Chapter 26

CABLE TELEVISION

- **Art. I. Rate Regulation, §§ 26-1 -- 26—9.**
- Art. II. Franchise Award and Regulation, §§ 26-10 -- 26-48.

ARTICLE I. RATE REGULATION

Sec. 26-1. Adoption of Rules.

The City of Grosse Pointe Park adopts by reference rules of the Federal Communications Commission set forth in Subpart N (Cable Rate Regulation) of Part 76 (Cable Television Service) of Chapter I of Title 47 of the Code of Federal Regulations regarding the regulation of cable television rates for basic service and associated equipment, as amended. (Ord. No. 154, §1, 10-25-93)

Sec. 26-2. Notice Published.

After a cable operator has submitted for review its existing rates for the basic service tier and associated equipment costs or a proposed increase in these rates, the clerk shall publish a public notice of the rates and costs giving interested parties, including the cable operator, a reasonable opportunity to file written comments which shall be available in the office of the City Clerk for public inspection and copying during normal business hours. (Ord. No. 154, §1, 10-25-93)

Sec. 26-3. Procedures Adopted.

The City of Grosse Pointe Park adopts by reference procedures set forth in 47 CFR 0.459 regarding confidential business information submitted by a cable operator in a rate regulation proceeding.

(Ord. No. 154, §1, 10-25-93)

Sec. 26-4. Failure to Comply.

A cable operator which willfully or repeatedly fails to comply with a rate decision or refund order directed specifically at the cable operator shall be subject to a monetary forfeiture not to exceed twenty-five thousand (\$25,000) dollars for each violation or each day of a continuing violation not to exceed two hundred fifty thousand (\$250,000) dollars as determined by the City Clerk following the procedures set forth in 47 U.S.C. §503(2)(D), (3) (A)&(B), (4) (A), (B)&(C) which the City adopts by reference.

(Ord. No. 154, §1, 10-25-93)

Sec. 26-5. Availability of Rules and Procedures.

A copy of the rules and procedures adopted by reference in this Ordinance is available in the office of the City Clerk for public inspection and copying during normal business hours. (Ord. No. 154, §1, 10-25-93)

Sec. 26-6. Ordinance Authority.

In the event of a conflict between this Ordinance and a cable television franchise, the provisions of this Ordinance shall prevail. (Ord. No. 154, §1, 10-25-93)

Secs. 26-7. -- 26-9. Reserved.

ARTICLE II. FRANCHISE AWARD AND REGULATION

Sec. 26-10. Intent.

- (a) The City of Grosse Pointe Park, pursuant to applicable federal and state law, is authorized to grant one or more nonexclusive franchises to construct, operate, maintain and reconstruct cable television systems within the City limits.
- (b) The City Council finds that the development of cable television and communications systems has the potential of having great benefit and impact upon the residents of Grosse Pointe Park. Because of the complex and rapidly changing technology associated with cable television, the City Council further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or such persons as the City shall designate. If is the intent of this Ordinance and subsequent amendments to provide for and specify the means to attain the best possible cable television service to the public and any franchise issued pursuant to this Ordinance shall be deemed to include this finding as an integral part thereof.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-11. Definitions.

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

Broadcast Basic Cable Service. The term "broadcast basic cable service" means any service tier which includes the retransmission of local television broadcast signals and educational and government access signals.

Cable Television System, System, Cable Communication System, Cable System. The term "cable television system" or "system" also referred to as "cable communications system" or

"cable system" means a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service and which may include video programming, data transmission and other services, and which is provided to multiple subscribers within a community, but such term does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations.
- (2) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility uses any public rights-of-way.
- (3) A facility of a common carrier, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming, data transmission and other services directly to subscribers.
- (4) Any facilities of any electric utility used solely for operating its electric utility system.

Cable Television Service. The term "cable television service" means the total of the following:

- (1) The one-way transmission to subscribers of video programming or other programming service.
- (2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

Channel, Cable Channel. The word "channel" or "cable channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

Cities. The word "cities" means the Cities of Harper Woods, Grosse Pointe Woods, Grosse Pointe, Grosse Pointe Farms and Grosse Pointe Park.

Council. The word "Council" means the City Council of the City of Grosse Pointe Park.

Data Transmission. The term "data transmission" means any service which involves interactive communication of data and information between the grantee and subscriber.

Educational or Government Access Facilities. The term "educational or government access facilities" means the following:

- (1) Channel capacity designated for educational or governmental use.
- (2) Facilities and equipment for the use of such channel capacity.

Franchise. The word franchise" means an initial authorization, or renewal thereof, issued by the City Council, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

Franchise Agreement. The tern "franchise agreement" means a contractual agreement, containing the specific provisions of the franchise granted, including references, specifications, requirements and other related matters.

Franchise Fee. The term "franchise fee" means the fee imposed by grantor on a grantee or cable subscriber, or both, pursuant to Section 26-26 of this Ordinance.

Grantee. The word "grantee" means any person receiving a franchise pursuant to this Ordinance, under a granting franchise agreement, and its lawful successor, transferee or assignee.

Grantor or City. The words "grantor" or "City" means the City of Grosse Pointe Park as represented by the Council or any delegate acting within the scope of its jurisdiction.

Gross Annual Receipts. The term "gross annual receipts" means the annual gross receipts received by a grantee from all sources of operations of the cable television system within the City utilizing the public streets and rights-of-way for which a franchise is required in order to deliver such cable service, excluding refundable deposits, rebates or credits. Any sales, excise or other taxes or charges imposed on grantee in addition to its franchise obligations and collected for direct pass-through to local, state or federal government shall not be included.

Initial Service Area. The term "initial service area" means the area of the City which will receive service initially, as set forth in any franchise agreement.

Installation. The word "installation" means the connection of the system to subscribers' terminals, and the provision of service.

Person. The word "person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

Service Area, Franchise Area. The terms "service area" or "franchise area" means the entire geographic area within the City as it is now constituted or may in the future be constituted, unless otherwise specified in the franchise agreement.

State. The word "state" means the State of Michigan.

Street. The word "street" means each of the following which have been dedicated to the public or are hereafter dedicated to the public authority or by others and located within the City limits: streets, roads, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public property and areas that the grantor shall permit to be included within the definition of street from time to tine.

Subscriber. The word "subscriber" means any person who or which elects to subscribe to, for any purpose, a service provided by the grantee by means of or in connection with the cable system and who pays the charges therefore.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-12. Franchise to Install and Operate.

A franchise granted by the City under the provisions of this Ordinance shall encompass the following purposes:

- (a) To engage in the business of providing cable television service, and such other services as may be permitted by applicable law, to subscribers within the designated service area.
- (b) To erect, install, construct, repair, rebuild, reconstruct, replace, maintain and retain cable lines, related electronic equipment, supporting structures, appurtenances, and other property in connection with the operation of a cable system in, on, over, under, upon, along and across streets within the designated service area.
- (c) To maintain and operate said franchise properties for the origination, reception, transmission, amplification, and distribution of television and radio signals and for the delivery of cable services and for data transmission and other services.
- (d) To provide and maintain a permanently installed automatic start engine generator and transfer switch system at the headend which generator system will be automatically exercised weekly to confirm readiness status and which generator will automatically provide power in the event of commercial power failure within the headend.
- (e) To provide, upon request, a parental control device which allows parents to "lock-out" both audio and video from pay television programming.
- (f) To set forth the obligations of a grantee under the franchise. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-13. Franchise Required.

It shall be unlawful for any person to construct, install or operate a cable television system in the City within any public street without a properly granted franchise awarded pursuant to the provisions of this Ordinance.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-14. Term of Franchise.

- (a) A franchise granted hereunder shall be for a term established in the franchise agreement, commencing on the grantor's adoption of an ordinance or resolution authorizing the franchise.
 - (b) A franchise granted hereunder may be renewed upon application by the grantee pursuant

to the provisions of applicable state and federal law and of this Ordinance. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-15. Franchise Territory.

Any franchise shall be valid within all the territorial limits of the City, and within any area added to the City during the term of the franchise, unless otherwise specified in the franchise agreement.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-16. Construction With Franchise and Other Laws.

- (a) This Ordinance shall be construed in a manner consistent with all applicable federal and state laws. Whenever any duly authorized federal or state agency shall now or hereafter exercise any paramount jurisdiction over any specific provisions of this Ordinance, such paramount jurisdiction shall preempt or preclude the exercise of like jurisdiction by the City.
- (b) If the state or federal government has discontinued or hereafter discontinues preemption in any area of cable communications over which it formerly exercised or currently exercises jurisdiction, in such manner as to expand rather than limit municipal regulatory authority, grantor may, if it so elects, adopt rules and regulations in those areas to the extent permitted by law. No such rules and regulations or other rules and regulations of grantor shall apply to any franchise issued pursuant to this Ordinance prior to their adoption to the extent precluded by the express terms of the franchise agreement. Grantor may regulate rates and charges as provided under applicable law.
- (c) This Ordinance and, to the extent permitted in subsection (b) above, any rules or regulations as may be promulgated from time to time, shall apply to all franchises granted or renewed after the effective date of this Ordinance.
- (d) The City may amend this Ordinance, except that no amendment shall alter any provision of any franchise granted before the effective date of the amendment. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-17. Franchise Non-Transferable.

- (a) Grantee shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the franchise or any of the rights or privileges therein granted, without the prior consent of the Council and then only upon such terms and conditions as may be prescribed by the Council. Consideration of any such transaction shall not be unreasonably delayed. Any attempt to sell, transfer, lease, assign or otherwise dispose of the franchise without the consent of the Council shall be null and void. The granting of a security interest in any grantee assets, or any mortgage or other hypothecation, shall not be considered a transfer for the purposes of this Section.
 - (b) The requirements of subsection (a) shall apply to any change in control of grantee. The

definition of "any Change in control of grantee" shall be set forth in the applicable franchise agreement.

- (c) Grantee shall notify grantor in writing of any foreclosure or any other judicial sale of all or a substantial part of the franchise property of the grantee or upon the termination of any lease or interest covering all or a substantial part of said franchise property. Such notification shall be considered by grantor as notice that a change in control or ownership of the franchise has taken place and the provisions under this section governing the consent of grantor to such change in control or ownership shall apply.
- (d) For the purpose of determining whether it shall consent to such change or transfer, grantor may inquire into the qualifications of the prospective transferee, and grantee shall assist grantor in any such inquiry. In seeking grantor's consent to any change of ownership, grantee shall have the responsibility of insuring that the transferee completes an application in form and substance reasonably satisfactory to grantor, which application shall include the information required under subsections (a) through (h) of Section 26-22 of this Ordinance. An application shall be submitted to grantor not less than sixty (60) days prior to the date of transfer. The transferee shall be required to establish that it possesses the qualifications and financial and technical capability to operate and maintain the system and comply with all franchise requirements for the remainder of the term of the franchise. If, after considering the legal, financial, character and technical qualifications of the applicant and determining that they are satisfactory, the grantor finds that such transfer is acceptable, the grantor shall transfer and assign the rights and obligations of such franchise. Consideration of any such transaction shall not be unreasonably delayed.
- (e) Any financial institution having a pledge of the grantee or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the grantor that it or its designee satisfactory to the grantor shall take control of and operate the cable television system, in the event of a grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation within thirty (30) days of assuming such control that will ensure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period, exceeding one (1) year unless extended by the grantor in its discretion and during said period of time it shall have the right to petition the grantor to transfer the franchise to another grantee.
- (f) Upon transfer, grantee shall reimburse grantor for grantor's reasonable processing and review expenses in connection with a transfer of the franchise or of control of the franchise, including without limitations costs of administrative review, financial, legal and technical evaluation of the proposed transferee, consultants (including technical and legal experts), notice and publication costs and document preparation expenses as provided in the franchise agreement. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-18. Geographic Coverage.

(a) Grantee shall be obligated to serve all residents of the City. Grantee shall extend service

to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of seventy (70) homes per each linear mile of new cable construction.

- (b) In the event that requirements of Subsection (a) are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.
- (c) After service has been established by activating trunk and/or distribution cables for any service area, grantee shall provide service to any requesting subscriber within that service area within thirty (30) days from the date of request, provided that the grantee is able to secure all rights-of-way necessary to extend service to such subscriber within such thirty (30) day period on reasonable terms and conditions.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-19. Nonexclusive Franchise.

Any franchise granted shall be nonexclusive. The grantor specifically reserves the right to grant, at any time, such additional franchises for a cable television system or any component thereof, as it deems appropriate, subject to applicable state and federal law provided, however, that no franchise shall be granted by the grantor on terms materially less burdensome or more favorable than any other franchise granted hereunder. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-20. Multiple Franchises.

- (a) Grantor may grant one or more franchises for a service area. Grantor may limit the number of franchises granted, based upon, but not necessarily limited to, the requirements of applicable law and specific local considerations, such as:
 - (1) The capacity of the public rights-of-way to accommodate multiple coaxial cables in addition to the cables, conduits and pipes of the utility systems, such as electrical power, telephone, gas and sewerage.
 - (2) The benefits that may accrue to cable subscribers as a result of cable system competition, such as lower rates and improved services.
 - (3) The impact on the community of having multiple franchises.
 - (4) The disadvantages that may result from cable system competition, such as the requirement for multiple pedestals on residents' property, and the disruption arising from numerous excavations of the rights-of-way.
 - (5) The demonstrated capability of the applicant to obtain the necessary funds to erect, maintain and operate the proposed system for the duration of the franchise term.
- (b) Each grantee awarded a franchise to serve the entire City shall offer service to all residences in the City, in accordance with construction and service schedules mutually agreed

upon between grantor and grantee, and consistent with applicable law.

- (c) Developers of new residential housing with underground utilities shall provide conduit to accommodate cables for at least two (2) cable systems in accordance with the provisions of Section 26-27 (m).
- (d) Grantor may require that any new grantee be responsible for its own underground trenching and the costs associated therewith, if, in grantor's opinion, the rights-of-way in any particular area cannot feasibly and reasonably accommodate additional cables.
- (e) Any additional franchise granted by the City to provide cable television service in a part of the City in which a franchise has already been granted and where an existing grantee is providing service shall require the new grantee to provide service throughout its service area within a reasonable time and in a sequence which does not discriminate against lower income residents.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-21. Franchise Applications.

Any person desiring an initial franchise for a cable television system shall file an application with the City. A reasonable nonrefundable application fee established by the City shall accompany the application or renewal application to cover all costs associated with processing and reviewing the application, including without limitation costs of administrative review, financial, legal and technical evaluation of the applicant, consultants (including technical and legal experts and all costs incurred by such experts), notice and publication requirements with respect to the consideration of the application and document preparation expenses. In the event such costs exceed the application fee, the selected applicant(s) shall pay the difference to the City within thirty (30) days following receipt of an itemized statement of such costs. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-22. Application-Contents.

An application for an initial franchise for a cable television system shall contain, where applicable:

- (a) A statement as to the proposed franchise and service area.
- (b) Resume of prior history of applicant, including the expertise of applicant in the cable television field.
- (c) List of the partners, general and limited, of the applicant, if a partnership, or the percentage of stock owned or controlled by each shareholder, if a corporation.
- (d) List of officers, directors and managing employees of applicant, together with a description of the background of each such person.
 - (e) The names and addresses of any parent or subsidiary of applicant or any other business

entity owning or controlling applicant in whole or in part, or owned or controlled in whole or in part by applicant.

- (f) A current financial statement of applicant verified by a CPA audit or otherwise certified to be true, complete and correct to the reasonable satisfaction of the City.
 - (g) Proposed construction and service schedule.
- (h) Any reasonable additional information that the City deems applicable. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-23. Consideration of Applications.

- (a) Upon receipt of any application for an initial franchise, the City Manager shall prepare a report and make his recommendations respecting such application to the Council.
- (b) A public hearing shall be set prior to any franchise grant, at a time and date approved by the Council. Within thirty (30) days after the close of the hearing, the Council shall make a decision based upon the evidence received at the hearing as to whether or not the franchise(s) should be granted, and, if granted, subject to what conditions. The Council may grant one (1) or more franchises, or may decline to grant any franchise. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-24. Franchise Renewal.

Franchise renewals shall be in accordance with applicable law, including, but not necessarily limited to, the Cable Communications Policy Act of 1984, as amended, or other applicable law. Grantor and grantee, by mutual consent, may enter into renewal negotiations at any tine during the tern of the franchise.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-25. Consumer Protections and Service Standards.

Grantee shall comply with the consumer protection and customer service standards as set forth in the applicable franchise agreement.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-26. Franchise Fee.

- (a) The grantee shall during each year of operation under this Ordinance, pay to the grantor a franchise fee in an amount specified in its franchise agreement.
- (b) The grantor, on a semi-annual basis, shall be furnished a statement within sixty (60) days of the close of the six (6) month period, either audited and certified by an independent certified public accountant or certified by an officer of the grantee, reflecting the total amounts of gross receipts and all payments, and computations for the period covered by the payment. Upon ten (10) days prior written notice, grantor shall have the right to conduct an independent audit of

grantee's records, in accordance with generally accepted accounting procedures, and if such audit indicates a franchise fee underpayment of two (2) percent or more, the grantee shall assume all reasonable costs of such an audit.

- (c) Except as otherwise provided by law, no acceptance of any payment by the grantor shall be construed as a release or as an accord and satisfaction of any claim the grantor may have for further or additional sums payable as a franchise fee under this Ordinance or for the performance of any other obligation of the grantee.
- (d) In the event that any franchise payment or recomputed amount is not made on or before the dates specified in the Ordinance or franchise agreement, grantee shall pay as additional compensation an interest charge, computed from such due date, at an annual rate equal to the prime lending rate of NBD Bank, N.A. plus one (1) percent during the period for which payment was due. In addition, grantee shall pay an additional amount of two hundred and fifty dollars (\$250.00) per day as liquidated damages for each day the payment is past due; provided, however, no liquidated damages shall accrue or be payable to grantor when grantee pays said past due amount within the five (5) day grace period permitted under Section 26-38(a).
- (e) All payments due from grantee to the grantor shall be made quarterly by April 30, July 31, October 31 and January 31 for the preceding three (3) month period. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-27. Design and Construction Requirements.

- (a) The grantee shall construct its cable system using material of good and durable quality and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the grantee and restored to serviceable condition.
- (b) The grantee's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons, or interfere with any improvements the grantor may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, easements, or public property.
- (c) However, in the event that the grantor shall annex further territory as authorized by law, then, subject to Section 26-18 hereof, the grantee shall extend energized trunk cable to the remaining portions of the grantor so annexed within an acceptable time thereafter, unless additional time is granted by the City Council upon request of the grantee for good cause shown.
- (d) All transmission and distribution structures, lines and equipment erected by the grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys or other public ways and places.
- (e) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own cost and expense and in a manner approved by the grantor, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good

condition as before said work was commenced.

- (f) The grantee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, water hydrant or main, and all such poles or other fixtures placed in any street shall be placed at the outer edge of the sidewalk and inside the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on said alley and then in such manner as not to interfere with the travel on said street, alleys and public ways.
- (g) The grantee shall, on the request of any person holding a building moving permit, issued by the grantor, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising 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 given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.
- (h) The grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, all trimming to be done under the supervision and direction of the grantor and at the expense of the grantee.
- (i) The grantee shall provide, upon request and without charge, all non-premium services to any municipal buildings owned and operated by the City and to any certified public, private and parochial educational facilities. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.
- (j) Grantee shall not construct any cable system facilities until grantee has secured the necessary permits from grantor, or other cognizant public agencies.
- (k) In those areas of the City where transmission or distribution facilities of the public utilities providing telephone and electric power service are underground, the grantee likewise shall construct, operate and maintain its transmission and distribution facilities therein underground.
- (1) In those areas of the City where grantee's cables are located on the above-ground transmission or distribution facilities of the public utility providing telephone or electric power service, and in the event that the facilities of both such public utilities subsequently are placed underground, then the grantee likewise shall reconstruct, operate and maintain its transmission and distribution facilities underground, at grantee's cost. Certain of grantee's equipment, such as pedestals, amplifiers and power supplies, which normally are placed above-ground, may continue to remain in above-ground enclosures.
- (m) In new residential developments in which the electric power and telephone utilities are underground, the following procedure shall apply with respect to access to and utilization of underground easements:
 - (1) The developer shall be responsible for contacting and surveying all grantees to ascertain which grantees desire to provide cable television service to that

- development. The developer may establish a reasonable deadline to receive each grantee's response. The final development map shall indicate the grantees that have agreed to serve the development.
- (2) If one (1) or two (2) grantees wish to provide service, they shall be accommodated in the joint utilities trench on a nondiscriminatory shared basis. If fewer than two (2) grantees indicate interest, the developer shall provide conduit to accommodate two (2) sets of cable television cables and dedicate to the grantor any initially unoccupied conduit. The developer shall be entitled to recover the cost of such initially unoccupied conduit in the event that grantor subsequently leases or sells occupancy or use rights to any grantee.
- (3) The developer shall provide at least ten (10) working days notice of the date that utility trenches will be open to the grantees that have agreed to serve the development. When the trenches are open, grantees shall have two (2) working days to begin the installation of their cables, and five (5) working days after beginning installation to complete installation.
- (4) The final development map shall not be approved until the developer submits evidence that:
 - a. It has notified each grantee that underground utility trenches are to open as of an estimated date, and that each grantee will be allowed access to such trenches, including trenches from proposed streets to individual homes or home sites, on specified nondiscriminatory terms and conditions; and
 - b. It has received a written notification from each grantee that the grantee intends to install its facilities during the open trench period on the specified terms and conditions, or such other terms and conditions as are mutually agreeable to the developer and grantee, or has received no reply from a grantee within ten (10) days after its notification to such grantee, in which case the grantee will be deemed to have waived its opportunity to install its facilities during the open trench period.
- (5) Sharing the joint utilities trench shall be subject to compliance with state regulatory agency and utility standards. If such compliance is not possible, the developer shall provide a separate trench for the cable television cables, with the entire cost shared among the participating operators. With the concurrence of the developer, the affected utilities and the grantees, alternative installation procedures, such as the use of deeper trenches, may be utilized, subject to applicable law.
- (6) Any grantee wishing to serve an area where the trenches have been closed shall be responsible for its own trenching and associated costs.
- (7) The grantor reserves the right to grant an encroachment permit to a cable franchise applicant to install conduit and/or cable in anticipation of the granting of a franchise. Such installations shall be at the applicant's risk, with no recourse

against the grantor in the event the pending franchise application is not granted. The grantor may require an applicant to provide a separate trench for its conduit and/or cable, at the applicant's cost. The construction of such a separate trench, if provided, shall be coordinated with, and subject to, the developer's overall construction schedule.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-28. Technical Standards.

- (a) All facilities and equipment of grantee shall be constructed and maintained in accordance with the requirements and specifications of the National Electrical Safety Code, FCC technical standards, and such applicable ordinances and regulations set forth by the grantor and/or any other local, state or federal agencies. In addition, the grantee shall provide to the grantor, upon request, a written report of the results of the grantee's periodic proof of performance tests conducted pursuant to FCC and franchise standards and guidelines.
- (b) Repeated and verified failure to maintain specified technical standards shall constitute a material breach of the franchise.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-29. Program Content Restrictions.

Grantee may offer subscribers optional services on a per-program or per-channel basis (pay cable). The grantee shall not, however, program or in any way display obscene material such as X rated motion pictures.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-30. Hold Harmless.

Grantee shall indemnify, defend and hold grantor, its officers, agents and employees harmless from all liability, claims, damages, costs or expenses, including reasonable attorney's fees, for bodily injury and property damage arising from operations of grantee, its officers, agents or employees, under the franchise and arising from installation, maintenance and ownership of the cable system. Grantee shall at its sole cost and expense, upon demand of grantor, appear in and defend any and all suits, actions or other legal proceeding brought or instituted or had by third persons or duly constituted authorities, against grantor, its officers, agents or employees, and arising out of any conduct of the grantee, its agents or employees which is within the scope of this indemnity. Grantor shall also have the benefit of any other indemnification of any insurance provision contained in the franchise agreement.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-31. Insurance.

(a) On or before commencement of franchise operations, the grantee shall obtain policies of liability, Workers' Compensation and property insurance from companies authorized to transact business in Michigan.

- (b) The policy of liability insurance shall:
 - (1) Be issued to grantee and name grantor, its officers, agents and employees as additional insureds;
 - (2) Indemnify for all liability for personal and bodily injury, death and damage to property arising from activities conducted and premises used pursuant to this Ordinance by providing coverage there for, including but not limited for:
 - a. Negligent acts or omissions of grantee and its agents, servants and employees committed in the conduct of franchise operations, and/or
 - b. Use of motor vehicles;
 - (3) Provide a combined single limit for comprehensive general liability and comprehensive automobile liability insurance in the amount provided for in the franchise agreement. Such insurance policy shall be subject to review and approval by the City Manager subject to review by the Council; and
 - (4) Be noncancellable without thirty (30) days prior written notice thereof directed to grantor.
- (c) The policy of Workers' Compensation Insurance shall:
 - (1) Have been previously approved as to substance and form by the Michigan Insurance Commissioner;
 - (2) Cover all employees of grantee who in the course and scope of their employment are to conduct the franchise operations;
 - (3) Provide for every benefit and payment presently or hereinafter conferred by the Labor Code of the state upon an injured employee, including vocational rehabilitation and death benefits.
- (d) The policy of property insurance shall provide fire insurance with extended coverage on the franchise property used by grantee in the conduct of franchise operations in an amount adequate to enable grantee to resume franchise operations following the occurrence of any risk covered by this insurance.
- (e) Grantee shall file with grantor prior to commencement of franchise operations either certified copies of these insurance policies or a certificate of insurance for each of the required policies executed by the company issuing the policy or by a broker authorized to issue such a certificate, certifying that the policy is in force and providing the following information with respect to said policy:
 - (1) The policy number;

- (2) The date upon which the policy will become effective and the date upon which it will expire;
- (3) The names of the named insureds and any additional insured required by this Ordinance or the franchise agreement;
- (4) The type of coverage provided by the insurance; and
- (5) The amount or limit of coverage provided by the insurance.
- (f) Conduct of franchise operations shall not commence until grantee has complied with the aforementioned provisions of this section.
- (g) In the event grantee fails to maintain any of the above-described policies in full force and effect, grantor shall, upon forty-eight (48) hours notice to grantee, have the right to procure the required insurance and recover the cost thereof from grantee. Grantor shall also have the right to suspend the franchise during any period that grantee fails to maintain said policies in full force and effect. In order to account for increases in consumer prices, no more than once during any five (5) year period, grantor shall have the right to order grantee to increase the amounts of the insurance provided in the franchise agreement. Such order may be made by grantor after conducting a duly noticed public hearing. Increases in insurance coverage shall be no greater than any increase in the Detroit Metropolitan Area Consumer Price Index (all consumers) for the five year period.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-32. Records Required and Grantor's Right to Inspect.

- (a) Grantee shall at all times maintain:
 - (1) A record of all service calls and interruptions or degradation of service experienced for the preceding two (2) years, provided that such complaints result in or require a service call, provided, further, that such record and the specific information contained therein shall be kept confidential by grantee in compliance with the privacy provisions of the Cable Communications Policy Act of 1984, as amended.
 - (2) A full and complete set of plans, records and "as built" maps showing the location of the cable television system installed or in use in the City, exclusive of subscriber, service drops and equipment provided in subscribers' homes.
 - (3) If requested by grantor, a summary of service calls, identifying the number, general nature and disposition of such calls, on a monthly basis. A summary of such service calls shall be submitted to the grantor within thirty (30) days following its request in a form reasonably acceptable to the grantor.
- (b) The grantor may impose reasonable requests for additional information, records and documents from time to time, provided they reasonably relate to the scope of the City's rights under this Ordinance or the grantee's franchise agreement.

(c) Subject to the provisions of Section 26-34(b), upon reasonable notice, and during normal business hours, grantee shall permit examination by any duly authorized representative of the grantor, of all franchise property and facilities, together with any appurtenant property and facilities of grantee situated within or without the City, and all records relating to the franchise provided such examination is necessary to enable grantor to discharge its regulatory responsibilities under this Ordinance or the franchise agreement. Grantee shall have the right to be present at any such examination.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-33. Annual Reports.

- (a) Upon request, grantee shall submit a written end of the year report to grantor, with respect to the preceding calendar year, containing the following information:
 - (1) A summary of the previous year's (or in the case of the initial reporting year, the initial year's) activities in development of the cable system, including but not limited to, services begun or discontinued during the reporting year.
 - (2) A list of grantee's officers, members of its board of directors, and other principals of grantee.
 - (3) A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in grantee.
 - (4) Information as to the number of basic cable and pay subscribers.
- (b) All annual reports required under this Ordinance, shall be available for public inspection in the grantee's offices during normal business hours.
- (c) All reports and records required under this Ordinance shall be furnished at the sole expense of grantee, except as otherwise provided in this Ordinance or the franchise agreement. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-34. Copies of Federal and State Communications.

- (a) Grantee, upon request, shall submit to grantor copies of all pleadings, applications and reports submitted by grantee to, as well as copies of all responses thereto by any federal, state or local court, regulatory agency, or other governmental body which are non-routine in nature and which will materially affect its cable television operations within the franchise area. Grantee shall submit such documents to grantor simultaneously with their submission to such court, agency and/or body, or within five (5) days after their receipt from such court, agency and/or body. Information otherwise confidential by law and so designated by grantee, which is submitted to grantor, shall be retained in confidence by grantor and its authorized agents and shall not be made available for public inspection.
- (b) Notwithstanding the foregoing, grantee shall have no obligation to provide copies of documents to grantor which contain trade secrets of grantee or which are otherwise of a

confidential or proprietary nature to grantee unless it receives satisfactory assurances from grantor that such information can and will be held in strictest confidence by the grantor. To the extent possible, grantee will provide grantor with summaries of any required documents or copies thereof with trade secrets and proprietary matters deleted therefrom. The burden of proof shall be on grantee to establish the confidential nature of any information submitted. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-35. Remedies for Franchise Violations.

If grantee fails to perform in a timely manner any material obligation required by this Ordinance or a franchise granted hereunder, following notice from the grantor and an opportunity to cure such nonperformance in accordance with the provisions of Section 26-38 of this Ordinance and the franchise, grantor may at its option and in its sole discretion:

- (1) Cure the violation and recover the actual cost thereof from the security fund established herein if such violation is not cured within thirty (30) days after written notice to the grantee of grantor's intention to cure and draw upon the security fund;
- (2) Assess against grantee liquidated damages in an amount set forth in the franchise agreement for any such violation(s);
- (3) For repeated and verifiable violations of consumer service standards of this Ordinance or the franchise agreement which have materially degraded the quality of service, grantor may request grantee to issue rebates or credits to subscribers, in an amount to be determined by grantee. Credits shall be reasonably related to the nature of the degradation in service and measured by the period of the degradation, to provide monetary relief substantially equal to the reduced quality of service resulting from grantee's failure to perform;
- (4) Initiate proceedings to revoke the franchise, in accordance with the provisions of Section 26-37 of this Ordinance.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-36. Security Fund.

- (a) Grantor may require grantee to deposit into an interest bearing account established by grantor and grantee a sum established in the franchise agreement as a security fund. This sum shall be held by a neutral party experienced in acting as an escrow agent, and shall be maintained on deposit for a term as provided in the franchise agreement, with any interest payable to grantee.
- (b) The security fund shall be available to grantor as provided in Section 26-36 to satisfy all claims, liens and/or taxes due grantor from grantee which arise by reason of construction, operation, or maintenance of the system, and to satisfy any actual or liquidated damages arising out of a franchise breach, subject to the procedures and amounts designated in the franchise agreement.

(c) The security fund requirements may be satisfied by conveyance of an irrevocable letter of credit to the grantor, or by provision of a corporate surety bond, in a form approved by grantor. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-37. Grantor's Power to Revoke.

- (a) Grantor reserves the right to revoke any franchise granted pursuant to this Ordinance and rescind all rights and privileges associated with it in the following circumstances, each of which shall represent a default by grantee and a material breach under the franchise grant:
 - (1) If grantee shall default in the performance of its material obligations under this Ordinance or the franchise agreement and shall continue such default after receipt of due notice and opportunity to cure the default in accordance with the provisions of Section 26-38;
 - (2) If grantee shall violate any order or ruling of any regulatory body having jurisdiction over the grantee relative to the grantee's franchise, unless such order or ruling is being contested by grantee by appropriate proceedings conducted in good faith;
 - (3) If grantee practices any fraud upon grantor, as determined by a court of law;
 - (4) If grantee persistently fails to remedy defaults for which lesser penalties have previously been imposed;
 - (5) If grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged a bankrupt.
- (b) The termination and forfeiture of the grantee's franchise shall in no way affect any right of grantor to pursue any remedy under this Ordinance, the franchise agreement or any provision of law.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-38. Procedure for Remedying Franchise Violations.

Prior to imposing any remedy or other sanction against grantee specified in this Ordinance, grantor shall give grantee notice and opportunity to be heard on the matter, in accordance with the following procedures:

(1) Grantor shall first notify grantee of the violation in writing by personal delivery or registered or certified mail, and demand correction within a reasonable time, which shall not be less than five (5) days in the case of the failure of the grantee to pay any sum or other amount due the grantor under this Ordinance or the grantee's franchise and thirty (30) days in all other cases. If grantee fails to correct the violation within the time prescribed the grantor shall then give written notice of not less than twenty (20) days of a public hearing to be held before the Council. Said notice shall specify the violations alleged to have occurred.

- (2) At the public hearing, the Council shall hear and consider all relevant evidence, and thereafter render findings and its decision.
- (3) In the event the Council finds that the grantee has corrected the violation or has diligently commenced correction of such violation after notice thereof from grantor and is diligently proceeding to fully remedy such violation, or that no material violation has occurred, the proceedings shall terminate and no penalty or other sanction shall be imposed.
- (4) In the event the Council finds that material violations exist and that grantee has not corrected the same in a satisfactory manner or has not diligently commenced correction of such violation after notice thereof from grantor and is not diligently proceeding to fully remedy such violation, the Council may impose one (1) or more of the remedies specified herein as it, in its discretion deems appropriate under the circumstances.
- (5) If the grantor elects to assess liquidated damages, pursuant to the provisions of the franchise agreement, then such election shall constitute the grantor's exclusive remedy for a period of thirty (30) days. Thereafter, if the grantee remains in noncompliance with the requirements of this Ordinance and/or the franchise agreement, the grantor may pursue any available remedy.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26 - 39. Force Majeure; Grantee's Inability to Perform.

In the event grantee's performance of any of the terms, conditions or obligations required by this Ordinance or a franchise granted hereunder is prevented by a cause or event not within grantee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that such inability to perform shall not relieve a grantee from any liability under Section 26-35(3), pertaining to refunds and credits for interruptions in service. For the purpose of this section, causes or events not within the control of grantee shall include without limitation acts of God, strikes, power failure or loss of other utility services which are necessary for the operation of the system, sabotage, riots and civil disturbances, actions of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the grantee to perform or failure of the grantee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of grantee, or the failure of the grantee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable communications system where the grantee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-40. Abandonment or Removal of Franchise Property.

(a) In the event that the use of any property of grantee within the franchise area or a portion

thereof is discontinued for a continuous period of sixty (60) days, grantee shall be deemed to have abandoned that franchise property.

- (b) Grantor, upon such terms as grantor may impose, may give grantee permission to abandon, without removing, any system facility or equipment laid, directly constructed, operated or maintained under the franchise. Unless such permission is granted or unless otherwise provided in this Ordinance, the grantee shall remove all abandoned above- ground facilities and equipment upon receipt of written notice from grantor and shall restore any affected street to its former state at the time such facilities and equipment were installed, so as not to impair its usefulness. In removing its plant, structures and equipment, grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles, or attachments. Grantor shall have the right to inspect and approve the condition of the public ways, public places, cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and the security fund as provided herein shall continue in full force and effect during the period of removal and until full compliance by grantee with the terms and conditions of this section.
- (c) Upon abandonment of any franchise property in place, the grantee, if required by the grantor, shall submit to the grantor an instrument, satisfactory in form to the grantor, transferring to the grantor the ownership of the franchise property abandoned.
- (d) At the expiration of the term for which the franchise is granted, or upon its revocation or earlier expiration, as provided for herein, in any such case without renewal, extension or transfer, the grantor shall have the right to require grantee to remove, at its own expense, all above-ground portions of the cable television system from all streets and public ways within the City within a reasonable period of time, which shall not be less than one hundred eighty (180) days.
- (e) Notwithstanding anything to the contrary set forth in this Ordinance, the grantee may abandon any underground franchise property in place so long as it does not materially interfere with the use of the street or public rights-of-way in which such property is located or with the use thereof by any public utility or other cable grantee.
- (f) Except for an event of force majeure, in the event grantee fails to operate the system for sixty (60) days without prior approval of or subsequent permission by the grantor, the grantor may, at its option, operate the system or designate an operator until such time as grantee or a permanent operator is selected. If the grantor should fulfill this obligation for the grantee, then during such period as the grantor fulfills such obligation, the grantor shall be entitled to collect all revenues from the system, and the grantees shall indemnify the grantor against any damages grantor may suffer as a result of such failure.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-41. Restoration by Grantor; Reimbursement of Costs.

In the event of a failure by grantee to complete any restoration work required herein or in the franchise agreement, and if such work is not completed within thirty (30) days after receipt of written notice thereof from grantor or, if more than thirty (30) days are reasonably required thereafter, if grantee does not commence such work within such thirty (30) days period and diligently complete the work thereafter (except in cases of emergency constituting a threat to public health, safety or welfare), grantor may cause such work to be done and grantee shall reimburse grantor the costs thereof within thirty (30) days after receipt of an itemized list of such costs, or grantor may recover such costs through the security fund provided by grantee. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-42. Extended Operation and Continuity of Services.

Upon either expiration or revocation of the franchise, the grantor shall have discretion to permit grantee to continue to operate the cable television system for an extended period of time not to exceed nine (9) months from the date of such expiration or revocation, unless extended by mutual agreement of grantor and grantee. Grantee shall continue to operate the system during said period under the terms and conditions of this Ordinance and the franchise. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-43. Receivership and Foreclosure.

- (a) A franchise granted hereunder shall, at the option of grantor, cease and terminate sixty (60) days after appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of grantee, whether in a receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said sixty (60) days, or unless:
 - (1) Such receivers or trustees shall have, within sixty (60) days after their election or appointment, fully complied with all the terms and provisions of this Ordinance and the franchise granted pursuant hereto, and the receivership or trustees within said sixty (60) days shall have remedied all the faults under the franchise or provided a plan for the remedy of such faults which is satisfactory to the grantor; and
 - (2) Such receivers or trustees shall, within said sixty (60) days, execute 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 of the franchise granted.
- (b) In the case of a foreclosure or other judicial sale of the franchise property, or any material part thereof, grantor may serve notice of termination upon grantee and the successful bidder at such sale, in which event the franchise granted and all rights and privileges of the grantee hereunder shall cease and terminate thirty (30) days after service of such notice, unless:

- (1) Grantor shall have approved the transfer of the franchise, as and in the manner that this Ordinance provides; and
- (2) Such successful bidder shall have covenanted and agreed with grantor to assume and be bound by all terms and conditions of the franchise.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-44. Rights Reserved to Grantor.

- (a) In addition to any rights specifically reserved to the grantor by this Ordinance, the grantor reserves to itself every right and power which is required to be reserved by a provision of any law or under the franchise.
- (b) The grantor shall have the right to waive any provision of the franchise, except those required by federal or state regulation, if the grantor determines that it is in the public interest to do so, and that the enforcement of such provision will impose an undue hardship on the grantee or the subscribers. Waiver of any provision in one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of the franchise unless the statement so recites.
- (c) The grantor shall have the right to adopt, in addition to the provisions herein contained and other existing applicable ordinances, such additional ordinances pertaining to public health, safety and welfare, and ordinances of general applicability as it shall find necessary in the exercise of police power.
- (d) The City shall have the right, during the life of this Ordinance, to maintain upon the poles or in the underground conduits of grantee within the City limits wire and fixtures necessary for a traffic signal control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and in such manner that there shall be a minimum danger of contact or conflict between the wires and fixtures of the grantee and wires and fixtures used by the City.
- (e) In the case of any emergency or disaster, the grantee shall, upon request of Council or Council's designee make available its facilities to the City for emergency use during the emergency or disaster period.
- (f) The grantor shall not be liable for any damage occurring to the property of the grantee caused by employees of the grantor in the performance of their duties, except for damage caused to the grantee's facilities by the negligence of the grantor's employees. The grantor shall not be liable for the interruption of service by actions of grantor's employees in the performance of their duties, nor shall the grantor be held liable for the failure of the grantee to be able to perform normal services due to acts of God or other factors beyond the control of the grantor.
- (g) Nothing in this Ordinance shall grant to the grantee any right of property in the City-owned property, nor shall the City be compelled to maintain any of its property any longer than, or in any fashion other than in the City's judgment its own business or needs may require.

(h) Except for emergencies, the grantee shall not open any street nor erect any permanent obstruction on any public right of way without obtaining all necessary permits required by local law. The grantor shall have the right to inspect any such construction and the grantee shall have the right to be present at any such inspection. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-45. Rights of Individuals.

- (a) Grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age or sex. Grantee shall comply at all times with all other applicable federal, state and local laws and regulations, relating to nondiscrimination.
- (b) Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.
- (c) Grantee shall not, as to rates, charges, service facilities, rules, regulations, or any other respect, make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage, provided that nothing in the Ordinance shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer corning within such classification would be entitled or the establishment of customized bulk and commercial billing arrangements. Grantee may at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for promotional purposes.
 - (d) The grantee must notify all subscribers thirty (30) days prior to any rate change.
- (e) Grantee shall adhere to the applicable equal employment opportunity requirements of federal, state and local regulations, as now written or as amended from time to time.
- (f) The grantee shall comply with the privacy provisions of the Cable Communications Policy Act of 1984, as amended, and all other applicable laws.
- (g) No cable line, wire, amplifier, converter, or other piece of equipment owned by grantee shall be installed by grantee in the subscriber's premises, without first securing any required consent. If a subscriber requests service, permission to install upon subscriber's property shall be presumed. Where a property owner or his predecessor has granted an easement including a public utility easement or a servitude to another and the servitude by its terms contemplates a use such as grantee's intended use, grantee shall not be required to secure the written permission of the owner for the installation of cable television equipment.
- (h) Grantee or its subcontractors will not interrupt the transmission of signals of the cable system except for necessary maintenance or emergencies. Unless otherwise authorized by the grantor, charges shall abate in the event that service to a subscriber is interrupted for more than twenty-four (24) hours upon request of the subscriber. Interruption of service shall include system reception, except that degradation, due to natural phenomena, of basic service satellite

signals, shall not be considered an interruption of service for purposes of this section only.

(i) It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the grantee are honored. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-46. Advisory Board.

- (a) The grantee shall establish an Advisory Board which shall consist of one member representing each community comprising part of its service area and the provider of local origination. Each member to the Advisory Board shall be appointed annually by his or her respective community or provider of local origination.
- (b) The Advisory Board shall meet at least once each calendar quarter with the grantee to review the community's comments and complaints regarding the cable system. Grantee shall be responsive to those comments and complaints.
- (c) The Advisory Board may also make recommendations to a grantee concerning all aspects of the franchise, its operational standards, rules governing local access, content, programming, proposed new services and pricing structure.
- (d) The grantee shall also submit a written annual report to the Advisory Board, including such topics as programming, finances, technical matters and future directions of the grantee.
- (e) The Advisory Board may also make recommendations to the communities concerning the grantee's performance and comment upon requests by grantee for a renewal or extension of its franchise.

(Ord. No. 156, § 1, 5-9-94)

Sec. 26-47. Separability.

If any provision of this Ordinance is held by any court or by any federal or state agency of competent jurisdiction, to be invalid as conflicting with any federal or state law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding on grantor and grantee, provided that grantor shall give grantee thirty (30) days written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for grantee to comply with such provision. (Ord. No. 156, § 1, 5-9-94)

Sec. 26-48. Uniform Ordinance.

This Ordinance is based upon a uniform ordinance promulgated jointly by all five of the cities. It is intended that, to the greatest extent possible, the provisions of the separate ordinances enacted by each of the cities (based upon the uniform ordinance) be construed in a consistent and uniform manner.

(Ord. No. 156, § 1, 5-9-94)

Editor's note - Ord. No. 156, codified as 26-10 through 26-48, became effective on Nay 9, 1994 and repeals Ord. No. 89.