by the Township Board by resolution, which approval shall not be unreasonably withheld. The franchisee shall give notice to the Board of the proposed transaction, such notice to include full identifying particulars thereof. The Board shall have ninety (90) days after receipt of such notice in which to approve or disapprove the proposed transaction. If no action is taken within ninety (90) days, Board approval shall be deemed to have been given.
- 7.08- No franchise shall be transferred unless the holder shall first offer the system, lines, equipment and customer lists to the Township for purchase for ninety (90) days upon such terms, price and conditions as the holder desires to sell. If the Township shall tender to the holder during said ninety (90) days the price on the terms and conditions set forth in the notice of offer, the holder shall sell and convey said assets according to the notice of offer. If the Township shall fail to exercise the option, then the holder can sell free of this provision but not for any lesser price or better terms and conditions than those offered to the Township. Provided, however, that if the Township shall terminate the franchise under the provisions of this Ordinance, **the** the Township's rights under the within subsection shall be null and void and the holder may dispose of its assets free and clear of the terms of this Ordinance.
- 7.09- The grantee shall pay to the Township Treasurer an annual franchise fee equal to 3% of the Grantee's gross subscriber revenues for the period ending December 31 of each year of the franchise, or \$1,000.00, whichever is greater, annually, by the following March 1.

### **SECTION VIII**

#### **1. INDEMNITY AND INSURANCE.**

- 8.01- A franchise shall at all times during the life of a franchise carry and require its contractors and subcontractors to carry worker's compensation insurance with statutory limits, employer's liability insurance, public liability insurance,



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property damage liability insurance and vehicle insurance in such form and amount as shall be determined by the Township.

- 8.02- A franchisee shall furnish certificates of such insurance to the Board. The certificates shall be approved by the Board and shall list the Township as an additional insured. Such policies of insurance shall be in a form and with companies satisfactory to the Township and each policy shall include, by endorsement, the following cancellation or change clause:

“This insurance will not be cancelled by this Insurance Company nor any changes made in the policy which change, restrict, or reduce the insurance provided, or change the name of the insured, without first giving 30 days’ notice in writing to the Township Board of the Township of Dexter, Washtenaw County, Michigan, as evidenced by return receipt of registered or certified mail.”

- 8.03- A franchisee through acceptance of a franchise specifically agrees to defend, indemnify, and hold harmless the Township of Dexter and its officers, Board members, and employees from all liability, damage, costs or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to construction, maintenance or operation of the Cable Systems including libel and slander actions.

### **SECTION IX**

#### **1. RATES, FEES AND CHARGES.**

- 9.01- During the term of any franchise granted pursuant to this Ordinance, the franchisee shall pay to the Township an annual franchise fee as specified in section 7.09.
- 9.02- No rate or charge for installation or for basic cable communications service provided in the Township shall be placed in effect, nor shall any franchisee advertise, collect, or receive any rate or charge for any of its services, until it shall have filed a complete schedule of rates and charges with the Township Clerk and until such rates and charges have been approved by the Township Board, to the extent permitted by the FCC. The charges made for services of the franchisee hereunder shall be fair and reasonable and not higher than necessary to meet all costs of the service and to provide a fair return of investment to the franchisee. The franchisee shall receive no consideration for its services from users other than in accordance with this section or the franchise agreement.
- 9.03- The franchisee shall not increase any rate or charge for cable communications service, or alter any classification, contract, rule, regulation or practice so as to result in any increase in its schedule of rates or charges for such service, without the prior approval of the Township Board after a public hearing thereon. The public hearing shall be noticed by publication once in a newspaper of general circulation in the Township, with such publication being at least ten (10) days in advance of the hearing date. At the public hearing the franchisee shall set forth in detail the basis for its requested increase in rates or

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charges for service or alteration in its classification, contract, rule, regulation or practice, including the reasonableness and lawfulness thereof. In a determination of just, reasonable and lawful rate and charges, the Township Board shall consider and give due weight to all lawful elements properly to be considered, including expense, reasonable return on the costs of the property used in the service, depreciation, obsolescence, taxes, risks of the business, and the value of the service to the customer. The Township Board reserves the right to initiate these rate proceedings and may deny or grant any increase or order reduction in rates and/or charges for any services rendered by the franchisee in the Township pursuant to this Ordinance or the franchise agreement. A decision shall be made by the Township Board within forty (40) days after the close of the public hearing required under this section.

- 9.04- The franchisee shall not make any unjust or unreasonable discrimination in rates, charges, classification, promotion, practices, regulations, facilities or services for or in connection with like services, nor subject any person to any prejudice or disadvantage in any respect whatsoever; provided however, that this shall not be deemed to prohibit the establishment of a graded scale of charges and classification shall be entitled nor shall this provision be deemed to prohibit promotional campaigns to stimulation subscriptions.
- 9.05- A franchisee shall file annually with the Township Clerk a copy of its annual report to stockholders, its annual income statement applicable to its operations within the Township, a balance sheet and a statement of its properties devoted to CATV operations. A franchisee shall further submit such other reasonable information as may be requested by the Township with respect to its properties and revenues and expenses for CATV operations within the Township. A franchisee shall upon the request of the Township furnish a current listing of its shareholders, bond holders and subscribers.

### **SECTION X**

#### **1. CONSTRUCTION.**

- 10.01- All construction, installation, maintenance and operation of the System and the facilities employed in connection therewith shall be in compliance with all applicable provisions of the Michigan Occupational Safety and Health Act, the National Electrical Safety Code as prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, Bell Telephone System's Code of Pole Line Construction, any standards issued by the FCC or other federal or state regulatory agencies in relation thereto, and all regulations applicable to other persons operating the public right-of-way in the Township, and shall be so designed, constructed, installed, maintained and operated as not to endanger or interfere with the safety of persons or property in the Township.
- 10.02- The system shall in its entirety conform to all technical requirements specified in the franchise agreement and to any and all applicable standards or codes which are presently in force in the Township or which may hereafter be adopted by the Township Board. The System shall also conform in its entirety

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to all applicable regulations and requirements of the FCC as the same may be promulgated and/or amended from time to time.

- 10.03- The poles, wires and appurtenances of a franchisee's System shall be located, erected and maintained upon existing utility facilities wherever feasible. A franchisee shall use underground equipment and in all cases where other utilities use underground equipment and in all cases where other township ordinances require underground installation. If, after construction, the telephone or electrical service lines go underground, the Township may require a franchisee to place the Cable System equipment under ground at franchisee's expense.
- 10.04- A franchisee shall be allowed, subject to appropriate regulation, to set its own poles, anchors, guides and similar facilities within public rights-of-way within the Township when necessary and upon the securing of permits therefor.
- 10.05- All facilities erected by a franchisee within the Township shall be so located so as to cause minimum interference with the proper use of public rights-of-way and public places and to cause minimum interference with the rights and conveniences of adjoining property owners. In case of any disturbance or damage by Cable System work to the buildings, streets, sidewalks, alleys, public ways or other public or private property, the franchisee shall at its own expense promptly and in a manner acceptable to the Township replace, repair, and otherwise restore such disturbance or damage.
- 10.06- Any person granted a franchise pursuant to this Ordinance shall install, construct, maintain and operates its System 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 System which may be established or issued by the FCC. A franchisee shall continuously update the equipment, plant, cables and facilities as they are replaced on a reasonable schedule with compatible equipment, so that the entire Cable System will remain current with the state-of-the-art throughout the franchise term.
- 10.07- If, at any time during the term of the franchise the Township or the Washtenaw County Road Commission shall elect to alter the grade, alignment, or location of any street, sidewalk, alley or public way, a franchisee shall upon reasonable notice from the Township or Road Commission, remove and relocate its facility in a manner acceptable to the Township and at the franchise's expense. The franchisee shall also promptly move, raise, and relocate any facility at the request of any private party, when required by the private road, but at the cost of that person.
- 10.08- Installation of a CATV System shall be completed and the franchisee shall be prepared to furnish service to subscribers within a period of time as specified and provided for in the franchise.
- 10.09- A franchisee shall regularly provide the Township with current maps of its existing and proposed installations.

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- 10.10- A franchisee shall within ninety (90) days from the date of execution of the franchise agreement, submit to the Township a detailed construction schedule.
- 10.11- The franchise agreement shall specify the District to be served by the Cable Communications System.
- 10.12- The franchisee shall obtain a construction bond in order to guarantee the timely construction and full activation of the Cable System. The amount of the construction bond shall be specified in the franchise agreement. The bond may be terminated only after the Township Board determines that the construction has been completed in accordance with the Ordinance and the franchise agreement.
- 10.13- The franchise shall extend CATV service within the District within 3 years along those streets or roadways (public or private), where there are at least 35 residences adjoining such street or roadway per linear mile of street or roadway.

### **SECTION XI**

#### **1. LOCAL OPERATIONS AND SERVICE.**

- 11.01- The franchisee shall have a business office located within the Township or within such other place as shall be specified in the franchise agreement which shall be **suitable** staffed for the purpose, among others, of receiving and investigating complaints, dealing with subscribers, receiving payment for service, and otherwise conducting business. The days and hours of operation, staffing requirements and other pertinent matters pertaining to the local office shall be specified in **he** franchise agreement.
- 11.02- The franchisee shall notify each subscriber by use of a billing insert of the procedures and policies for handling of subscriber complaints. Notification shall take place at least annually.
- 11.03- The franchisee shall make its system available, without charge to the Township, the County of Washtenaw, State of Michigan, United States of America and/or other emergency operations' agencies for prompt communication to subscribers and the public within the Township of any event, any emergency or other urgent community need for the duration of the emergency or urgent situation.
- 11.04- A franchisee shall not interrupt the transmission of signals of the Cable System except for necessary maintenance or emergencies. Unless otherwise ordered by the Board, charges shall abate in the event that service to a subscriber is interrupted for more than twenty-four (24) hours retroactive to the beginning of the interruption. Interruption of service shall include System reception of less quality than FCC specifications on a single channel. Insofar as possible, interruptions shall be preceded by notice and shall occur during periods of minimum use of the System.

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- 11.05- The franchisee shall repair immediately, regardless of time of day, any problem that poses a safety hazard or is likely to cause bodily injury or property damage.
- 11.06- A franchisee shall, upon request of the Board, provide proof of performance test by an independent engineering consulting firm to the Township to show that the System conforms to FCC requirements.
- 11.07- A franchisee's distribution system shall carry a certain compliment of channels which shall be specifically provided for in the franchise agreement.
- 11.08- A franchisee shall, without charge for installation, maintenance or service, make installations of its CATV System to the Township Hall, Fire Stations, each public and parochial school and each public library within the Township at such time as the Board shall determine the franchisee is capable of doing so, but not closer than 200 feet between such installations.
- 11.09- Initial channel allocation of the system (utilizing no less than twenty (20) channels) shall be as follows:
- |   |           |
|---|-----------|
| VHF and UHF Channels required by F.C.C.   | All       |
| Public Channels   | 1         |
| Township of Dexter channels, including those<br>for public schools, libraries and for<br>educational purposes | 1         |
| Company channels  | Remainder |
- 11.10- The Company shall transmit and deliver over Township channels the signals designated therefor by the Board.
- 11.11- In the operation of its system, the Company shall not interfere in any way with signals of any electrical system located in buildings which house any part of the system, and shall not deprive or limit an inhabitant of any building, by contract or otherwise, of any right to use an individual or master antenna for the purpose of receiving television signals.
- 11.12- The Grantee shall, on the request of any person holding a building permit issued by the Township or County, temporarily raise or lower its wires to permit the construction and/or moving of buildings. The expense of such temporary removal or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The grantee shall be entitled to not less than 48 hours advance notice to arrange for such temporary wire changes.

### **SECTION XII**

#### **1. TERMINATION OF FRANCHISE.**

- 12.01- Any franchise granted pursuant to this Ordinance shall be terminated and cancelled without further proceedings one hundred and twenty (120) days after the appointment of a receiver or trustee to take over and conduct the

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business of the franchisee whether in receivership, reorganization, bankruptcy or other actions or proceedings unless such receivership or trusteeship shall have been vacated prior to the expiration of the one hundred and twenty (120) days period, or unless such receivers or trustees shall have, within the one hundred and twenty (120) day period after their election or appointment, fully complied with all the terms and provisions of this Ordinance and of the franchise granted pursuant hereto, remedied all previous defaults under the franchise, and executed an agreement duly approved by the Court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation pursuant to which any such franchise has been granted.

- 12.02- In the event of a foreclosure or other judicial sale of the plant, property, or equipment of the franchisee, or any part thereof, including or excluding any franchise rights, the Board may serve notice of termination upon the franchisee and the successful bidder at such sale, in which even the franchise granted and all right and privileges of the franchisee thereunder shall cease and terminate thirty (30) days after service of such notice, unless the Board consents to such transfer and the successful bidder assumes and agrees to be bound by each and every term, provision and limitation pursuant to which the franchise has been granted.
- 12.03- The Township Board shall have the right to revoke and terminate the franchise if the franchisee fails to comply with any materials or substantial provision of this Ordinance, the representations made in its franchise application, the franchise agreement, or any reasonable order, direction or permit issued by the Township Board pursuant to such a material or substantial provision, or any rule or regulation promulgated by the Township Board which is reasonable in light of, and consistent with, any provision of this Ordinance or franchise agreement. The Township Board shall give a written notice containing full particulars as to the provision or requirement with which compliance is claimed deficient and allow the franchisee ninety (90) days to comply. At the expiration of this ninety (90) day period, the franchise shall be deemed terminated and removed, without further Township Board action, unless the franchisee requests a public hearing before the Township Board upon its alleged requirement of this Ordinance, representations made in its franchise application, the franchise agreement, or any orders or directions issued pursuant thereto. The franchisee shall be permitted to fully participate therein including the right to introduce testimony and exhibits and to examine and cross-examine witnesses. The hearing shall be recorded and at the conclusion thereof, the Township Board, if it finds that the franchisee has not substantially complied with any such applicable provision or requirement, may terminate and revoke the franchise.
- 12.04- The franchisee may surrender its franchise by written notice of intent to surrender filed with the Township Clerk not less than one (1) year prior to the surrender date. On the surrender date specified in such notice, all rights, privileges, and authority under the franchise shall terminate.

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- 12.05- The franchisee shall have a period of six (6) months after the expiration, cancellation, or other termination of the franchise to remove its towers, poles, wires, cables, fixtures or other facilities from the streets, alleys, public right-of-ways or public places, unless the System will continue to be operated by the Township, a transferee, a successor in interest, or any other Person. At the expiration of the six (6) month period, any property not removed by the franchisee shall become the property of the Township to do with as it may choose.
- 12.06- During the period following any expiration, cancellation or other termination of a franchise granted pursuant to this Ordinance and before award to and commencement of operations by a successive franchisee, a franchisee having had its franchise expire or otherwise terminated shall, at the sole option and discretion of the Township, continue to provide services to the public to the same extent and in the same manner as if its franchise were still in effect. Such mandatory continuation of service shall not, however, exceed six (6) months **induration**.

### **SECTION XIII**

#### **1. RIGHTS RESERVED TO THE TOWNSHIP.**

- 13.01- The Township shall have the right to install and maintain free of charge upon the poles and cables of the Grantee any wire and pole fixtures necessary for a police or fire alarm system, on the condition that such wire or pole fixtures do not interfere with the cable communications operation of the Grantee and that such installations shall be installed in a safe manner in conformance with all Federal, State, Township and local regulations.
- 13.02- The Township shall have the right to supervise all construction or installation work performed subject to the provisions of this franchise and **made** such inspections as it shall find necessary to insure compliance with the terms of this franchise and all other pertinent provisions of law. At the expiration of this franchise or upon its termination or cancellation, as provided for herein, the Township shall have the right to require the Grantee to remove at its own expenses all portions of the cable communications system from all public streets, alleys, ways, and areas within the Township of Dexter

### **SECTION XIV**

#### **1. MISCELLANEOUS PROVISION.**

- 14.01- The Township Board may by resolution delegate all or any portion of its duties and functions, as established in this Ordinance or the franchise agreement, to any other board, committee or Township Official.
- 14.02- The franchisee shall have no recourse whatsoever against the Township or its officers, boards, commissions, committees, agents or employees for any loss, costs, expense or damage arising out of the granting of the franchise, the operation of the System by the franchisee, any provision or requirement of this Ordinance or any franchise agreement or because of any enforcement of the same.

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- 14.03- A franchisee shall abide by all provisions of this Ordinance and its franchise and further agrees that it will not at any future time set up as against the Township any claim that the provisions of this Ordinance are unreasonable, arbitrary, void or ultra vires.
- 14.04- Time shall be of the essence for any franchise granted pursuant to this Ordinance. The franchisee shall not be relieved of its obligation to comply promptly with any of the provisions of this Ordinance or the franchise agreement by any failure of the Township to enforce prompt compliance.
- 14.05- If any chapter, section, sub-section, sentence, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, or rendered invalid or inoperable by regulation, rule or determination of the FCC, Michigan Public Service Commission or any other governmental regulatory body having appropriate jurisdiction, such provision shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity and enforceability of the remainder of this Ordinance.
- 14.06- This Ordinance shall be deemed to repeal all other ordinances and parts thereof which are in conflict in whole or in part with any of the provisions of this Ordinance as of the effective date of this Ordinance.
- 14.07- A franchisee shall obtain all necessary federal, state and local permits, licenses and authorizations required for construction, operation and maintenance of the System.
- 14.08- A franchisee shall permit and allow the Township or any designee to inspect all records, reports and documents of every kind during normal business hours.
- 14.09- All notices, designations, consents, offers, request, acceptances or any other communication provided herein shall be given in writing by certified mail or by personal delivery which shall be addressed to the franchisee at its business address and to the Township at the Township Hall, unless otherwise agreed by the Township and the Franchisee.
- 14.10- The franchisee shall safeguard and keep private all home subscriber information.
- 14.11- The foregoing Ordinance shall become effective on the \_\_\_\_ day of \_\_\_\_\_, 1985, the date of its publication.

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Township Clerk