

CHAPTER 808
Cable Television Contracts

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CROSS REFERENCES

Construction and maintenance of facilities - see M.C.L.A. Secs. 247.183 et seq.

Television and radio generally - see M.C.L.A. Secs. 484.301 et seq., 750.507 et seq.

Cables improperly located; insurance - see M.C.L.A. Sec. 500.3123

Cable television rate regulations - see B.R. & T. Ch. 810

808.01 DEFINITIONS.

For the purpose of this chapter, the following terms, phrases and words shall have the meanings given in this section, unless the context clearly indicates that a different meaning is intended:

- (a) "Basic service" means the provision by a company to television receivers of all signals of over-the-air television stations required by the Federal Communications Commission (hereafter the "FCC"), public channels and additional channels at the option of the company.

- (b) "City" means the City of Litchfield, Michigan.
- (c) "City channel" means a channel on the system which is reserved for use by the City or for public access.
- (d) "City Council" means the Council of the City of Litchfield, Michigan.
- (e) "Clerk" means the City Clerk of the City of Litchfield.
- (f) "Company channel" means a channel on the system which is reserved for the carriage of program material originated by the company or by another person.
- (g) "Contractor" means a person to whom a contract has been issued pursuant to the provisions of this chapter.
- (h) "Federal Communications Commission" or "FCC" means the governing Federal agency of that name or any successor agency created by the United States Congress.
- (i) "Gross subscriber revenues" means and includes any and all compensation or receipts derived from installation, disconnection and re-installation and recurring monthly service charges arising from the sale of regular monthly service to a subscriber.
- (j) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.
- (k) "Regular subscriber services" means and includes the carriage of broadcast signals and FCC mandated non-broadcast services, but shall not include auxiliary services, which include, but are not limited to, advertising, lease channels and pay cable.
- (l) "Subscriber" means a purchaser of any service delivered over the system to an individual dwelling unit where the service is not to be utilized in connection with a business, trade, or profession.
(Ord. 82-2. Passed 5-19-82.)

808.02 CONTRACT APPLICATION.

Any person who demonstrates to the City Council that he or she has available for his or her use, facilities, equipment and authority to develop a cable system to transmit television and radio programs from an input point to a determined point on the premises of cable television subscribers, may file an application with the City Clerk for a contract to operate a cable television system within the City. The application shall include such information as is set forth in this chapter, as well as such additional information as the City Council shall, from time to time, request.

(Ord. 82-2. Passed 5-19-82.)

808.03 CONTRACT ISSUANCE.

Upon the receipt by the Clerk of an application signed by the applicant, complying with all of the requirements of this chapter, the Clerk shall forward the materials to the City Council for study. Should the Council, in its sole discretion, deem the application to be in the best interests of the City, it shall direct the Clerk to issue to the applicant a non-exclusive contract to operate a community antenna television and/or radio system within the City for a period of fifteen years from the date of issuance of such contract. The contractor shall proceed as soon as practicable, after receipt of such contract, with the necessary work to enter into an agreement with the necessary public utilities and to provide the system called for in its contract.

(Ord. 82-2. Passed 5-19-82.)

808.04 SERVICE AREA.

Each applicant shall, in its application, agree to serve the entire area encompassed by the corporate limits of the City as they exist during the term of the applicant's contract.

(Ord. 82-2. Passed 5-19-82.)

808.05 STATION DESIGNATION; MINIMUM CHANNEL CAPACITY.

Each applicant shall, with its application, designate all the broadcasting stations which will be carried by the system. Initial channel capacity of the applicant's system shall be no less than thirty-five channels.

(Ord. 82-2. Passed 5-19-82.)

808.06 STATEMENT OF FINANCIAL RESPONSIBILITY.

Each applicant shall attach to its application a copy of its Profit and Loss Statement and Balance Sheet covering the operation of any other cable television system of which such applicant is the owner, or in which such applicant is a stockholder for the last preceding fiscal year in the State, and shall, in addition, submit such financial statements and net worth statements as shall reasonably indicate financial responsibility of the applicant and its ability to provide the service required by the contract provided for in this chapter.

(Ord. 82-2. Passed 5-19-82.)

808.07 INDEMNIFICATION; INSURANCE; BOND.

Each applicant shall, in its application, agree as follows:

- (a) To indemnify the City for any and all liability arising out of the installation, operation or maintenance of the cable antenna television system;
- (b) To indemnify the City against all expenses incurred by the City in defending itself in the event that any claims are made against the City or litigation results therefrom;

- (c) To maintain throughout the term of its contract, liability insurance insuring the City and the company with regard to all damages for which the City and/or the company may be liable, including, but not limited to, damages arising from the installation, operation, maintenance or removal of the company's cable television system, whether or not any act or omission complained of is authorized, allowed or prohibited by the contract provided for herein. The liability insurance referred to in this section shall be in the following amounts:
- (1) Five hundred thousand dollars (\$500,000) for bodily injury or death to any one person, with a limit of one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident;
 - (2) Five hundred thousand dollars (\$500,000) for property damage resulting from any one accident;
 - (3) Five hundred thousand dollars (\$500,000) for all other types of liability.
- (d) To furnish the City with a bond for the faithful performance of its obligations under such contract, if awarded under this chapter, in an amount to be set by the City Council. (Ord. 82-2. Passed 5-19-82.)

808.08 PAYMENT TO CITY.

The applicant shall, in its application, agree to pay to the City, annually, commencing one year from the effective date of a contract issued hereunder, and each year thereafter, three percent of its gross subscriber revenue derived from all cable services within the City, or two hundred fifty dollars (\$250.00), whichever is greater. In the event that the rules of the Federal Communications Commission presently governing such rates shall be changed, the applicant shall agree to be bound by such alternative basis for assessing such rates as shall be specified in this chapter. (Ord. 82-2. Passed 5-19-82.)

808.09 SUBSCRIBER RATES.

(a) The rates and charges for television and radio signals distributed shall be as provided for in Chapter 810 of this Business Regulation and Taxation Code.
(Adopting Ordinance)

(b) No increase in rates charged for the installation of equipment and basic service as specified in subsection (a) hereof shall be made effective except as authorized by the City Council within ninety days after notice of such increase by the contractor, and after a full, open and public proceeding upon prior notice and an opportunity of all interested parties to be heard, except that in the event the City Council fails to approve or disapprove the rate increase within the ninety-day period, such increase shall be deemed approved and shall be effective at the end of the ninety-day period.

(c) Where an unusually difficult or abnormal installation is encountered or requested, the contractor may reserve the right to require additional charges to reasonably recover the company's costs. Such charges may, at the subscriber's request, be added to the subscriber's monthly charges over a negotiable period of time.

(d) Rates for services other than installation of equipment and regular subscriber services shall be established by the contractor pursuant to the rules of the Federal Communications Commission.

(e) If, in the future, the State of Michigan regulates the rates of the company for the services provided under a contract issued hereunder, those portions of this chapter so regulated by the State of Michigan shall be of no effect during such State regulation to the extent of any conflict therewith.

(Ord. 82-2. Passed 5-19-82.)

808.10 CONTRACTOR'S RULES AND REGULATIONS.

The contractor shall file with the Clerk copies of all rules, regulations, terms and conditions adopted by the contractor for the conduct of its business, and shall likewise file with the Clerk any amendments or alterations therein as made.

(Ord. 82-2. Passed 5-19-82.)

808.11 CONSUMER COMPLAINTS.

(a) The contractor shall maintain a regional office in the area which shall be open during usual business hours, have a listed toll-free telephone number and be so operated that complaints and requests for repairs or adjustments may be received at any time, twenty-four hours per day.

(Ord. 85-1. Passed 1-14-85.)

(b) The contractor shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as is possible, shall be preceded by notice, and shall occur during periods of minimum use of the system.

(c) The contractor shall limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than twenty-four hours after receiving notice of the same, except as provided herein.

(d) Should it be impossible or impractical to correct any malfunctions within twenty-four hours or less, then each subscriber whose television reception is so disrupted shall receive a rebate from the contractor in the amount of one-thirtieth of such subscriber's monthly charge for every additional twenty-four hour period that said subscriber's television reception is so disrupted, unless that disruption in service was entirely beyond the contractor's control.

(e) Any rebate made to any subscriber under this section, in any month, shall not exceed said subscriber's normal monthly fee paid to the contractor.

(f) Complaint procedures shall be given to each new subscriber at the time of initial subscription to the cable television system. In the instance of existing subscribers, changes in the complaint procedure shall be included with the next monthly billing. Further, the contractor shall, in writing, advise the City Clerk of the procedures and personnel which shall be available for the handling of consumer complaints. The City Clerk, or such other person as the City Council designates, shall be accorded an opportunity to review all consumer complaints and the methods in which the same have been handled by the contractor.
(Ord. 82-2. Passed 5-19-82.)

808.12 FINANCIAL STATEMENTS AND RECORDS.

The contractor, unless otherwise required hereunder, shall file with the Clerk, annually, an unaudited statement of revenues received from the operation of its cable television system within the City, within ninety days after the close of its fiscal year. The City Council may, however, require an audited statement of revenues received from the operation of a cable television system within the City for any fiscal year, the same to be provided within ninety days after the close of the fiscal year for which an audited statement is required or within 120 days after such requirement is imposed, whichever is longer. The contractor shall make its financial records pertaining thereto available to the City for inspection, at a place designated within the State, at any reasonable time, maintaining separate records as to its business conducted pursuant to this chapter. On demand, the contractor shall also file with the City copies of all FCC filings and reports.
(Ord. 82-2. Passed 5-19-82.)

808.13 TRANSMISSION LINES AND FACILITIES.

All transmission lines and facilities shall be in accordance with the rules and regulations set forth by local public utilities and shall be as per the contract with said local public utilities.
(Ord. 82-2. Passed 5-19-82.)

808.14 EMERGENCY USE OF FACILITIES.

In the event of an emergency or disaster, the contractor shall, upon request of the Mayor or his or her designate, make available its facilities to the City for use during such emergency or disaster.

(Ord. 82-2. Passed 5-19-82.)

808.15 LOCAL ORIGINATION CHANNELS.

(a) The contractor shall make available such local origination channels as are required by the rules of the FCC, which channels shall be maintained by the contractor on a non-discriminatory basis and shall, further, provide a character generator to provide public service announcements and announcements provided by local units of government, including the local school system. Local nonprofit organizations, local units of government and local educational institutions desiring to use such channel shall notify the City Clerk, and the City Clerk shall notify the contractor at least forty-eight hours in advance of when such channel shall be in use.

(b) The contractor shall be permitted to use the channel capacity referred to in the preceding subsection when the channel capacity is not being used for the purposes designated in said subsection.

(Ord. 85-1. Passed 1-14-85.)

808.16 SERVICE TO PUBLIC BUILDINGS.

The contractor shall provide basic service to one outlet on each floor of all existing or future police and fire stations, the City Hall, the library, and all public and private schools located within 300 feet of the contractor's cables within the City without any charge therefor.

(Ord. 82-2. Passed 5-19-82.)

808.17 SALE OR TRANSFER OF SYSTEM.

No contractor shall sell or otherwise transfer its cable television system to another without reporting such sale to the Clerk, and obtaining the approval of the City Council of such transfer. Such approval shall not be unreasonably withheld, but the proposed transferee may be required to submit such financial information as shall establish its ability to maintain and operate the system in accordance with the provisions hereof. For purposes of this section, the transfer of thirty percent or more of the corporate stock of any contractor shall be deemed to be a transfer hereunder.

(Ord. 82-2. Passed 5-19-82.)

808.18 LIMITATION OF SERVICES.

A contractor shall not be engaged directly or indirectly in the business of repairing, servicing, or selling television and radio servicing equipment.

(Ord. 82-2. Passed 5-19-82.)

808.19 CONTRACT RENEWAL.

At such time that a contract given pursuant to this chapter expires of its own terms, any request for a renewal thereof shall be considered pursuant to the provisions of the Cable Communications Policy of 1984.

(Ord. 86-2. Passed 5-12-86.)

808.20 SURRENDER OF FRANCHISE; NOTICE.

A contractor may surrender its franchise at any time upon filing with the Clerk written notice of its intention to do so, at least six months before the surrender date. On the surrender date as specified in the notice, the City shall have the option of either requiring the contractor to remove its property from the City or to purchase the system in accordance with Section 808.19.

(Ord. 82-2. Passed 5-19-82.)

808.21 NECESSITY FOR CONTRACT.

No person shall own or operate a community antenna television and/or radio system in the City except by contract issued pursuant to this chapter.

(Ord. 82-2. Passed 5-19-82.)

808.22 FCC RULES AND REGULATIONS.

This chapter is governed by and subject to all applicable rules and regulations of the Federal Communications Commission, specifically including Part 76, and by the laws of the State. Should there be any modification of the provisions of Section 76.31 of the Rules and Regulations of the Federal Communications Commission which must be incorporated into the ordinance codified in this chapter, the City and the contractor agree that such incorporation shall be accomplished within one year after the effective date of the FCC's adoption of the modification, or upon renewal of a contract, whichever occurs first. However, the right is reserved to the City to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional ordinances as it shall find necessary in the exercise of its police power, provided, that such regulations shall be reasonable and not in conflict with the laws of the State, the laws of the United States of America, or the rules of the Federal Communications Commission.

(Ord. 82-2. Passed 5-19-82.)

808.23 VIOLATIONS.

If a contractor violates any of the terms, conditions, or provisions of this chapter or a contract granted pursuant to the provisions of the ordinance codified in this chapter, or if a contractor should fail to comply with the reasonable provisions of any ordinance of the City or contract with a City board regulating the use by the contractor of the streets, alleyways, easements and public ways of the City, and should the contractor continue to violate the same for a period of five days after the contractor shall have been notified in writing by the City to desist from such violation so specified, then the contractor shall be deemed to have forfeited and annulled, and shall forfeit and annual, all the rights and privileges granted by any contract issued under the terms of this chapter, and in addition thereto, the contractor shall be considered in violation of the ordinances of the City.

(Ord. 82-2. Passed 5-19-82.)

808.99 PENALTY.

(EDITOR'S NOTE: See Section 202.99 of the Administration Code for the general Code penalty if no specific penalty is provided.)