

12.200

**CABLE TELEVISION FRANCHISE AND REGULATIONS
CITY OF GAYLORD, MICHIGAN
Ord. Eff. Apr. 14, 1986
Ord. Amend. Eff. July 17, 2005**

12.201

Sec. 7701. **PERMIT TO RENDER TELEVISION CABLE SERVICE.**

There is hereby granted to the Lake Charlevoix Cable TV and its successors, hereinafter called the grantee, the right and privilege for a period of fifteen (15) years, subject however, to revocation for just cause shown at the will of the City Council, from the effective date of this Ordinance, to erect buildings in the City of Gaylord, hereinafter called the "City", and to construct, maintain and operate in the present and future streets, alleys and public places of the City, towers, poles, lines, cables subject to the direction of the City Manager, necessary wiring, and other apparatus for the purpose of receiving, amplifying, and distributing television and radio signals to said City and the inhabitants thereof. In adopting this Franchise renewal, the City did consider the full qualifications and performance of the grantee, including the adequacy of its continuing construction arrangements, and approved them as part of a full public proceeding affording due process, including specific notice of the adoption of the "line extension" provision herein. This franchise is subject to Grantee's rights under Section 626 (a) – (g) of the Cable Communications Policy Act of 1984.
(ord. eff. Apr. 14, 1986)

12.202

Sec. 7702. **LOCATION OF POLES AND TOWERS.**

The City Manager shall direct and permit the poles and towers which shall be so erected as not to interfere with the traffic over the streets and alleys, and the location of all poles, towers or other obstructions shall be fixed with the prior written approval and under the supervision of the City Manager, as to such location giving consideration to the reasonable operation of the same; providing further that such location shall not be a vested interest, and the same shall be removed by grantee whenever the same restrict or obstruct the operation or location of any future operation of said streets and alleys and public places.
(ord. eff. Apr. 14, 1986)

12.203

Sec. 7703. **PERMISSION TO USE EXISTING POLES.**

Permission is hereby granted the grantee and its assigns to attach or otherwise affix cables or wires to the pole facilities of any public utility company even though the same may cross over the streets, sidewalks, public lands, highways of the City, provided the grantee or assigns secures the permission and consent of said aforementioned public utility companies concerned to affix the said cables and/or wires or other apparatus to their pole facilities.
(ord. eff. Apr. 14, 1986)

12.204

Sec. 7704. **REPAIR OF STREETS AND SIDEWALKS.**

All streets and sidewalks disturbed or damaged in the construction or maintenance of said cable lines and other appurtenances shall be promptly

repaired by the grantee at its expense and to the reasonable satisfaction of the City.
(ord. eff. Apr. 14, 1986)

12.205 Sec. 7705. OBLIGATION TO OBSERVE EXISTING ORDINANCES.

That the grantee shall be subject to all ordinances now in force or that may be hereafter enacted relative to the use of the streets and alleys of the City.
(ord. eff. Apr. 14, 1986)

12.206 Sec. 7706. INDEMNIFICATION AND SAVE HARMLESS.

The grantee shall hold the City harmless from all claims for damages arising out of the construction, maintenance or operation of said cable lines or other appurtenances.
(ord. eff. Apr. 14, 1986)

12.207 Sec. 7707. EXTENSION OF CABLE TELEVISION SERVICE.

Whereas the grantee has installed and energized distribution cable throughout the City, the CATV system, as presently constructed, is hereby approved. The grantee shall be required to extend CATV cable plant to those sections of the City, and future annexations thereto, which meet the general density standard in excess of ten (10) single family residence connections per 1056 strand feet of cable or fifty (50) single family residence connections per strand mile of cable. Measurement of the general density standard, for service to any area added to the present territorial limits of the City during the term of this franchise, shall be from the closest existing point of the grantee's CATV system. In addition,

1. Whenever the grantee shall receive a request for service from at least twenty (20) such subscribers within 1056 feet of its distribution cable, it shall extend the CATV system to such subscribers at no cost to the subscribers, provided that such extension is technically and physically feasible. The 1056 feet shall be measured in an 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 subscribers' residences or premises.
2. No person, firm or corporation in the grantee's service area shall be arbitrarily refused service. However, in unusual circumstances, such as requirement for underground cable or more than 150 feet of distance from the distribution cable to the connection of service to subscribers or a density of less than ten (10) single family residence connections per 1056 feet of cable system, in order that the existing subscribers shall not be unfairly burdened, service may be made available on the basis of a capital contribution by the prospective subscriber to the grantee, including reimbursement for grantee's cost of materials, labor and easements.
3. If grantee does not, of its own accord, proceed to secure any necessary permits and build line extension at such time as the area reaches the required density, the City may request grantee to build the plant and

deliver CATV service; however, grantee may show cause why such extension should not be constructed.

4. The aforementioned general density standards were adopted as part of a full public proceeding affording due process which included specific notice of the adoption of such density standards by the City.
(ord. eff. Apr. 14, 1986)

12.208 Sec. 7708. CATV SYSTEM SAFEGUARDS AGAINST UNAUTHORIZED USE.

From and after the effective date of this Franchise renewal, it shall be unlawful for any person to construct, install or maintain within any public street in the City, or within any other public property of the City, or within any privately owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the City, any equipment or facilities for distributing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such Franchise is in full force and effect.

It shall be unlawful for any person, firm or corporation to make any unauthorized connection whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised CATV system within this City for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program, or sound, without payment to the operator of such system.

It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sounds.

Any person violating or failing to comply with any of the above provisions shall be guilty of a misdemeanor, or for each day of violation or failure to comply, may be punished by a fine not to exceed \$100.00 or by imprisonment for a term not to exceed thirty (30) days, or by both such fine and imprisonment.
(ord. eff. Apr. 14, 1986)

12.209 Sec. 7709. REPEAL AND TERMINATION OF FRANCHISE; ACQUISITION OF UTILITY PROPERTY.

The City reserves the right to terminate Grantees Franchise for just cause shown subject but not limited to misuse, non-use or failure to comply with the provisions of the Franchise, subject to Federal, State, and Local law. In the event of termination of the Franchise for just cause shown, the City may acquire by condemnation or other lawful mode the property of the Grantee within the City. In case the City and Grantee shall fail to agree as to fair market value, as an ongoing business, each shall select a competent and disinterested appraiser. In the event the two appraisers shall not reach mutual agreement, then upon the request of either party, a judge of a Court of record in the City shall appoint a third disinterested and competent appraiser and the decision of any two appraisers shall be binding. The price paid by the City for property acquired by it from Grantee shall exclude all value of such franchise.

(ord. eff. Apr. 14, 1986)

12.209 Sec. 7710. INSURANCE.

Licensee shall assume all liability for and indemnify, protect, defend and save harmless the Owner from and against any and all claims and demands for damages to property and injury or death to persons, including payments made under any Workmen's Compensation Law or under any plan for employee's disability and death benefits. Licensee shall carry insurance, to protect the parties hereto against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every name and nature which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to damage to property shall be not less than Five Hundred Thousand Dollars (\$500,000) as to any one accident and, subject to this limit per accident, an aggregate of Five Hundred Thousand Dollars (\$500,000) during the policy year, and against liability due to injury to or death of persons Five Hundred Thousand Dollars (\$500,000) as to any one accident. Licensee shall also carry such insurance as will protect it from all claims under any Workmen's Compensation Laws in effect that may be applicable to it. All insurance required shall remain in force for the entire life of this agreement and the company or companies issuing such insurance shall be approved by the Owner. The Licensee shall see that such policies of insurance include by endorsement the following Cancellation or Change Clause:

"This insurance will not be cancelled nor any changes made in this policy which change, restrict or reduce the insurance provided, or change the name of the insured, without first giving ten (10) days' notice in writing to the City of Gaylord as evidenced by their receipt of registered letter."

Licensee hereby specifically agrees to deliver a copy of any and all insurance certificates required under this contract to the Owner for Owner's approval thereof; said insurance policies shall remain with Owner during the life of this contract.

(ord. eff. Apr. 14, 1986)

12.211 Sec. 7711. RENEWAL OF CABLE TELEVISION FRANCHISE ORDINANCE.

The City of Gaylord does hereby ordain that the franchise previously granted to Lake Charlevoix Cable TV by the foregoing ordinance, begin Sections 7701 through 7710, is hereby renewed and granted to CC VIII Operating, LLC, locally known as Charter Communications, as successor to Lake Charlevoix Cable TV, subject and pursuant to a certain Franchise Agreement to be entered into between the parties. Said franchise and the rights and remedies of the parties shall be subject to the terms and conditions of said Franchise Agreement and the provisions of this ordinance.

12.212 Sec. 7712. TERM OF RENEWAL.

The franchise renewed by this ordinance shall be in effect from the date hereof and shall expire on July 17, 2019.

12.213**Sec. 7713. REVOCATION AND TERMINATION OF FRANCHISE;
ACQUISITION OF UTILITY PROPERTY.**

Unless made irrevocable pursuant to the provisions of Section 7714 below, Grantor reserves the right to revoke this Franchise at the will of the Grantor's City Council. In the event Grantor revokes this Franchise, or upon the expiration hereof without renewal, Grantor may, (but is not required to) acquire by condemnation or other lawful means the property of the Grantee within Grantor's boundaries. In case Grantor and Grantee shall fail to agree as to the fair market value for the property of the Grantee within Grantor's boundaries, each party shall select a competent and disinterested appraiser. In the event the two appraisers so selected shall fail, within a reasonable time, to reach agreement, then upon the request of either party, a judge of the Circuit Court for Otsego County shall appoint a third competent and disinterested appraiser and the decision of any two of such appraisers shall determine the price at which Grantor may, if it chooses, purchase the property of Grantee within Grantor's boundaries. The price so determined shall not include any value for this Franchise or any extension or renewal thereof.

12.213**Sec. 7714. OPTION TO CONVERT TO IRREVOCABLE FRANCHISE.**

Upon the request of the Grantee, and at Grantee's cost, this Franchise Ordinance may be submitted to a vote of the City's electorate according to the provisions of Article 10.1212, Section 12.10.b., of the City Charter, for the purpose of making the terms of this Franchise Ordinance irrevocable. If this Franchise Ordinance is made irrevocable by approval of the required majority of the Grantor's electorate, the provisions of Section 7713 above, as to revocation at the will of the Grantor's City Council, shall be deemed null and void.

