

ORDINANCE NO. 48

AN ORDINANCE TO GOVERN AND CONTROL COMMUNITY ANTENNA TELEVISION SYSTEMS WITHIN THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN, AND TO GRANT A NON-EXCLUSIVE FRANCHISE TO MICHIANA CABLEVISION CORPORATION TO ACQUIRE, CONSTRUCT, MAINTAIN AND OPERATE A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE TOWNSHIP OF CHIKAMING, BERRIEN COUNTY, MICHIGAN.

THE TOWNSHIP OF CHIKAMING ORDAINS:

SECTION I

Title.

This Ordinance shall be known as the Cable Television Ordinance.

SECTION II

Definitions.

- a. Unless the particular provision or context requires, the definition and provisions contained in this section shall govern the construction, meaning and application of words and phrases used in this ordinance. The definition of each word or phrase shall constitute, to the extent applicable, the definition of each word or phrase which is derivative from it, or from which it is a derivative.
- b. "Township" is the Township of Chikaming.
- c. "Township Board" is the Board of the Township of Chikaming.
- d. "Committee" shall mean a committee of the Township Board consisting of three board members, appointed by the Township Supervisor, which shall be directly responsible for over-seeing and controlling the granting of a franchise pursuant to this ordinance, and for over-seeing any franchise which may be granted.
- e. "Basic Service" means the simultaneous delivery by the grantee to the television, radio or other appropriate communications receiver of a subscriber of all signals of over-the-air broadcasters required by the Federal Communications Commission or this ordinance to be carried by the cable television system of the grantee, together with such additional public, educational, governmental, leased or other access channels or signals as may be likewise required by law, but not including pay or subscription television as defined by the Federal Communications Commission.
- f. "Community Antenna Television System", or "CATV" or "Cable Television System" means a system employing antenna, microwave, wires, wave guides, coaxial cables or other conductors, equipment or facilities designed, constructed or used for the purpose of: (1) Collecting and amplifying local or distant broadcast television or radio signals and distributing and transmitting same; (2) Transmitting original

cablecast programming not received through television broadcast signals;
(3) Transmitting television pictures, film and video tape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers; provided, however, that any of the services, permitted hereunder to be performed, as described above, shall be those performed by the grantee for subscribers, as herein defined in the operation of a cable television or CATV system franchised by the Township and not otherwise, and provided further that such term shall not include any such facility or system that serves only the residents of one or more apartment dwelling or commercial establishments under common ownership, control or management.

g. "Franchise" means and includes any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, operate and maintain a cable television system within the Township of Chikaming.

h. "Franchise area" means the territory within the Township throughout which grantee shall be authorized hereunder to construct, maintain and operate its system.

i. "Grantee" means any person, firm or corporation receiving the grant of any franchise hereunder and shall include any lawful successor to the interest of such person, firm or corporation.

j. "Subscriber" or "User" means any person or entity receiving for any purpose any service of the grantee's cable television system including, but not limited to, the conventional cable television system service of re-transmission of television broadcast, radio signals, grantee's original cablecasting and the local government, education and public access channels; and other services, such as leasing of channels, data and facsimile transmission, pay television, and police, fire and similar public service communication.

SECTION III

Grant of Non-Exclusive Franchise to Install and Operate CATV.

A non-exclusive franchise to install, construct, operate and maintain a cable television system on the streets and public ways within the Township of Chikaming, pursuant to the terms of this ordinance and any amendments hereto, is hereby granted to Michiana Cablevision Corporation .

SECTION IV

Authority Granted by Franchise.

Any franchise granted pursuant to the provisions of this ordinance, including the franchise herein granted, shall authorize and permit grantee to do the following:

(1) Erect, install, construct, repair, replace, re-construct, maintain and retain, in, on, over, under, across and along any public street, alley, way or place now laid out and dedicated

and all extensions thereof, such poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms, or corporations, including, but not limited to, any public utility or other grantee of any franchise of this Township.

(2) Maintain and operate facilities and properties for the collection, transmission, conduction, amplification, conversion and distribution of programs and other services by use of electricity, radiation or other energy source.

(3) Solicit, sell, distribute and make charge to subscribers within the Township for connection to the CATV system of grantee.

SECTION V

Information Required of Grantee.

The grantee of a franchise to construct, operate or maintain any CATV system in this Township shall file with the Township Clerk, not later than the date of its acceptance of the franchise, the following:

- a. The name, address and telephone number of the grantee.
- b. A detailed statement of the corporate or other business entity organization of the applicant including, but not limited to, the following:
 - (1) The names, residence addresses and business addresses of all officers, directors and partners or business associates of the grantee.
 - (2) The names, residence addresses and business addresses of all persons and entities having an ownership interest in the grantee and the respective ownership share of each such person or entity.
 - (3) The names and addresses of any parent or subsidiary of the grantee and of any other business entity owning or controlling in whole or in part or owned or controlled in whole or in part by the grantee, and a statement describing the nature of any such parent or subsidiary business entity, including, but not limited to, all CATV or similar systems owned or controlled by the grantee, its parent or subsidiary and the area served thereby.
 - (4) A detailed and complete financial statement of the grantee prepared by certified public accountant, for the fiscal year next preceding the date of the franchise hereunder, or a letter or other acceptable evidence in writing from a responsible lending institution or funding source, addressed to both the grantee and the Board, containing a

clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the grantee to construct and operate the proposed system in the Township, or a statement from a certified public accountant, certifying that the grantee has available sufficient free, net and uncommitted cash resources to construct and operate the proposed system in this Township.

c. A detailed description of the plan of operation of the grantee, which shall include, but not be limited to, the following:

(1) A detailed map indicating all areas proposed to be served, routes to be taken, a diagram of the equipment which will be exposed and a time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served.

(2) A detailed statement describing the actual equipment and operational standards to be used by the grantee.

d. A copy of the form of any agreement, undertaking or other instrument to be entered into between the grantee and any subscriber.

e. Any other information pertinent to the grant of the franchise and requested by the Township Board.

SECTION VI.

Franchise Requirements.

In addition to any other franchise requirements hereunder, or made or adopted as herein provided, the following requirements shall apply to any franchise granted or renewed by the Township Board under this ordinance.

a. Franchise payments, operations within franchise area. In consideration of the granting and exercise of a franchise to use the streets of the franchise area for the purpose of operating a cable television system for the use and benefit of subscribers therein, the grantee shall pay yearly to the Township during the entire time of any franchise granted pursuant to this ordinance, an annual franchise fee equal to 3% of the grantee's yearly gross revenues, or \$250.00, whichever is greater; provided, however, the franchise fee may be increased as provided in Section IX e., of this ordinance.

Grantee's yearly gross revenues shall mean all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by grantee from supplying cable services to the Township and shall include, but not by way of limitation, revenues derived from per-program or per-channel charges, leased channel revenues and advertising revenues. Payment of the annual franchise fee shall commence one year from the date of acceptance of this franchise by grantee, and shall be payable on the same day and month of each and every year thereafter.

b. Franchise payments not in lieu of taxes. Any franchise payments to the Township by grantee shall not be in lieu of any occupation, income, license or property tax or similar levy, assessment or charge which would otherwise apply to and be payable by grantee.

c. Corporate surety bonds re: Township. The grantee shall file with the Township Clerk:

(1) A corporate completion bond in the amount of \$10,000.00 which shall be kept in full force and effect during the entire time grantee is constructing its CATV system and conditioned that in the event grantee shall fail to construct such system as provided in this franchise, then there shall be recoverable jointly and severally from principle and surety any damages or costs suffered or incurred by the Township as a result of grantee's failure to construct such system, including, but not by way of limitation, attorney's fees and costs of any action, or proceeding, and including the full amount of any compensation, indemnification, cost of removal of any property or other costs which may be incurred in the construction of the CATV system up to the full principal amount of the bond.

(2) On completion of the CATV system a corporate performance bond in the amount of \$5,000.00 which shall be kept in full force and effect during the entire term of the franchise and any extension or renewal thereof, and conditioned that in the event grantee shall fail to comply with any one or more of the provisions of the franchise, other than those pertaining to the construction of the system, then there shall be recoverable jointly and severally from principle and surety any damages or costs suffered or incurred by the Township as a result of grantee's failure to comply with any one or more of the provisions of the franchise including, but not by way of limitation, attorney's fees and costs of any action, or proceeding, and including the full amount of any compensation, indemnification, cost of removal of any property, or other costs which may be incurred as a result of grantee's failure to comply with the franchise up to the full principal amount of such bond; and said condition shall be a continuing obligation during the entire term of such franchise and thereafter until grantee shall have satisfied in full any and all obligations to the Township and any subscriber which arise out of or pertain to said franchise.

Neither of the provisions of this section, nor any bond accepted by the Township pursuant hereto, nor any damages recovered by the Township thereunder shall be construed to excuse faithful performance by the grantee, or limit the liability of the grantee under any franchise.

d. Comprehensive liability insurance. Upon acceptance of such franchise grantee shall file with the Township Clerk and shall thereafter during the entire term of such franchise maintain in full force and effect a comprehensive liability policy of insurance with limits of not less than \$500,000.00 for property damage to any one person, \$500,000.00 for property damage in any one accident, \$500,000.00 for personal injury to any one person and \$1,000,000.00 for personal injury in any one accident, or such higher amounts as the Township Board may fix in any amendment hereto, and of such insuring institution, form, and substance as shall be

approved by the committee, and which shall assure grantee, and shall provide primary coverage for the Township, its officers, board, committees, agents and employees against liability for loss or damage for personal injury, death, and property damage occasioned by any activity or operation of grantee under such franchise.

e. Hold harmless agreement. Grantee shall indemnify and hold harmless the Township, its officers, board, committees, agents and employees against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, (including, but not limited, to damages to Township property and damages arising out of copyright infringements, and damages arising out of any failure by grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by grantee's cable television system), costs or liabilities (including costs or liabilities of the Township with respect to its employees), of every kind and nature whatsoever including, but not limited to, damages for injury or death or damage to person or property, and regardless of the merit of any of the same, against all liability to others, and against any loss, cost and expense resulting or arising out of any of the same including any attorney's fees, accountant fees, expert witness or consultant fees, court costs, per diem expense, travelling and transportation expense or other costs or expense arising out of or pertaining to the exercise or the enjoyment of any franchise hereunder by grantee or the granting thereof by the Township.

f. Defense of Litigation. Grantee shall at the sole risk and expense of grantee, upon demand of the Township, made by and through the Township Attorney, appear in and defend any and all suits, actions or other legal proceedings whether judicial, quasa-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Township, its officers, board committees, agents or employees, and arising out of or pertaining to the exercise or the enjoyment of such franchise, or the granting thereof by the Township.

SECTION VII.

Construction and Use of Facilities.

a. Within 30 days after acceptance of any franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited, to, any utility joint use attachment agreements, microwave carrier licenses, and any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of cable television systems or associated microwave transmissions facilities. In connection therewith, copies of all petitions, applications and communications submitted by the grantee to the Federal Communication Commission, or any other federal or state regulatory commission or any agency having jurisdiction in respect to any matters affecting grantee's cable television operations, shall also be submitted simultaneously to the committee.

b. Prior to commencing construction and installation of the CATV system, grantee shall submit to the Township Board the engineering plans for said construction

as well as diagrams of equipment which will be exposed and routes to be taken by the CATV system. At the next regular meeting of the Township Board after receipt of the engineering plans, it shall review the engineering, construction, design, and routing and shall either approve or disapprove the same, taking into consideration obstruction of view, danger to or interference with motor vehicles and pedestrians, interference with or obstruction of existing facilities and any other factors which would endanger the public welfare, health and safety. The Township Board shall notify the grantee, in writing, of its determination and grantee shall not commence any construction or operation until the same has been approved by the Township.

c. Within 30 days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, and including the Township Board's approval of the engineering plans, grantee shall commence construction and installation of the CATV system.

d. The grantee shall extend trunk cable to those sections of the franchise area which meet the general density standard of at least eight (8) single households per one thousand fifty-six (1056) feet of cable or forty (40) single households per mile of cable. Whenever the grantee shall receive a request for service from at least eight (8) households within 1056 feet of its distribution cable, it shall extend its system to such households at no cost to the subscriber for system extension other than the usual connection fees for all subscribers, provided that such extension is technically and physically feasible. The 1056 feet shall be measured in extension length of the grantee's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's residence or premises. For unusual circumstances, such as more than 300 feet of distance from distribution cable to connection of service to subscriber, or a density of less than eight (8) single households per 1056 feet of strand plant, in order that existing subscribers shall not be unfairly burdened, service may be made available on the basis of an installation or connection payment by the prospective subscriber(s) to the grantee, to reimburse the grantee for its costs of materials, labor and easements.

e. The CATV system constructed by grantee shall conform to the information and specifications contained in its proposal to the Township and which formed a part of the basis for granting this franchise, and shall be constructed in compliance with all applicable statutes, codes, rules and regulations governing the construction and installation of CATV systems.

f. Within 2 years after the commencement of construction and installation of the system, grantee shall complete construction of the facilities needed to permit the reception of broadcast signals, the origination of programming within the Township, and the distribution of signals to the franchise area. Provided, however, the Board may approve exceptions to this requirement upon a showing by grantee of undue hardship or expense.

g. Failure on the part of the grantee to commence and diligently pursue each of the foregoing requirements and to complete each of the matters set forth herein, shall be grounds for termination of such franchise.

h. Grantee shall utilize existing poles, conduits, and other facilities whenever possible and shall not construct or install any new, different or additional poles, conduits or other facilities without first securing the written approval of the committee. Any poles, conduits or other facilities of the grantee to be installed in, under, over, along, across or upon a public street, alley, way or place shall

be so located so as to cause minimum interference with the public use of the streets and to cause minimum interference with the rights of other users of the streets, alleys, ways or places or of property owners who adjoin any of the streets, alleys, ways or places. In the event of disturbance of any public street, alley, place or way by the grantee, it shall, at its own expense, promptly replace and restore such street to as good a condition as before the work causing such disturbance was performed, and to the satisfaction of the committee.

i. In all sections of the Township where all existing cables or other like facilities of utility companies are presently or subsequently placed underground the grantee shall place its cables or like facilities underground, at grantee's expense.

j. The Township shall have the right, free of charge, to make additional use, for any public or municipal purpose, whether governmental or proprietary, of any poles, conduits or other facilities erected, controlled, or maintained exclusively by or for grantee in any street or other public way or public place, provided such use by the Township does not interfere with the use by grantee.

k. Grantee shall at the expense of grantee, protect, support, temporarily disconnect, or temporarily relocate any property of grantee when, in the opinion of the committee, the same is required by reason of street construction, change or establishment of street grade, installation of sewers, drains, waterpipes, power lines, or signal lines.

l. In the event the use of any part of the system of grantee is discontinued for any reason for a continuous period of thirty days, without prior written notice to and approval by the committee, or in the event any part of such system has been installed in any street or other area without complying with the requirements hereof or in the event any franchise shall be terminated, cancelled, or shall expire, grantee shall, at the option of the Township, and at the expense of grantee and at no expense to the Township, promptly remove from any street or other area all property of grantee and grantee shall promptly restore the street or other area from which such property has been removed to such condition as the committee shall approve; provided the Township Board may, upon written application therefore by grantee, approve the abandonment of any such property in place by grantee and under such terms and conditions as the Township Board may prescribe; and upon abandonment of any such property in place, grantee shall cause to be executed, acknowledged and delivered to the Township such instruments as shall be approved by the committee, conveying the ownership of such property to the Township.

m. Upon the failure, refusal or neglect of grantee to cause any work or other act required by law or by this ordinance to be completed, in, on, over or under any street within any time prescribed therefore, or upon notice given, where notice is prescribed, the committee may cause such work or other act to be completed in whole or in part, and upon so doing shall submit to grantee an itemized statement of the costs thereof, and the grantee shall, within 30 days after receipt of such statement, pay unto the Township the entire amount thereof.

SECTION VIII.

Standards

a. General Rules. The CATV system of a grantee receiving a franchise shall: (1) Be capable of relaying to subscriber terminals television and radio broadcast signals; (2) Be constructed with the capability of two-way digital signal transmission; (3) Distribute color television signals which it receives; (4) Be constructed and operated so as not to interfere with the television reception of persons not served by the grantee and so as not to interfere with, obstruct or hinder in any manner the operation of any utility serving the Township; (5) Be initially constructed to provide a channel capacity of thirty-five channels and be easily upgradeable to fifty-four (54) channels; (6) Shall utilize State of the Art equipment which shall be updated on a continual basis. (7) Be equipped with an emergency alert override enabling emergency interruption of all programs for the delivery of signals, necessitated by the occurrence of an emergency; (8) Provide at least one channel, without charge, for exclusive use of the Township and other governmental agencies; (9) Provide at least one channel, without charge, for use by the public school system; provided, however, the Township Board may waive this requirement at the time a franchise is granted if the franchise so granted provides for the addition of said channel by the grantee at the request of the Township Board, after the Township Board has determined there is a demand for said channel; (10) Provide at least one channel as a public access channel for use by civic groups and interested citizens; provided, however, the Township Board may waive this requirement at the time a franchise is granted if the franchise so granted provides for the addition of said channel by the grantee at the request of the Township Board after the Township Board has determined there is a demand for said channel.

b. Additional Services. The cable television system may also engage in the business of: (1) Transmitting original cablecast programming not received through television broadcast signals; (2) Transmitting television pictures, film and videotape programs, not received through broadcast television signals, whether or not encoded or processed to permit reception by only selected receivers or subscribers; (3) Transmitting and receiving all other signals: digital, voice and audio-visual.

c. Refusal of Service. No person, firm or corporation within the service area of the grantee, and where trunk lines are in place, shall be refused service; provided, however, that the grantee shall not be required to provide service to any subscriber who does not pay the applicable connection fee or service charges.

d. Service Standards. The grantee shall: (1) Correct malfunctions promptly but in no event later than 24 hours after occurrence; in the event it should be impossible or impractical to correct any malfunctions within 24 hours, then each subscriber whose reception is so disrupted shall receive a rebate from the grantee in the amount of 1/30th of such subscriber's monthly charge for every additional 24 hour period that said subscriber's television reception is so disrupted, unless said disruption in service was entirely beyond the control of grantee; (2) Answer all complaints by subscribers; (3) Planned interruptions of service, insofar as possible shall be preceded by a notice given to subscribers 24 hours in advance and shall occur during periods of minimum use of the system; (4) Maintain an office in the Township, which office shall be open during the usual business hours, with a local telephone number listed in directories of the telephone companies serving the Township, which office shall be so operated that complaints and requests for repairs or adjustments may be received at any time, 24 hours a day, seven days a week, provided, however, that the Township Board may waive the requirement of maintaining an office in the Township, if the grantee shall maintain an office in the area, subject to the same standards as if in the Township, and (5) Provide notice of such office, or area office and local agent, and the grantee's complaint procedure to each subscriber at the time of initial subscription to the system.

e. Complaint Procedures. The committee shall have primary responsibility for the administration of complaints regarding cable television franchises, and shall adopt procedures to be followed in resolving and processing such complaints.

f. Failure to Provide Service. Any grantee of any franchise hereunder who shall, within 1 year after the payment of any installation charge by any subscriber, fail to operate its system or make its system available to such subscriber, on a regular and continuous basis, shall refund the installation charge to such subscriber, together with interest thereon at not less than 5% per year.

g. Grantee shall provide, without charge, one cable television outlet on each floor of all existing municipal buildings and offices, police stations, fire stations, public schools and private schools located in the Township. Grantee shall also provide, without charge, one cable television outlet on each floor of all future municipal buildings and offices, police stations, fire stations, public schools and private schools located in the Township in an area in which Grantee extends its CATV system, either during the initial construction of the CATV system or during any expansion or extension thereof. Grantee shall provide, without charge, basic service to each of the above mentioned cable television outlets. In addition, Grantee shall, without charge, provide "C-Span" to each public or private school.

SECTION IX.

Franchise Limitation.

In addition to any other franchise limitations hereunder or as herein provided, the following limitations shall apply to any franchise granted or renewed by the Township Board under this ordinance.

a. Nature of Franchise. The franchise shall be nonexclusive, and neither the granting thereof nor any of the provisions contained herein shall limit, abridge, diminish, alter, or affect the right, privilege, power, or authority of the Township Board; and the Township Board hereby reserves and preserves the right to grant any identical or similar or different franchise to any person, firm or corporation other than grantee, either within or without or partly within or partly without the franchise area of any grantee, subject only to the restrictions provided in Section IV of this ordinance. No privilege or exemption shall be granted or conferred by any franchise except those specifically prescribed in this ordinance.

b. Subordination of Franchise Privileges. The grant of any privilege by any franchise hereunder shall be subordinate to any prior lawful occupancy of any street or public property or to the grant of any privilege under any other franchise of prior date, insofar as there shall be any conflict.

c. Transfer of Franchise. (1) Any franchise granted hereunder shall be a privilege to be held in personal trust by the original grantee. It cannot, in any event be sold, transferred, leased, assigned, or disposed of in whole or in part, either by forced or involuntary sale, or by voluntary sale, merger, consolidation, or otherwise without prior written consent of the Township Board and then only under such conditions as may therein be prescribed. Notice and request for approval of any proposed sale or transfer of this franchise must be given to the Township Board not later than 90 days before the proposed sale or transfer. Any such transfer or assignment shall be made only by an instrument in writing, such as a bill of sale, or similar document, a duly executed copy of which shall be filed in the office of the Township Board within 30 days after any such transfer or assignment. The said consent of the Township Board may not be unreasonably refused; provided,

however, the proposed assignee must show financial responsibility as determined by the Township Board, must provide the information required at Section V a. , and b. , above, and must agree to comply with all the provisions of the franchise and of this ordinance; and provided, further, that no such consent shall be required for a transfer in trust, mortgage or otherwise, in whole or in part, to secure an indebtedness, except that when such transfer shall exceed 50% of the market value of the property used by the franchise in the conduct of the cable television system, prior consent of the Township Board shall be required for such a transfer. Such a consent shall not be withheld unreasonably; (2) Prior approval of the Township Board expressed by resolution, shall be required where there is an actual change in control or where ownership of more than 30% of the voting stock of grantee is acquired by a person or group of persons acting in concert, none of whom already own 30% or more of the voting stock, singly or collectively, provided that the information required at Section V a. , and b. , above, is provided for the transferee.

d. Term of Franchise. The franchise granted by the Township Board under this ordinance shall be for a term of 15 years, from the date of acceptance of this franchise by grantee, unless terminated prior to its expiration as herein provided. Any franchise renewal shall be subject to the prior approval of the Township Board.

e. Review of Franchise. Every five (5) years after the effective date of the franchise the Board and the grantee shall jointly review the performance of the grantee's operation and specifically the Township Board will inquire whether the grantee is supplying a level and variety of services equivalent to those being generally offered at the time in the industry, in comparable market situations. In the event that grantee desires to change or modify its obligations under its franchise it may negotiate with the Township Board to do so at that time. Within 60 days of the conclusion of the review, the Township Board and grantee shall report in a public proceeding the result of their review and their conclusions. The Township Board may then order unilateral changes in the franchise rights and obligations of the grantee where said changes cause no economic impact. In addition, the Township Board may order an increase of up to 2% in the annual Franchise Fee to be paid by grantee. Any changes that cause substantial adverse economic impact to the grantee shall be the subject of negotiations with grantee. Any disputes hereunder shall be resolved by arbitrators, one selected by each party and the third selected by the other two whose decision shall be final. The arbitrators are to base their decision on what is fair and equitable to all concerned.

f. Recourse Against Township. Grantee shall have no recourse or remedy whatsoever against the Township for any loss, cost, expense, or damage arising out of or with respect to any franchise hereunder, or this ordinance, or the enforcement thereof.

g. Township Rules and Regulations. Grantee shall be subject to all ordinances, rules, regulations, and specifications of the Township heretofore or hereafter established, including but not limited to, those pertaining to works and activities, in, on, over, under and about streets.

h. Prohibited Activities of Grantee. Grantee shall be prohibited from directly or indirectly doing any of the following:

(1) Engaging in the business of selling at retail, leasing, renting, repairing or servicing of television sets or radios;

(2) Soliciting, referring, or causing or permitting the solicitation or referral of any subscriber to persons engaged in any business herein prohibited to be engaged in by grantee;

(3) Providing information concerning the viewing patterns of identifiable individual subscribers to any person, group or organization for any purpose, without the consent of the subscriber;

(4) Entering or encroaching upon or interfering with or obstructing any private property without the express consent of the owner;

(5) Providing any repair service to its subscribers for a fee, which repair extends beyond the connection of its service or the determination by grantee of the quality of its signals to the recipients thereof.

(6) Providing the names and/or addresses and/or telephone numbers of any subscribers to any person, group, organization or corporation for any purpose, without the specific consent of the subscriber.

SECTION X.

Regulation of Rates and Service.

At the start of providing CATV service to the Township, grantee shall provide and distribute through the CATV system at least those channels and services shown in Exhibit A, which is attached hereto and incorporation herein by this reference. The initial rates and charges allowable to grantee shall not be greater than the rates and charges shown in the above mentioned Exhibit A attached hereto. Grantee shall not request an increase in the above referred to rates during its first year of providing CATV service to the Township, unless said increase, if granted, would not become effective until the completion of the first year of service to the Township.

The rates and charges provided for in this Section shall not be changed at any time after the granting of the franchise, except by authority of the Township Board, and upon written request by the grantee, provided that prior to authorizing the change of any rates or charges of grantee to subscribers, at any time after granting of the franchise, the Township Board shall first pass its resolution of intention to do so, describing and stating any rates or charges to be changed, the reasons of the Township Board therefore, fixing a day, hour, and place certain when and where any persons having an interest therein may appear before the Township Board and be heard and directing the Township Clerk to publish notice of such hearing at least once. The Township Clerk shall cause such notice to be published in a newspaper of general circulation within the Township, and the same shall be published and a copy thereof shall be mailed to grantee hereunder at least 10 days prior to the date specified for hearing thereon. At the time set for such hearing, or at any adjournment thereof, the Township Board shall proceed to hear and pass on all presentations made before it, and the decision of the Township Board thereon shall be final and conclusive. If the Township Board shall find that a change of rates or charges is justified by a change in cost of operation, the Township Board shall approve the changes in rates.

SECTION XI.

Inspection of Property and Records.

a. Grantee shall at all reasonable times, and to the extent necessary to carry out the provisions of this ordinance, permit any duly authorized agent or representative of the Township to examine all franchise property of grantee, together with any appurtenant property of grantee situated within or without the Township, and to examine and transcribe any and all maps and other records, including all financial records, ledgers and books of account, kept or maintained by grantee or under the control or direction or at the request of grantee which appertain to the franchise operations, affairs, transactions or property of grantee.

b. Grantee shall prepare and furnish to the Township Board, at such times and in such form as prescribed by the committee, references, and materials with respect to the operations, affairs, transactions, or property of grantee as may be reasonably necessary or appropriate to the performance of any of the duties of the Township Board.

c. Grantee shall annually deliver to the Township Clerk a statement of the number of service installations made within the Township during the preceding twelve (12) month period and also a list of the subscribers and the type of service provided to each during the preceding twelve month period, certified to by an officer of the grantee. The statement shall be furnished not more than forty-five (45) days after each anniversary of grantee's acceptance of this franchise. At the same time the statement is delivered to the Township Clerk, the grantee shall deliver to the Clerk a detailed and complete financial statement of the grantee, prepared by a certified public accountant, for the preceding twelve month period.

d. Grantee shall provide the Township Clerk with copies of all materials and literature of whatever nature or kind it shall mail or deliver or cause to be mailed or delivered to subscribers or potential subscribers.

SECTION XII.

Default.

Failure, refusal, or neglect by the grantee to comply with any requirement herein or any term or condition of a franchise issued hereunder shall be sufficient cause for termination of any franchise by the Township as follows:

a. Upon the continuing of any such failure, refusal, or neglect for a period of ten (10) days, next following written demand by the committee that the grantee do or comply with any such requirement, limitation, term or condition, the committee may cause to be placed on the agenda of a regular session of the Township Board its request for termination of such franchise, and in such case, the committee shall cause to be served upon such grantee, at least 15 days prior to the date of such session of the Township Board, a written notice of its intent to request such termination at the time and place of such session.

b. At such session of the Township Board, or any adjournment thereof, the Township Board shall consider the request of the committee and shall hear any persons desiring to be heard, and shall determine whether or not such failure, refusal, or neglect by grantee was with just cause.

c. If the Township Board shall determine such failure, refusal, or neglect by grantee was without just cause, then the Township Board may pass its resolution declaring that the franchise of such grantee shall be terminated and forfeited unless there be compliance by grantee within 15 days, and such resolution shall operate to declare such franchise terminated and forfeited on the 15th day next following the passage thereof, and without further notice to grantee, unless grantee shall so comply within such 15 day period, such termination and forfeiture to become effective for all purposes 180 days thereafter.

d. Within 180 days after such declaration of termination and forfeiture, grantee may sell, remove, or transfer the entire system of grantee, subject to the provisions of Section IX. c. of this ordinance, and upon any such sale or transfer in addition to any other rights hereunder or otherwise, the Township shall have a lien (next in order of preference to any liens or encumbrances existing of record on the date of such termination and forfeiture) against any and all proceeds thereof in the full amount of any loss, cost, expense or other financial detriment incurred by the Township in the exercise of any right hereunder, or by reason of such termination and forfeiture.

e. If grantee shall fail to or refuse to sell, remove or transfer the entire system of grantee, as hereinabove provided, and regardless of the exercise of any other right of the Township hereunder then the Township may institute appropriate court action to enforce requirements of this section.

SECTION XIII.

Separability.

If any section, sub-section, sentence, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XIV.

Acceptance of Franchise.

a. The franchise herein granted shall not become effective for any purpose unless and until a written acceptance thereof shall have been filed with the Township Clerk, and such written acceptance shall operate as an acceptance of each and every term and condition and limitation contained in this ordinance.

b. Such written acceptance shall be filed by grantee with the Township Clerk not later than 30 days after grant of the franchise as provided above, and in default of such written acceptance as herein required, grantee shall be deemed to have rejected the same and the franchise herein granted shall be null and void.

SECTION XV.

Publication Costs and Other Expenses.

If the grantee accepts the franchise granted herein, then grantee shall

assume the cost of publication of this ordinance as such publication is required by law; publication shall be made in one of the newspapers commonly used by the Township for the publication of Ordinances of the Township. Upon the grantee's acceptance of the franchise as provided herein, the Township Clerk shall present the bill for publication to the grantee which the grantee shall pay at that time. The grantee shall also pay the cost of publication of any notice which is required to be published pursuant to this ordinance. In addition, upon grantee's acceptance of the franchise, grantee shall reimburse the Township for reasonable attorney's fees incurred by it in connection with the granting of this franchise.

SECTION XVI.

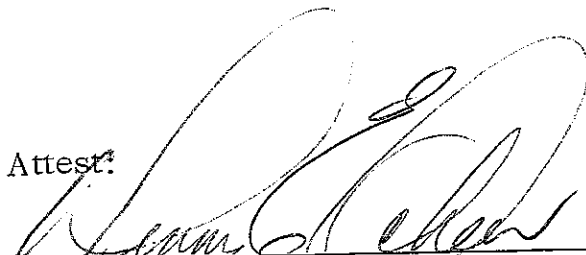
Effective Date.


This Ordinance was adopted by the Chikaming Township Board on the 8th day of December, 1983.

This Ordinance shall be published in full in the Galien River Gazette on the 22nd day of December, 1983, which is less than thirty (30) days after its passage.

This Ordinance shall take effect the day following the date of publication.

Attest:


Dennis E. Scheer, Supervisor
Township of Chikaming


Jeanne Dudeck, Clerk
Township of Chikaming

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of Ordinance No. 48 duly adopted by the Township Board of the Township of Chikaming, Berrien County, Michigan, at a regular meeting held on the 8th day of December, 1983, at which the following members were present:
Jack Gibson, Arthur Sandtveit, Virginia Sperry, Jeanne Dudeck and
Dennis Scheer.