

CODIFIED ORDINANCES OF GRAND BLANC

PART EIGHT - BUSINESS REGULATION AND TAXATION CODE

TITLE TWO - Business Regulation

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- Chap. 810. Drive-In Restaurants.
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CHAPTER 802
Businesses in General

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CROSS REFERENCES

- Control of outdoor advertising by home rule municipalities - see M.C.L.A.
 Sec. 117.4i
 Coordinated collection of State license fees - see M.C.L.A. Sec. 205.1
 Liability insurance for municipalities - see M.C.L.A. Sec. 691.1409
 Advertising devices - see S.U. & P.S. 1024.04
 Signs in business districts - see B. & H. 1480.05

802.01 APPLICATION OF CHAPTER.

This chapter shall govern the licensing of the various trades, businesses and professions regulated in this Title Two of Part Eight - the Business Regulation and Taxation Code, except to the extent that the same are governed by other provisions in this Title Two.

802.02 LICENSES REQUIRED.

A license is required for the maintenance, operation and conduct of any business or establishment, or for doing business or engaging in any activity or occupation, by any person if, by himself or herself or through an agent, employee or partner, he or she holds himself or herself forth as being engaged in any business or occupation, solicits patronage therefor, actively or passively, or performs or attempts to perform any part of any business or occupation in the City. (Ord. 72. Passed 1-12-72.)

802.03 LICENSE APPLICATIONS.

Applications for all licenses required by this chapter shall be made in writing to the City Clerk, in the absence of provisions to the contrary. Each application shall state the name of the applicant, the license desired, the location where the same is proposed to be used, if any, and the time for which such license is desired. Each application shall contain such additional information as may be needed for the proper guidance of City officials in the issuance of the license applied for.

(Ord. 72. Passed 1-12-72.)

802.04 FORMS.

Forms for all licenses and applications therefor shall be prepared and kept on file by the City Clerk. (Ord. 72. Passed 1-12-72.)

802.05 SIGNATURES OF MAYOR AND CITY CLERK.

Each license issued shall bear the signatures of the Mayor and the City Clerk in the absence of any provision to the contrary.

(Ord. 72. Passed 1-12-72.)

802.06 INSPECTIONS AND INVESTIGATIONS.

Upon receipt of an application for a license where ordinances of the City necessitate an inspection or investigation before the issuance of such license, the City Clerk shall refer such application to the proper officer for making such investigation within forty-eight hours of the time of such receipt. The officer charged with the duty of making the investigation or inspection shall make a report thereon, favorable or otherwise, within ten days after receiving the application or a copy thereof. The Health Officer shall make or cause to be made an inspection, for the protection of health, in regard to licenses in connection with the care and handling of food, the prevention of nuisances and the spread of disease. The Building Inspector shall make or cause to be made inspections relative to the construction of buildings or other structures. All other investigations, except where otherwise provided, shall be made by the Chief of Police or

by some other officer designated by the Mayor.
(Ord. 72. Passed 1-12-72.)

802.07 LICENSE FEES.

A fee of five dollars (\$5.00) shall be paid at the time an application for a license is made to the City Clerk. Except as otherwise provided, all license fees shall become a part of corporate funds.
(Ord. 72. Passed 1-12-72.)

802.08 LICENSE EXPIRATION.

All licenses shall terminate on March 1 of the year following their date of issuance. The City Clerk shall mail to all licensees of the City a statement of the time of expiration of the license held by the licensee, three weeks prior to the date of such expiration. However, failure to send out such notice, or failure of the licensee to receive it, shall not excuse the licensee from failure to obtain a new license or a renewal thereof, nor shall it be a defense in an action for operation without a license.
(Ord. 72. Passed 1-12-72.)

802.09 COMPLIANCE OF BUILDINGS AND PREMISES WITH CITY REGULATIONS AND ZONING CODE.

No license shall be issued for the conduct of any business, and no permit shall be issued for any thing or act, if the premises and building to be used for such business, thing or act do not fully comply with the requirements of the City. No such license or permit shall be issued for the conduct of any business or for the performance of any act which would involve a violation of the Zoning Code.
(Ord. 72. Passed 1-12-72.)

802.10 CHANGE OF LOCATION.

The location of any licensed business or occupation, or of any permitted act, may be changed, provided that ten days notice thereof is given to the City Clerk, in the absence of any provision to the contrary, and provided, further, that the building, zoning and frontage requirements of the ordinances of the City are complied with.
(Ord. 72. Passed 1-12-72.)

802.11 NUISANCES.

No business, licensed or not, shall be so conducted or operated as to amount to a nuisance in fact.
(Ord. 72. Passed 1-12-72.)

802.12 RIGHT OF ENTRY; ANALYSIS OF COMMODITIES OR MATERIALS.

(a) Whenever inspections of premises used for or in connection with the operation of a licensed business or occupation are provided for or required by ordinance, or are reasonably necessary to secure compliance

with any ordinance provision or to detect violations thereof, the licensee or the person in charge of the premises to be inspected shall admit thereto, for the purpose of making the inspection, any officer or employee of the City who is authorized or directed to make such inspection at any reasonable time that admission is requested.

(b) Whenever an analysis of any commodity or material is reasonably necessary to secure conformity with any ordinance provision or to detect violations thereof, the licensee whose business is governed by such provision shall give to any authorized officer or employee of the City requesting the same sufficient samples of such material or commodity for such analysis.

(c) In addition to any other penalty which may be provided, the Mayor may revoke the license of any licensed proprietor of any licensed business in the City who refuses to permit any such officer or employee to make such inspection or to take such sample, or who interferes with such officer or employee while in the performance of his or her duty in making such inspection or in taking such sample. However, no license shall be revoked for such cause unless written demand is made upon the licensee or person in charge of the premises, in the name of the City, stating that such inspection or sample is desired at the time it is sought to make the inspection or to obtain the sample.

(Ord. 72. Passed 1-12-72.)

802.13 REVOCATION OF LICENSES OR PERMITS.

Any license or permit for a limited time may be revoked by the Mayor at any time during the life of such license or permit for a violation by the licensee or permittee of any of the ordinance provisions relating to the license or permit, the subject matter of the license or permit or the premises occupied. Such revocation may be in addition to any fine imposed.

(Ord. 72. Passed 1-12-72.)

802.14 APPLICATION TO EXISTING BUSINESSES.

Any person doing business, as defined in Section 802.01, on the date this chapter becomes effective (Ordinance 72, passed January 12, 1972) shall comply with this chapter not later than March 1, 1972.

(Ord. 72. Passed 1-12-72.)

802.15 POSTING OF LICENSES.

Any person conducting a licensed business in the City shall keep his or her license posted in a prominent place on the premises used for such business at all times.

(Ord. 72. Passed 1-12-72.)

802.16 ADULT ATTENDANTS REQUIRED.

(a) No business, whether licensed or not, shall be conducted or operated between 9:00 p.m. and 8:00 a.m. of the following day unless there is an adult attendant in charge of the premises during such hours. An adult is defined as a person eighteen years of age or older.

(b) The Chief of Police shall enforce this section and shall cause such inspections to be made of the premises as may be necessary for this purpose.
(Ord. 31. Passed 5-26-65.)

802.99 PENALTY.

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

CHAPTER 806
Cable Communications Systems

EDITOR'S NOTE: This chapter, formerly a codification of Ordinance 168, passed November 11, 1985, was repealed and re-enacted in its entirety upon the adoption of Ordinance passed September 5, 2001, codified herein.

806.01	Agreement.	806.12	Defaults.
806.02	Definitions.	806.13	Remedies.
806.03	Grant of rights.	806.14	Provision of information.
806.04	Public ways.	806.15	General.
806.05	Customer service.	Appendix A.	FCC customer rules as modified by franchise.
806.06	Access to the system.	Appendix B.	Guarantee in lieu of bond.
806.07	Indemnity and insurance.	Appendix C.	FCC definition of control.
806.08	Fees and payments.	Appendix D.	Shared EG channel information.
806.09	Rates and regulation.	Appendix E.	Sample contract for PEG channel.
806.10	Term.		
806.11	Transfers, ownership and control.		

CROSS REFERENCES

Utilities generally - see CHTR. Chs. 22, 23

Franchises - see CHTR. Ch. 23

Construction and maintenance of facilities - see M.C.L.A. Secs. 22247.183 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

Telecommunications systems and services - see B.& H. Ch. 1486

806.01 AGREEMENT.

The provisions of this chapter constitute an Agreement entered into as of September 1, 2001, by and between the City (hereinafter referred to as "Municipality") and Comcast Cablevision Corporation, a Michigan corporation, authorized to do business at 29777 Telegraph Road, Southfield Michigan (hereinafter referred to as "Company").
(Ord. Unno. Passed 9-5-01.)

806.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- (a) " Additional insureds" shall have the same meaning as "indemnitees" in Section 806.07(b).

- (b) "Affiliate" (and its variants) means any entity controlling, controlled by or under common control with the entity in question.
- (c) "Authorized area" means the entire area from time to time within the corporate limits of Municipality, excluding, however, all areas that are within such limits solely due to agreements executed under the authority of Michigan Act 425 of 1984 unless such agreements expressly reference cable services, cable systems or the cable television business.
- (d) (1) "Cable gross revenues" or "gross revenues" means all of the amounts earned or accrued by Company, or an entity in any way affiliated with the Company, in whatever form and from all sources derived from the operation of the cable system within the authorized area or Company's provision of cable services within the authorized area; provided, however, that revenue derived from the provision of cable modem service shall be included in cable gross revenues only to the extent that such services continue to be considered cable services under governing federal law.
- (2) "Cable gross revenues" shall include without limitation all subscriber and customer revenues earned or accrued, including revenues for basic cable services; additional tiers; premium services; pay per view; program guides; installation, disconnection or service call fees; fees for the provision, sale, rental, or lease of converters, remote controls, additional outlets and other customer premises equipment; franchise fees paid by subscribers; and revenues and compensation from home shopping programming.
- (3) Advertising revenues and other revenues whose source cannot be identified with a specific subscriber shall be allocated to Municipality based upon the percentage of subscribers residing in Municipality compared to that served from the head-end serving Municipality.
- (4) "Cable gross revenues" shall exclude:
- A. Uncollected accounts during the period, computed on a fair basis consistently applied;
 - B. Revenues derived from services delivered to Municipality, if any;
 - C. Taxes collected for direct pass-through on behalf of a government agency; and
 - D. Revenue received from an affiliate to lease portions of the cable system where that affiliate is separately authorized to occupy the right-of-way.
- (e) "Cable modem service" means services such as the RoadRunner™ or @Home™ services which are provided over a cable system through means of a modem which converts the service from the electronic format necessary to transmit the service through the cable system wires into an electronic format that can be transmitted to a customer's computer.
- (f) "Cable services" means:
- (1) The one-way transmission to subscribers of video programming or other programming services; and

- (2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service (where "video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station).
- (g) "Cable television business" means the provision by the Company of cable services solely by means of the cable system.
- (h) "Cable system" or "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 services which is provided to multiple subscribers within the authorized area, but such term does not include:
 - (1) A facility that serves only to re-transmit the television signals of one or more television broadcast stations;
 - (2) A facility that serves subscribers without using any public right-of-way;
 - (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such a facility shall be considered a cable system (other than for purposes of Section 621(c) of such Act) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
 - (4) An open video system that complies with Section 653 of Title VI of the Communications Act of 1934, as amended; or
 - (5) Any facilities of any electric utility used solely for operating its electric utility system.
- (i) "Company" shall have the meaning set forth in Section 806.01.
- (j) "Drop" means the cable or wire that connects the distribution portion of a cable system to a customer's premises.
- (k) "Effective date" shall have the meaning set forth in Section 806.15.
- (l) "Event of default" shall have the meaning defined in Section 806.12.
- (m) "FCC" means Federal Communications Commission.
- (n) "Flint metropolitan area" means the City of Burton, Grand Blanc Charter Township, the City of Mount Morris, the City of Grand Blanc, the City of Flushing, Flint Charter Township, Mount Morris Township, Genesee Charter Township, the City of Clio, Vienna Charter Township, Flushing Township, the City of Swartz Creek, Mundy Township, the Village of Holly, Holly Township, the City of Flint, Rose Township, Richfield Township, and Gaines Township.
- (o) "Franchise" or "franchise agreement" shall mean this document.
- (p) "Franchise fee" means the fee set forth in Section 806.08.
- (q) "Municipality" shall have the meaning set forth in Section 806.01.
- (r) "Normal business hours" shall have the meaning set forth in Section 806.05.
- (s) "PEG channel operator" means a person authorized by Municipality to administer and operate a PEG channel and shall include Municipality. If several persons share the administration and operation of a PEG channel each person shall be a separate PEG channel operator.

- (t) "PEG channels" shall have the meaning set forth in Section 806.06.
- (u) "Public ways" means all dedicated public rights-of-way, streets, highways, and alleys. "Public ways" shall not include property of Municipality which is not a dedicated public right-of-way, street, highway, or alley.
- (v) "System" shall have the same meaning as "cable system".
- (w) "Telecommunications service" means the offering of telecommunications directly to the public, or to such classes of users as to be effectively available directly to the public, regardless of the facilities used, where the term "telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received. "Telecommunications services" shall not include cable services.
- (x) "Uncured event of default" shall have the meaning defined in Section 806.12.
(Ord. Unno. Passed 9-5-01.)

806.03 GRANT OF RIGHTS.

(a) Permission/Franchise.

- (1) Subject to all the terms and conditions contained in this franchise, the charter of Municipality and applicable ordinances of Municipality as from time to time in effect, Municipality hereby grants Company permission to erect, construct, install, and maintain a cable system to provide cable services (including cable modem service so long as it is considered a cable service under applicable law) in the authorized area and to transact a cable television business in such area. Company agrees, subject to its right to transfer the cable system set forth in Section 806.11, throughout the term of this franchise agreement to:
 - A. Erect, construct, install and maintain such a cable system; and
 - B. Transact such a cable television business in the authorized area.
- (2) This franchise may be amended by mutual agreement to allow the provision of such additional services as may be agreed to by Company and Municipality, or permission for the provision of additional services may be granted by a separate document.

(b) Nonexclusive. This franchise and all rights granted hereunder are nonexclusive. Municipality reserves the right to grant such other and future franchises as it deems appropriate. This franchise does not establish any priority for the use of the public rights-of-way by Company or by any present or future franchisees or other permit holders. In the event of any dispute as to the priority of use of the public rights-of-way the first priority shall be to the public generally, the second priority to Municipality in the performance of its various functions, and thereafter, as between franchisees and other permit holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

(c) Universal Service. Company shall provide cable services to any and all persons requesting same at any location within the authorized area. Due to the density of population within Municipality, Company agrees not to impose on any subscriber located within Municipality any line extension charge or comparable charge for extending Company's cable system to the subscriber's location.

(d) Channels. Company shall make a minimum of 75 activated and programmed channels available to subscribers in Municipality, but not less than the minimum number of channels which Company agrees in writing to provide to other municipalities in the Flint Metropolitan Area.

(e) Emergencies. Municipality may remove or damage the cable system in the case of fire, disaster, or other emergencies threatening life or property. In such event neither Municipality nor any agent, contractor or employee thereof shall be liable to Company or its customers or third parties for any damages caused them or the cable system, such as for, or in connection with, protecting, breaking through, moving, removal, altering, tearing down, or relocating any part of the cable system.

(f) Alert System. The cable system shall include an emergency alert system ("EAS") as prescribed by FCC and the Cable Television Consumer Protection and Competition Act of 1992, as amended. Company shall transmit on such system Federal, State and local EAS messages. Municipality and Company will agree on the procedures for Municipality to follow to expeditiously use such system in the event of an emergency.

(g) Compliance with Applicable Law. In constructing, maintaining, and operating the cable system, Company will act in a good and workmanlike manner, observing high standards of engineering and workmanship and using materials which are of good and durable quality. Company shall comply in all respects with all applicable codes, including the National Electrical Safety Code (latest edition); National Electric Code; all standards, practices, procedures and the like of the National Cable Television Association; the requirements of utilities whose poles and conduits it uses; and all applicable Federal, State, and local laws.

(h) Maintenance and Repair. Company shall keep and maintain a proper and adequate inventory of maintenance and repair parts for the cable system and a workforce of skilled technicians for its repair and maintenance.

(i) Easement Usage. To the extent allowed by applicable State and Federal law, this franchise agreement authorizes the construction of the cable system over public ways, and through easements, within the authorized area and which have been dedicated for compatible uses, subject to the requirements in the balance of this section. In using all easements, Company shall comply with all Federal, State, and local laws and regulations governing the construction, installation, operation, and maintenance of a cable system. Without limitation, Company shall ensure that:

- (1) The safety, functioning and appearance of the property and the convenience and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for the cable system;
- (2) The cost of the installation, construction, operation, or removal of such facilities be borne by Company; and
- (3) The owner of the property be justly compensated by Company for any damages caused by the installation, construction, operation, or removal of such facilities by Company.

(j) Other Permits.

- (1) This franchise does not relieve Company of the obligation to obtain permits, licenses and other approvals of general applicability from Municipality necessary for the construction, repair or maintenance of the cable system or provision of cable services or compliance with other municipal codes, ordinances and permissions, such as compliance with right-of-way permits, building permits and the like.
- (2) Prior to performing any work in the public ways (or having such work done on its behalf) Company will obtain any necessary permit for same from Municipality.
- (3) This franchise does not constitute a municipal grant of the permit which may be required by Michigan law for access to and the ongoing use of rights-of-way, easements, and public places by certain providers of telecommunications services. Any permit which may be required by Act No. 216 of the Public Acts of 1995 or other Michigan law must be obtained separately from Municipality.

(k) Street Cut Identification. Company shall notify Municipality in writing of the exact location of each cut made by it or on its behalf in the surface of any paved street. (Ord. Unno. Passed 9-5-01.)

806.04 PUBLIC WAYS.

(a) [Reserved for future legislation]

(b) No Burden on Public Ways. Company shall not erect, install, construct, repair, replace or maintain its cable system in such a fashion as to unduly burden the present or future use of the public ways. If Municipality in its reasonable judgment determines that any portion of the cable system is an undue burden, Company at its expense shall modify its system or take such other actions as Municipality may determine are in the public interest to remove or alleviate the burden, and Company shall do so within the time period reasonably established by Municipality.

(c) Minimum Interference. The cable system shall be erected and maintained by Company so as to cause the minimum interference with the use of the public ways and with the rights or reasonable convenience of property owners who adjoin any of the public ways.

2002 Replacement

(d) Restoration of Property.

- (1) Company shall immediately restore at its sole cost and expense, in a manner approved by Municipality, any private property or portion of the public ways that is in any way disturbed by the construction, operation, maintenance or removal of the cable system to as good or better condition than that which existed prior to the disturbance, and shall at its sole cost and expense immediately restore and replace any other property, real or personal, disturbed, damaged or in any way injured by or on account of Company or by its acts or omissions, to as good or better condition as such property was in immediately prior to the disturbance, damage or injury. Such a restoration shall start promptly but no more than 15 days from Company creation of the problem in question.
- (2) Company shall promptly reimburse Municipality for the cost of Municipality repairing any Municipal property harmed by Company (should Municipality choose to conduct such repairs at its expense). In such event the amounts due and owing Municipality shall increase by one and one-half percent per month starting with the second month after Company being invoiced for the cost of such repair.

(e) Relocation of Facilities. Company shall at its own cost and expense, protect, support, disconnect or remove from the public ways any portion of the cable system when required to do so by Municipality due to street or other public excavation, construction, repair, grading, regrading or traffic conditions; the installation of sewers, drains, water pipes, or municipally-owned facilities of any kind; or the vacation, construction or relocation of streets or any other type of structure or improvement of a public agency or any other type of improvement necessary for the public health, safety or welfare.

(f) Emergency Notification. Company shall provide Municipality with a 24 hour emergency telephone number at which a named responsible adult representative of Company (not voice mail or a recording) can be accessed in the event of an emergency.

(g) Private Property. Company shall be subject to all laws and regulations regarding private property in the course of constructing, installing, operating or maintaining the cable system in Municipality. Company shall comply with all zoning and land use restrictions as may hereafter exist or may hereafter be amended.

(h) Underground Facilities. Company's cable, wires and other equipment shall be placed at least two feet underground wherever existing utilities are underground. If Municipality in the future requires that, in a specific area or areas of Municipality, utilities shall place their cables, wires, or other equipment at least two feet underground, then Company also shall place its existing and its future cables, wires, or other equipment

underground within a reasonable period of time, not to exceed six months, of notification by Municipality and without expense or liability therefor to Municipality. In those developing areas where underground facilities are required and meet the standards, Company shall install the necessary cables, wires or other equipment at the same time and utilize the same trenches as other utility companies, such as telephone or electric utilities. All underground cable plant shall maintain at least a six foot separation from water mains or sewer mains unless a lesser separation is approved by Municipality.

(i) New Developments. Company shall install its cable system (excluding only drops to individual dwelling units) in all new subdivisions and developments (which, when fully developed will meet the standards) on the date on which electric or telephone facilities are installed in such subdivision or development unless Company is not notified of the subdivision or development. After cable system installation, Company shall be capable of providing cable service to any dwelling unit in such subdivision or development solely by the construction of a drop to the subscriber premises when such dwelling unit is constructed. Company shall be required to comply with the preceding provisions only if it either receives adequate prior notice of the availability of an open common trench or had an opportunity to attend the preconstruction meeting for the subdivision or development in question.

(j) Temporary Relocation. Upon 15 business days notice, Company shall temporarily raise or lower its wires or other equipment upon the request of any person including without limitation, a person holding a building moving permit issued by Municipality. Company may charge a reasonable rate, paid in advance, for this service not to exceed its actual direct costs.

(k) Vacation. If a street or public way where Company has facilities is vacated, eliminated, discontinued or closed, Company shall be notified of same and all rights of Company under this franchise agreement to use same shall terminate and Company shall immediately remove the cable system from such street or public way unless Company obtains all necessary easements from the affected property owners to use the former street or public way or a court orders the provision of such easements. Where reasonably possible and to the extent consistent with the treatment of other utility facilities in the former street or public way, Municipality shall reserve easements for Company to continue to use the former street or public way. Company shall bear the cost of any removal or relocation of the cable system unless the vacation is primarily for the benefit of a private party, in which case the private party shall bear such costs. Company shall be provided 30 days notice of any proposed vacation proceedings involving its facilities.

(l) Discontinuance and Removal of the Cable System. Upon the revocation, termination, or expiration of this franchise, unless an extension is granted, Company shall immediately (subject to the notice provision of Section 806.15(b)) discontinue the provision of cable services and all rights of Company to use the public ways shall cease. Company,

at the direction of Municipality, shall remove its cable system, including all supporting structures, poles, transmission and distribution system and other appurtenances, fixtures or property from the public ways, in, over, under, along, or through which they are installed within six months of the revocation, termination, or expiration of this franchise. Company shall also restore any property, public or private, to the condition in which it existed prior to the installation, erection or construction of its cable system, including any improvements made to such property subsequent to the construction of its cable system. Restoration of Municipal property, including, but not limited to, the public ways shall be in accordance with the directions and specifications of Municipality, and all applicable laws, ordinances and regulations, at Company's sole expense. If such removal and restoration is not completed within six months after the revocation, termination, or expiration of this franchise, all of Company's property remaining in the affected public ways shall, at the option of Municipality, be deemed abandoned and shall, at the option of Municipality, become its property or Municipality may obtain a court order compelling Company to remove same. In the event Company fails or refuses to remove its cable system or to satisfactorily restore all areas to the condition in which they existed prior to the original construction of the cable system, Municipality, at its option, may perform such work and collect the costs thereof from Company. No surety on any performance bond nor any letter of credit shall be discharged until Municipality has certified to Company in writing that the cable system has been dismantled, removed, and all other property restored, to the satisfaction of Municipality.

(m) Underground Street Crossing.

- (1) Whenever Company must place the cable system or other facilities beneath the traveled or paved portion of the streets or public ways, unless otherwise approved in advance by Municipality, Company shall do so by boring (directional or otherwise) and not by excavation of a trench in which to place cable conduit. Boring (directional or otherwise) shall be done wherever possible so that the excavations necessary for it are not in the paved portion of the right-of-way.
- (2) If Company does a bore (directional or otherwise) underneath a street or public way, then Company will notify Municipality at least two weeks in advance of same. If Municipality so desires, Company will then increase the size of the bore (directional or otherwise) with Municipality to pay only the incremental cost of making the bore (directional or otherwise) larger. Municipality (but not third parties unless approved by Company) may then use any additional space or capacity created by increasing the size of the bore (directional or otherwise) without additional charge or expense.

(n) Tree Trimming. Company may trim trees upon and overhanging the public ways so as to prevent the branches of such trees from coming into contact with the cable system. Company shall minimize the trimming of trees to trimming only those trees which are

essential to maintain the integrity of the system. No trimming shall be performed in the public ways without previously informing Municipality at least two weeks in advance. All trimming of trees, except in an emergency, on public property shall have the prior approval of Municipality and except in an emergency all trimming of trees on private property shall require the consent of the property owner.

(o) As-Builts/Location of Facilities. Company shall keep accurate, complete and current maps and records of the cable system and its facilities and shall provide copies to Municipality as set forth below.

- (1) Company shall furnish two complete sets of "as-built" maps and records to Municipality and Company shall provide Municipality copies of any new or revised "as-built" or comparable drawings as and if they are generated for portions of Company's facilities located within Municipality (and in no event later than 90 days after construction (or reconstruction) and activation of any portion of the cable system). Upon request by Municipality in an emergency, Company as soon as possible (but no more than one business day from the request) shall inform Municipality of any changes from such maps and records previously supplied and shall mark up any maps provided by Municipality so as to show the location of the cable system.
- (2) The "as-built" maps shall include at a minimum all system and facility routings and shall be drawn to a scale and upon such media as required by the Manager.
- (3) Within two years of the effective date, Company shall develop a geographical information system (GIS) compatible layer, using a program and format which accurately displays its "as-built" cable system. This layer shall be kept current continuously, updated at least quarterly. The GIS layer, including but not limited to, all databases, plots and computer discs shall be provided to Municipality, upon request, in a standardized, non-proprietary format at no cost to Municipality. In addition, Company shall provide information and assistance on the GIS program it is using and its implementation so as to aid Municipality in converting the layer into a form easily used by Municipality and in using the layer.
- (4) On or before the effective date, Company shall deliver to Municipality a current complete set of as-built maps and records.

(p) Engineering Matters.

- (1) Company shall provide Municipality with a named responsible adult representative of Company (not voice mail or a recording) to be contacted on engineering and right of way related matters.
- (2) Company shall attend all preconstruction meetings when notified of same by Municipality.
(Ord. Unno. Passed 9-5-01.)

806.05 CUSTOMER SERVICE.

(a) Negative Options. Company will not engage in the practice of "negative option" marketing and will not charge a subscriber for any optional, a la carte or premium service or equipment which the subscriber has not affirmatively requested.

(b) Customer Service Standards. Company will comply with the customer service rules of the FCC as in effect on the effective date with the following modifications:

- (1) "Normal business hours" therein shall mean 24 hours a day, seven days a week for telephone service availability, and at least 8:00 a.m. to 5:00 p.m., Monday through Friday, plus weekend or evening hours, for local office hours.
- (2) In 47 C.F.R ' 76.309 subsection (c)(2)(ii) on service calls "promptly" is changed to "the same day service is requested (for requests made prior to 3:00 p.m.)" and in the second sentence "the same day service is requested (for requests made prior to 3:00 p.m.)" is added after "service problems" and "(for requests made after 3:00 p.m. on the previous day)" is added at the end.
- (3) A copy of the FCC Customer Service Rules modified to reflect the preceding changes is shown in Appendix A.

(c) Reservation. Municipality reserves the right by ordinance to alter or amend the customer service and consumer protection matters set forth in this section, including adopting ordinances stricter than or covering items not presently set forth in this section. Company reserves the right to object to any such ordinance and nothing contained herein shall be read as advance consent by Company to such modifications. Municipality agrees to meet with Company on the matters in question prior to taking such action, and to provide Company with at least two months notice of such action.

(d) Free Service. During the term of this franchise, Company will provide the following free service:

- (1) Company will provide without any installation charge or monthly charge one free outlet at each Municipal building, in each public library and each public school and college in the authorized area. If requested, Company will add additional outlets at the preceding facilities (such as to some or all classrooms and auditoriums, but not to dormitories) and will do so at its standard hourly service charge. Such outlets shall be used only for cable TV purposes. Except as set forth in division (d)(3) of this section, none of the preceding entities receiving service shall be charged any fee during the term of this franchise for those channels comprising basic service or any expanded basic service. No channels may be resold.

- (2) In addition, one service outlet (which shall be at Municipality's City/Township hall) shall receive without charge all video programming provided by Company whether of a premium, pay-per-view or other nature. Such service shall be provided in such a manner that Municipality may monitor the programming and use of the cable system for compliance with this franchise agreement, FCC technical standards, and other applicable law. The services provided according to the preceding sentences shall be in an office location and not in a location conducive to public viewing.
- (3) For the preceding facilities, if the drop to the facility is more than 200 feet, the owner of the facility will be charged only the incremental cost for drops or line extensions beyond 200 feet. Drops or installations of less than 200 feet shall be free for the preceding facilities.

(e) Access to Service. Company shall not deny service, deny access, or otherwise discriminate on the availability or rates, terms or conditions of cable services provided to subscribers on the basis of race, color, creed, religion, ancestry, national origin, sex, disability, age, familial status, marital status, location within Municipality, or status with regard to public assistance. Company shall comply at all times with all applicable Federal, State and local laws and regulations relating to nondiscrimination. Company shall not deny or discriminate against any group of actual or potential subscribers in Municipality on access to or the rates, terms and conditions of cable services because of the income level or other demographics of the local area in which such group may be located.

(f) Programming Lockout. Company shall provide all subscribers with the option of obtaining a device by which the subscriber can prohibit the viewing of a particular cable service during periods selected by the subscriber.

(g) Pay-Per-View. Subscribers shall be given the option of not having pay-per-view or per program service available at all or only provided upon the subscriber providing a security number selected by an adult representative of the subscriber.

(h) Blocking. Upon request by a subscriber, and within a reasonable period of time, for a fee Company shall use a notch filter or equivalent to block such subscriber from receiving both the audio and video portions (even though this may create problems on adjacent channels) of a channel on which programming is provided on a per program or pay per view basis.

(i) Municipal Contacts. Company shall provide a separate phone number and management level person at Company for Municipality to contact. Such person and number shall be for the use of Municipality and not for the general public. Any such calls shall be returned within one business day. On any complaints registered by Municipality to such person Company shall within three business days provide Municipality in writing its plan for resolution of such complaint.

(j) Credit. If for any reason within Company's control, service on all channels is interrupted for a period in excess of 24 hours then Company shall, upon request from a subscriber, credit the subscriber's account for the period of interrupted service.

(k) Office/Phone.

- (1) Company shall maintain an office to serve the purpose of paying bills; receiving and responding to requests for service; receiving and resolving customer complaints regarding cable service, equipment malfunctions, billing and collection disputes; and similar matters. Such office shall be located within ten miles of Company's existing facility at 3008 Airpark Drive, Flint, or at such other location as Municipality and Company shall from time to time agree. Company shall have a local telephone number or toll-free telephone number for use by subscribers toll-free 24 hours per day, seven days per week. The office of Company shall be open to receive inquiries or complaints in person or by telephone during normal business hours.
- (2) Upon request, Company shall provide reports to Municipality quarterly showing on a consistent basis, fairly applied, the number of telephone calls received by Company and in addition measuring Company's compliance with the standards of FCC Rules 76.309 (c)(1)(ii) and (iv), and 76.309 (c)(2)(i), (ii), and (iv) (a copy of the current Rules are as shown in Appendix A). Such report shall show Company's performance, excluding periods of abnormal operating conditions, and if Company contends any such conditions occurred during the period in question, it shall also describe the nature and extent of such conditions and show Company's performance including the time periods such conditions were in effect.

(l) Continuity of Service. Company shall interrupt service only with prior notice to subscribers, good cause and for the shortest time possible except:

- (1) In emergency situations;
- (2) As required by the FCC; and
- (3) Service may be interrupted between 1:00 a.m. and 5:00 a.m. for routine testing, maintenance and repair, without notification. In the event of a system upgrade, Company shall both minimize any interruptions in service caused by the upgrade, and shall meet with Municipality in advance to advise Municipality of the nature, geographic extent and duration of any interruptions and obtain and where possible respond to Municipality's comments on same. Company shall credit subscribers on a pro rata basis for services not received during an interruption.

(m) Log of Complaints. Company shall maintain a written log of all subscriber complaints or an equivalent stored in computer memory and capable of access and reproduction in printed form of all subscriber complaints. Such log shall list the date and time of such complaints, identifying (to the extent allowed by law) the subscribers and describing the nature of complaints and when and what actions were taken by Company in response thereto. Such log shall be kept at Company's local office reflecting the operations to date for a period of at least three years, and shall be available for Municipality's inspection during normal business hours. Upon request, Company shall provide Municipality with a copy of the log or summary of it.

(n) [Reserved for future legislation]

(o) Identification. All service personnel of Company or its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing their name and photograph. Company shall account for all identification cards at all times. Every service vehicle of Company, its contractors and subcontractors shall be clearly identified as working for Company, such as by magnetic door signs.

(p) Disconnection.

- (1) Company may only disconnect a subscriber if at least 45 days have elapsed after the due date for payment of the subscriber's bill and Company has provided at least ten days written notice (such as in a bill) to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection; provided, however, notwithstanding the foregoing, Company may disconnect a subscriber at any time if Company in good faith and on reasonable grounds determines that the subscriber has tampered with or abused Company's equipment; or is or may be engaged in the theft of cable services; or that the subscriber's premises wiring violates applicable FCC standards. Company may not disconnect a subscriber for failure to pay amounts due to a bona fide dispute as to the correct amount of the subscriber's bill.
- (2) Company shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to requested termination of service may be required to subscribers by Company. No charge may be imposed upon the subscriber for any cable service delivered after the effective date of the disconnect request. Except for pay-per-view services, if the subscriber fails to specify an effective date for disconnection the effective date shall be deemed to be the day following the date the disconnect request is received by Company.

(q) Late Payment.

- (1) Each bill shall specify on its face in a fashion emphasizing same (such as bold face type, underlined type or a larger font) the date after which a late payment charge (however denominated or described), if any, shall be added to the subscriber's bill.
- (2) No late payment charges, however denominated, shall be added to a subscriber's bill less than 21 calendar days after the mailing of the bill to the subscriber.
- (3) All cable payment charges shall be separately stated on the subscriber's bill and include the word "late" (or synonym denoting lack of timeliness in payment) in the description of them.
- (4) Late payment charges imposed by Company upon subscribers shall be reasonably related to Company's cost of administering and collecting delinquent accounts.

(r) Privacy and Monitoring. Neither Company and its agents nor Municipality and its agents shall tap or monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, without the written authorization of the affected subscriber. Such authorization shall be revocable at any time by the subscriber without penalty by delivering a written notice of revocation to Company; provided, however, that Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps or billing.

(s) Subscriber Information. Company shall comply with the provisions of Federal law regarding recording and retaining subscriber information.

(t) FCC Technical Standards. Company shall meet or exceed the FCC's technical standards that may be adopted from time to time.

- (1) Upon request, Company shall provide Municipality with a report of such testing.
- (2) Company shall establish the following procedure for resolving complaints from subscribers about the quality of the television signal delivered to them. All complaints shall go initially to a customer service representative and then to the manager of Company's local office for resolution within ten days. If not resolved at that level, they shall be referred to Municipality and then to the FCC.
- (3) Municipality at its expense and with notice to Company may test the cable system in cooperation with Company for compliance with the FCC technical standards once per year and more often if there are a significant number of subscriber complaints. Company shall reimburse Municipality for the expense of any test (not to exceed five thousand dollars (\$5,000) per calendar year for tests) which shows a material noncompliance with such standards (but not a noncompliance disclosed by Company in the report it provides Municipality).

(u) Backup Power.

- (1) Company shall install an electric generator which starts automatically in the event of loss of conventional power to provide electric service to the cable system head-end and associated equipment in the event of a power failure. Company shall also provide battery backup power (or an electric generator) at all other locations on Company's cable system where the loss of electric power might disrupt the provision of cable service within Municipality such that the cable system and each portion of it shall operate for at least four hours even if electric service from conventional utility lines is interrupted.
- (2) Company or an affiliate may not use a permanent or semi-permanent internal combustion engine (such as a gasoline or natural gas powered electric generator) located in the streets or public ways to provide backup power at any point or points on the cable system without Municipality's prior written approval. The preceding sentence does not apply to such engines located inside buildings or on land owned by Company or an affiliate. Municipality's approval may be granted subject to conditions, such as relating to testing times (e.g., not in the middle of the night), screening, noise levels, and temperature and safe discharge of hot exhaust gases.

(v) Undergrounding. If a subscriber requests underground cable service, Company may, in addition, charge any subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where undergrounding is required by Municipality's ordinance or policy. If Municipality's ordinance or policy requires a new subscriber to have underground cable service, Company may charge its normal installation fee.

(w) Bond.

- (1) Company shall provide Municipality no later than 30 days after the acceptance of this franchise, a performance bond from a security company meeting the standards of Section 806.10 in the amount of twenty thousand dollars (\$20,000) in form reasonably acceptable to Municipality as security for the faithful performance by Company of the provisions of this agreement, and compliance with all orders, permits and directions of any agency of Municipality having jurisdiction over its acts or defaults under this franchise, and the payment of Company of any claims, liquidated damages, liens or taxes due Municipality which arise by reason of the construction, operation, maintenance or repair of the cable system or provision of cable services.

- (2) The condition of such bond should be that if Company fails to make timely payment to Municipality or its designee of any amount or sum due under this franchise; or fails to make timely payment to Municipality of any taxes due; or fails to repay to Municipality within ten days of written notification that such repayment is due, any damages, costs or expenses which Municipality shall be compelled to pay by reason of any act or default of Company in connection with this franchise; or fails, after 30 days notice of such failure from Municipality, to comply with any provisions of this franchise which Municipality reasonably determines can be remedied by an expenditure of the money (including, without limitation, the assessment of liquidated damages), then Municipality may demand and receive payment under such bond.
- (3) In lieu of providing a bond, Company may provide a guarantee from an entity acceptable to Municipality substantially in the form set forth in Appendix B.
- (4) The rights reserved by Municipality with respect to this section, are in addition to all other rights of Municipality whether reserved by this franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such articles shall affect any other rights Municipality may have, except that Municipality shall not be entitled to multiple remedies for the same violation.

(x) Notice. If Company or its affiliates contend that Company (or an affiliate) is permitted to provide any telecommunications service or non-cable service in Municipality on the basis of or as the result of this franchise agreement, in whole or in part, then Company shall give written notice of same to Municipality at least 60 days before offering any such services in Municipality.

(y) Internet/Cable Modem Service.

- (1) Company will not prevent subscribers utilizing the cable system for internet or cable modem service from:
 - A. Communicating with persons of the subscriber's choice;
 - B. Sending and receiving information of the subscriber's choice; and
 - C. Accessing and using web sites of the subscriber's choice.This section shall not extend to any communications, information or service which is not protected by the First Amendment to the U.S. Constitution.
- (2) Municipality and Company have negotiated without reaching agreement with respect to so-called "open access" for internet service providers and certain related issues. The parties reserve their claims and contentions with respect to these issues.

(z) Liquidated Damages. Company acknowledges that noncompliance with the customer service rules of the FCC (such rules as currently in effect set forth in Appendix A) will harm subscribers and Municipality and the amounts of actual damages will be difficult or impossible to ascertain. Municipality may therefore assess the following liquidated damages against Company for noncompliance with such customer service rules. Each day on which a violation of such FCC Rules occurs constitutes a separate offense, except that a violation by Company of a quarterly standard shall constitute a single offense for such quarter.

- (1) First noncompliance with a given standard - two thousand dollars (\$2,000).
- (2) Second noncompliance with a given standard within four consecutive calendar quarters - four thousand dollars (\$4,000).
- (3) Third and subsequent noncompliances with a given standard within six consecutive calendar quarters - six thousand dollars (\$6,000).
- (4) Liquidated damages shall be assessed in accordance with the procedures set forth in Section 806.13.
(Ord. Unno. Passed 9-5-01.)

806.06 ACCESS TO THE SYSTEM.

(a) PEG Channels-General. When requested by Municipality, Company shall provide on the cable system in the basic tier of service (and in the lowest tier of service if different) the following public, educational and government channels, collectively known as "PEG channels." Company shall not exercise any editorial control over the content provided on such PEG channels.

- (1) One public access channel for use by members of the general public, to be administered and operated by Company until Municipality:
 - A. Designates an institution or institutions to administer such channel; and
 - B. Notifies Company either that each such institution has in full force and effect a contract between Municipality and the institution administering the public access channels) or that there need not be such a contract. This public access channel shall be shared by all municipalities and residents served by Company in the Flint Metropolitan Area.
- (2) One educational channel administered and operated by area K-12 public school districts or their designees, upon Municipality having notified Company either that each such institution has in full force and effect a contract between Municipality and the institution administering the educational channel or that there need not be such a contract.
- (3) One government channel (which may be administered and operated by Municipality) on which the programming shall be provided by Municipality, Municipality's designee, or such other units of State or local government as Municipality may from time to time appoint.
- (4) A sample of a contract with a PEG channel operator referenced in Sections 806.06(a)(2) and 806.06(a)(3) as set forth in Appendix B.

(b) Initial PEG Channels; Allocation.

- (1) Municipality initially requests (and Company shall provide):
 - A. The public access channel described in Section 806.06(a);
 - B. A combined education/government channel to be operated and administered by the Grand Blanc Public Schools as the PEG channel operator and shared by several municipalities and school districts as set forth in Appendix D; and
 - C. A combined education/government channel to be operated and administered by the Holly Public Schools as the PEG channel operator and shared by several municipalities and school districts as set forth in Appendix D.
- (2) Municipality, on six months written notice to Company may allocate or reallocate the administration and operation of the PEG channels among and between different uses and PEG channel operators. This expressly includes Municipality requiring several different persons to share or jointly use a given PEG channel or conversely allowing one or more persons currently sharing such a channel to have a channel on which they are the sole user.

(c) Company Use. Municipality may from time to time adopt and revise rules and procedures as to when and how Company may use the PEG channels for the provision of video programming when the PEG channels are not being used for their respective purposes. Company will use the PEG channels solely in accordance with such rules and procedures and otherwise shall have no responsibility or control with respect to the operation of such channels except as provided by law.

- (1) With Municipality's agreement Company may provide programming on any PEG channel which is underutilized, however the content of such programming shall be generally consistent with the nature of the PEG channel in question (for example, C-Span, C-Span 2, educational programming or the like to be provided on the shared PEG channel).

(d) Lines and Facilities.

- (1) Company shall provide and maintain at its expense the lines and facilities necessary for it to receive PEG channel programming for simultaneous distribution on the cable system. This shall include Company providing the lines, modulators and facilities (such as two-way activated drops) necessary to provide live program origination capability from the studios (or other similar fixed signal origination point) for the PEG Channels set forth in Section I.C, II.C or III.C (whichever is applicable) of Appendix D (but not video production or playback equipment).
- (2) Company shall provide and maintain at its expense remote signal input points (meaning signal input points for PEG programming from locations that are used intermittently but repeatedly such as from a community center, high school auditorium, football field or the like) at the locations set forth in Section I.D, II.D or III.D (whichever is applicable) of Appendix D.

- (3) Municipality may change the locations set forth in Appendix D, however, Municipality (or third party, not Company) shall bear the additional cost (if any) to Company due to such change.

(e) Studio, Van. Company shall continue to make available to Municipality and the PEG channel operators on a non-exclusive shared basis the existing studio and existing mobile production van for the production and presentation of programming on the PEG channels.

- (1) The studio may be either:
 - A. Company's current studio which is used both by Company for its local origination programming and by the PEG channels (or persons creating programming for the PEG channels) throughout the Flint Metropolitan Area; or
 - B. A separate, stand-alone studio administered by a non-profit organization or local unit of government serving all or a portion of the Flint Metropolitan Area (including such a studio which is combined or associated with related non-profit or governmental activities and organizations, such as a theater, radio station or computer/internet training/hosting/production site).
- (2) The studio shall be the former of the two options until otherwise elected by Municipality and other municipalities in the Flint Metropolitan Area served by Company who collectively have at least 50% of the cable subscribers in the Flint Metropolitan Area then being served by Company.

(f) PEG Access Assistance. Company shall provide to Municipality grants for capital facilities for the PEG channels on the dates and in the amounts set forth below where "capital facilities" means those facilities that qualify as same under Federal Cable Act Section 622(g)(2)(c); 47 U.S.C. Section 542(g)(2)(c). Company will not directly or indirectly challenge any classification by Municipality or a PEG channel operator of an item as a "capital facility" if such classification is arguably correct. However, Company reserves its rights regarding any third party challenge to a "capital facilities" classification by Municipality or a PEG channel operator. Municipality shall allocate such grants among the PEG channel operators as it determines is in the public interest, may place such grants in an interest bearing account for such allocation in a subsequent year, or may direct Company to pay the grant directly to the PEG channel operators as Municipality determines is in the public interest. The grants and their timing are as follows:

- (1) Within 30 days of the effective, date, twenty-two thousand five hundred fifty dollars (\$22,500). This grant is for a suitcase studio and related equipment.
- (2) Annual grants on September 1, 2001, and on September 1 of each successive year (until replaced by Municipality's electing grants pursuant to Section 806.07(f)(3)). The amount of the annual grant shall be the number of cable subscribers in Municipality served by Company on July 1 preceding the

September 1 in question times \$1.75 with the \$1.75 figure to be adjusted annually starting with the September 1, 2002, grant for inflation computed according to the Consumer Price Index for All Urban Consumers, Detroit 1982-1984 =100, with January, 2000, as the base point.

- (3) If and when the separate stand alone studio described in Section 806.06(e)(2) is elected by Municipality pursuant to Section 806.06(e)(1) or if Municipality otherwise takes action with some or all municipalities in the Flint Metropolitan Area such that Company no longer has to maintain a studio, van, personnel and their associated and related costs (for providing a public access channel) as generally described in Section 806.06, then (instead of the sums set forth in Section 806.06(f)(2)), Company will pay Municipality one-half of one percent of Company's cable gross revenues computed and paid quarterly in the same manner as which Company pays franchise fees under Section 806.08 of this chapter. Because such payment in parts offset operational costs (salaries and the like) which Company would otherwise incur, any payments under this Section 806.06(f)(3) may be used by Municipality or PEG channel operators for operational costs associated with PEG Channels as well as for "capital facilities."
- (4) For the purpose of computing the preceding grants, for multiple dwelling units or bulk service, the number of cable subscribers shall be the number of dwelling units (or other ultimate, individual customers) actually served.

(g) Separate Checks. To assist Municipality in separating checks for capital facilities or PEG support from franchise fees all payments to Company pursuant to Section 806.06(f) shall be by separate checks and shall not be combined with checks representing payments of franchise fees under Section 806.08 of this chapter.

(h) Encouragement of Public Access Channel. Company shall use reasonable efforts to publicize and promote the public access channel and to encourage members of the public to provide programming on the public access channel.

(i) Company Publicity. Company shall undertake the following publicity activities at its own expense:

- (1) Company shall make available at no charge to Municipality or to PEG channel operators designated by Municipality unsold advertising avails into which Company inserts advertising, up to a maximum of three, 30-second spots per channel, per day, for spots promoting public, educational, and government access programming.
- (2) Company shall list all public, educational, and governmental access channels on all print and cablecast electronic program guides, with individual, unique descriptions on each channel, such as "Municipal Channel," "Schools Channel," "Schools/Municipal Channel," "Public Access Channel" and so on.

- (3) Company shall include written information about public, educational and governmental access programming and activities in its customer handbook, and in materials given to new subscribers.

(j) Municipal Publicity. Municipality shall undertake the following publicity activities at its own expense:

- (1) Describing the public access channel, shared schools/municipal channel (and such other PEG channels as may from time to time exist) at least yearly in any newsletter which Municipality provides its residents;
- (2) At least yearly similarly describing the contact person and procedures for persons to put programming on the public access channel, and the procedures for becoming qualified to use the studio, suitcase studios and mobile van;
- (3) Where appropriate, setting minimum programming (as opposed to bulletin board) and original programming requirements for PEG channel operators.
(Ord. Unno. Passed 9-5-01.)

806.07 INDEMNITY AND INSURANCE.

(a) Disclaimer of Liability. Municipality shall not at any time be liable for injury or damage occurring to any person or property from any cause whatsoever arising out of the construction, maintenance, repair, use, operation, condition or dismantling of Company's cable system or Company's provision of cable service.

(b) Indemnification. Company shall, at its sole cost and expense, indemnify and hold harmless Municipality and its affiliates, now existing or hereinafter created, and their respective officers, boards, commissions, attorneys, agents, and employees (hereinafter referred to as "indemnitees"), from and against:

- (1) Any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys), whether legal or equitable, which may be imposed upon, incurred by or be asserted against the indemnitees by reason of any act or omission of Company, its personnel, employees, agents, contractors, subcontractors or affiliates, which may arise out of or be in any way connected with the construction, installation, operation, maintenance or condition of the cable system or other Company property (including those arising from any matter contained in or resulting from the transmission of signals over the system and including any claim or lien arising out of work, labor, materials or supplies provided or supplied to Company, its contractors or subcontractors), the provision of cable services, other services or Company's failure to comply with any Federal, State or local statute, ordinance or regulation.

- (2) Any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, or maintenance or condition of the cable system or Company's failure to comply with any Federal, State or local statute, ordinance or regulation.

(c) Assumption of Risk. Company undertakes and assumes for its officers, agents, contractors and subcontractors and employees, all risk of dangerous conditions, if any, other than those created through or maintained as a result of gross negligence, on or about any Municipality owned or controlled property, including public ways, and Company hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the cable system or other property or Company's failure to comply with any Federal, State or local statute, ordinance or regulation.

(d) Defense of Indemnitees. In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are or may be indemnified hereunder, Company shall, upon notice from any of the indemnitees, at Company's sole cost and expense, resist and defend the same with legal counsel reasonably acceptable to Municipality; provided, however, that Company shall not admit liability in any matter on behalf of the indemnitees without the written consent of Municipality.

(e) Notice, Cooperation and Expenses. Municipality shall give Company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent Municipality from cooperating with Company and participating in the defense of any litigation by Municipality's own counsel at its' expense.

(f) Insurance. At all times during the term of this franchise, including any time for removal of facilities or restoration, Company shall obtain, maintain, and pay all premiums for all insurance policies described in this section. Within 30 days from the effective date of this franchise, Company shall file with Municipality certificates of insurance evidencing coverage. Failure to obtain and maintain any insurance policy required by this section shall be deemed a material breach, of this franchise and may be grounds for termination of this franchise.

- (1) Property damage liability. One million dollars (\$1,000,000) per occurrence with a ten million dollar (\$10,000,000) umbrella policy. The property damage insurance required by this section shall indemnify, defend and hold harmless Company and Municipality and the respective officers, boards, commissions, agents, and employees of each from and against all claims made by any person for property damage caused by the operations of Company under the franchise herein granted or alleged to have been so caused or alleged to have occurred.

- (2) Comprehensive public liability. One million dollars (\$1,000,000) per occurrence with a ten million dollar (\$10,000,000) umbrella policy. The comprehensive public liability insurance required by this section shall include coverage for sudden and accidental environmental contamination and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, and shall indemnify, defend, and hold harmless Company and Municipality and the respective officers, boards, commissions, agents, and employees of each from any and all claims made by any person on account of injury to, or death of a person or persons caused by the operations of Company under this franchise, alleged to have been so caused or alleged to have occurred.
- (3) Comprehensive automobile liability. One million dollars (\$1,000,000) per occurrence with a ten million dollar (\$10,000,000) umbrella policy. The comprehensive automobile liability insurance required by this section shall indemnify, defend and hold harmless Company and Municipality and the respective officers, boards, commissions, employees and agents of each from any and all claims made by any person on account of collision, personal injury or property damage caused by use of any owned, hired, or non-owned motor vehicles used in conjunction with the rights herein granted or alleged to have been so caused or alleged to have occurred.
- (4) Workers' compensation. Workers' compensation coverage which meets all requirements of any applicable State workers' compensation or comparable laws.

(g) Cancellation or Change. The insurance policies called for herein shall require 30 calendar days written notice to Municipality and Company of any cancellation or change in the amount of coverage. Company shall in the event of any cancellation notice, obtain, maintain, pay all premiums for, and file with Municipality written evidence of payments of premiums for an appropriate replacement insurance policies so canceled within 30 calendar days following receipt by Municipality or Company of notice of cancellation.

(h) No Limitation of Liability. No recovery by Municipality of any sum by reason of any insurance policy required by this franchise shall be any limitation upon the liability of Company to Municipality or to other persons.

(i) Qualified Carriers. All insurance shall be effected under valid and enforceable policies insured by insurance carriers licensed to do business in the State of Michigan or by surplus line carriers on the State Insurance Commissioner's approved list of companies qualified to do business in the State. All insurance carriers and surplus line carriers shall be rated A+ or better by A.M. Best Company.

(Ord. Unno. Passed 9-5-01.)

806.08 FEES AND PAYMENTS.

(a) Franchise Fee. Company shall pay Municipality throughout the term of this franchise an amount equal to five percent of Company's cable gross revenues. Once per calendar year Municipality by resolution may elect to reduce such percentage to a smaller percentage, and by resolution in a subsequent calendar year may change or revoke such election. Such payments shall be made quarterly, and are due within 45 days after the end of each calendar quarter.

- (1) Each payment shall be accompanied by a written report to Municipality, verified by an appropriate representative of Company containing an accurate statement in summarized form of Company's cable gross revenues and the computation of the payment amount.
- (2) Municipality may audit Company to verify the accuracy of franchise fees paid Municipality. Any additional amount due Municipality shall be paid within 30 days of Municipality's submitting an invoice for such sum, and if such sum shall exceed four percent of the total franchise fee which the audit determines should have been paid for any calendar year, Company shall pay Municipality's cost of auditing that calendar year as well.
- (3) If Company collects from subscribers that portion of the franchise fee attributable to non-subscriber revenues (examples being revenues from tower rentals, advertising or home shopping network commissions) then Company shall annually monitor the amount of collections from subscribers during the prior year and promptly correct any material over collection or under collection. Company shall provide documentation of the preceding to Municipality, upon request.

(b) Discounted Rates. Company intends to market services on a "bundled" basis and to fairly reflect an appropriate and reasonable division of revenue among the various services offered. Whether or not Company separates services on a customer's bill, it will provide to Municipality the amounts upon which it will pay a telecommunications services, and the amount upon which it will pay the franchise fee. Should Company engage in a billing practice that, in the determination of the Municipality, does not fairly reflect an appropriate split of revenue between cable service and telecommunications services, Municipality will notify grantee in writing of its determination. If the parties do not resort to methods of dispute resolution, including litigation, the parties will meet and discuss in good faith whether the billing practices result in an unfair payment of fees to Municipality. Notwithstanding the foregoing, if Federal or State law establishes the method by which the division of revenues should occur or that jurisdiction to establish such guidelines appropriately rests with another body, such law shall supersede the requirements of this division and be deemed by the parties to control.

(c) Other Payments.

- (1) The preceding fees and payments are in addition to all sums which may be due Municipality for property taxes (real and personal), income taxes, license fees, permit fees or other fees, taxes or charges of general applicability which Municipality may from time to time impose.
- (2) Company shall pay Municipality's cost of newspaper publication associated with adoption of this franchise. It is agreed such costs do not constitute a franchise fee or any part thereof.

(d) Interest. All sums not paid when due shall bear interest at the rate of one percent per annum computed monthly, and if so paid with interest within 30 days of due date, shall not constitute an event of default under Section 806.11.

(e) Prior Fees. Company shall pay all franchise fees due under any prior franchise between Company and Municipality when they would have been due under such prior franchise. (Ord. Unno. Passed 9-5-01.)

806.09 RATES AND REGULATION.

(a) Rates. Company's rates and charges for the provision of cable service (and for related services, such as equipment rental, deposits, and downgrade fees) shall be subject to regulation by Municipality as expressly permitted by law.

(b) Regulation. Municipality reserves the right to regulate Company, the cable system, and the provision of cable service as expressly permitted by Federal, State, or local law.

(c) Notice of Certain Costs. In order that Municipality may consider whether to waive obligations of this franchise under Section 806.15(e)(1), Company shall notify Municipality in writing upon request at least annually of the identity of all costs which Company claims are external costs potentially entitled to pass through to subscribers under the FCC Rules or successor rules with a similar effect. Such notice shall state the approximate amount such costs may be on subscribers' monthly bills and set forth the computation of such amount. Such notice shall be provided on a date set by Municipality, and unless changed by Municipality, on each annual anniversary thereof.

(d) Senior Discount. Municipality encourages Company to offer discounted rates to senior citizens, who are often on fixed incomes. Company acknowledges Municipality's endorsement of such discounts, and has agreed to begin to offer a senior discount as set forth in separate correspondence to Municipality. This provision is not intended to alter or modify either parties' rights or obligations as set forth in Federal regulations relating to rate regulation. (Ord. Unno. Passed 9-5-01.)

806.10 TERM.

(a) Initial Term. The term of this franchise shall be until September 15, 2016.

(b) Termination. This franchise and all rights of Company thereunder shall automatically terminate on the expiration of the term of this franchise, unless an extension is granted. Municipality shall give Company 60 days notice prior to taking action to enforce such termination.

(Ord. Unno. Passed 9-5-01.)

806.11 TRANSFERS, OWNERSHIP AND CONTROL.

(a) Consent Required.

(1) Neither Company nor any other person may transfer the cable system or the franchise without the prior written consent of Municipality, which consent shall not be unreasonably withheld or delayed. Within 45 days of receiving a request for transfer, Municipality shall, in accordance with FCC rules and regulations, notify Company in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If Municipality has not taken action on Company's request for transfer within 120 days after receiving such request, consent to the transfer shall be deemed given.

(2) The preceding prohibition shall not apply to the replacement or sale of components of the cable system in the course of ordinary maintenance or day-to-day operation.

(b) Transfer or Transferred. "Transfer" or "transferred" shall mean:

(1) Any form of sale, conveyance, assignment, lease, sublease, merger, pledge, deed, grant, mortgage, transfer in trust, encumbrance or hypothecation, in whole or in part, whether voluntary or involuntary of any right, title or interest of Company in or to this franchise or to the cable system;

(2) Any change in actual working control (by whatever manner exercised) or in the effective control of Company, such as that described in 47 C.F.R. ' 76.501 and following, including the notes thereto (but excluding footnote 2f), as in effect on the date of this franchise (as set forth in Appendix C);

(3) A change in limited partnership, limited liability corporation or similar interests representing ten percent or more of an equity interest in Company, including the right to require voting control without substantial additional consideration (such as compared to consideration previously provided).

(c) Applications for Consent. If Company seeks to obtain the consent of Municipality to any transactions or matters otherwise prohibited by this Section 806.11, Company shall submit an application for such consent in the form required by Municipality and shall thereafter submit or cause to be submitted to Municipality all such documents and information as Municipality may request.

- (1) Municipality shall not unreasonably withhold its consent to any proposed transfer, and may grant its consent outright, may grant such consent with conditions which it finds are in the public interest, or may deny consent.
- (2) Company shall pay on Municipality's behalf or reimburse Municipality for all costs incurred by Municipality due to any proposed transfer.

806.12 DEFAULTS.

(a) Events of Default. The occurrence at any time during the term of the franchise, of any one or more of the following events, shall constitute an event of default by Company under this franchise.

- (1) The failure of Company to pay the franchise fee on or before the due dates specified herein unless such fees are being disputed by Company in good faith.
- (2) Company's material breach or violation of any of the terms, covenants, representations or warranties contained herein or Company's failure to perform any obligation contained herein.
- (3) The entry of any judgment against Company in excess of five hundred thousand dollars (\$500,000), which remains unpaid and is not stayed pending rehearing or appeal, for 45 or more days following entry thereof which may significantly impair Company's provision of cable service in Municipality.
- (4) The dissolution or termination, as a matter of law, of Company or any general partner of Company.
- (5) If Company files a voluntary petition in bankruptcy; is adjudicated insolvent; obtains an order for relief under Section 301 of the Bankruptcy Code (11 U.S.C. ' 301); files any petition or fails to contest any petition filed against it seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under any laws relating to bankruptcy, insolvency or other relief for debtors; seeks or consents to or acquiesces in the appointment of any trustee, receiver, master, custodian or liquidator of Company, or any of Company's property and/or franchise and/or of any and all of the revenues, issues, earnings, profits or income thereof; makes an assignment for the benefit of creditors; or fails to pay Company's debts generally as they become due.

(b) Uncured Events of Default.

- (1) Municipality shall give Company written notice of any event of default and Company shall have the following reasonable time period to cure same; for an event of default which can be cured by the immediate payment of money to Municipality or a third party, Company shall cure such default within 30 days of the date such sum of money was due and payable; for an event of default by Company which cannot be cured by the immediate payment of money to Municipality or a third party, Company shall have the longer of:

- A. 60 days from written notice from Municipality to Company of an occurrence of such event of default; or
 - B. If more than 60 days is reasonably needed to cure the event of default, such additional time (not to exceed six months) from written notice from Municipality to Company which is reasonably needed.
- (2) If any event of default is not cured within the time period allowed for curing the event of default, as provided for herein, such event of default shall, without notice, become an uncured event of default, which shall entitle Municipality to exercise the remedies provided for in Section 806.13.
(Ord. Unno. Passed 9-5-01.)

806.13 REMEDIES.

(a) Remedies. Upon the occurrence of any uncured event of default as described in Section 806.12, Municipality shall be entitled to exercise any and all of the following remedies:

- (1) The commencement of an action against Company at law for monetary damages;
- (2) The assessment of liquidated damages as set forth herein except that Municipality shall not recover both liquidated damages and actual damages for an uncured event of default either under Section 806.13 or any other provision of this franchise.
- (3) The commencement of an action in equity seeking injunctive relief or the specific performance of any of the provisions which, as a matter of equity, are specifically enforceable.
- (4) Municipality shall have the right to forfeit and terminate the franchise and upon the forfeiture and termination thereof the franchise shall be automatically deemed null and void and have no force or effect, Company shall remove the cable system from Municipality as and when requested by Municipality and Municipality shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination. Municipality's right to forfeit and terminate the grant of the franchise pursuant to this section shall use the procedures of division (c) of this section and is not a limitation on Municipality's right of revocation.

(b) Liquidated Damages. Liquidated damages in the amounts set forth below may be awarded Municipality (individually and on behalf of subscribers) from Company. Company acknowledges that the amounts of actual damages for the violations and uncured events of default set forth below will be difficult or impossible to ascertain; that the liquidated damages set forth below are a reasonable approximation of actual damages; that the actual damages are often incurred by Municipality and subscribers and, while cumulatively large, are too small to be worth while for individual subscribers to pursue; and that this division (b) is intended to provide compensation to Municipality and its subscribers and is not a penalty. The amount of the liquidated damages are as follows:

- (1) For violations of Sections 806.07 and 806.11 of this chapter, proven under division (c) of this section, liquidated damages not to exceed two thousand dollars (\$2,000) per day;
- (2) For uncured events of default other than violations of Sections 806.07, 806.08 and 806.11, proven under division (c) of this section, liquidated damages not to exceed five hundred dollars (\$500.00) for each day that the uncured event of default continues.

(c) Procedures. Liquidated damages may be awarded (and this cable franchise forfeited or terminated) in accordance with the following procedure:

- (1) Following notice from Municipality, which notice, at Municipality's election may be combined with the notice described in division (c)(2) of this section, Company shall meet with Municipality to attempt to resolve the issue of what liquidated damages, if any, shall be awarded (or forfeiture or termination of this cable franchise). If there is no resolution of such issue within 20 days of the mailing of the notice described in the first sentence, then Municipality's legislative body may assess liquidated damages (or forfeit or terminate this franchise) as described below.
- (2) Company shall be given notice of Municipality's intent to assess liquidated damages (or forfeit or terminate this franchise) at least 20 days in advance of the meeting of the legislative body at which such damages are assessed (or cable franchise forfeiture or termination considered).
- (3) Company may appear at the meeting of the legislative body at which such damages are assessed (or cable franchise forfeiture or termination considered) either in person, by agent, or by letter (or other writing) to submit its views with respect to the proposed assessment (or the proposed forfeiture or termination) or Company may request a hearing. The legislative body may conduct the hearing or, in its sole discretion, may by resolution appoint a committee or subcommittee of the legislative body or a hearing officer to conduct the hearing and submit a proposal for decision to it, pursuant to procedures established by resolution. The hearing shall afford Company appropriate due process. The Commission may, by resolution, establish other procedural matters in connection with the hearing.
- (4) The legislative body may then assess liquidated damages in amounts not exceeding those set forth above (or forfeit or terminate the cable franchise).
- (5) Any such assessment by Municipality shall be a monetary obligation of Company to Municipality in the amount determined by the legislative body; and shall be paid in full by Company within 15 business days of the date of assessment by the legislative body unless such payment is stayed by agreement or court order. Any forfeiture or termination shall be effective 15 days from the date of the legislative body decision to forfeit or terminate unless stayed by agreement or court order.

- (6) Only after assessment of liquidated damages (or forfeiture or termination) may Company appeal such assessment (or forfeiture or termination) to an appropriate State or Federal court or agency, but only if such assessment, forfeiture or termination is arbitrary, capricious or an abuse of discretion.

(d) Remedies Not Exclusive. The rights and remedies of Municipality set forth in this franchise shall be in addition to and not in limitation of, any other rights and remedies provided by law or in equity. Municipality and Company understand and intend that such remedies shall be cumulative to the maximum extent permitted by law and the exercise by Municipality of any one or more of such remedies shall not preclude the exercise by Municipality, at the same or different times, of any other such remedies for the same uncured event of default.

(Ord. Unno. Passed 9-5-01.)

806.14 PROVISION OF INFORMATION.

(a) Filings. Upon request, Company shall provide Municipality with copies of all documents which Company sends to the FCC and all records required by Company to be maintained under Section 76 of the FCC regulations (47 C.F.R. ' 76) or successor sections, upon request of Municipality.

(b) Lawsuits. Upon request, Company shall provide Municipality with copies of all pleadings in all lawsuits pertaining to the granting of this franchise and the operation of the cable system to which it is a party within 30 days of Company's receipt of same.

(Ord. Unno. Passed 9-5-01.)

806.15 GENERAL.

(a) Entire Agreement. This franchise agreement, including Appendices A through E, contains the entire agreement between the parties and all prior franchises, negotiations and agreements are merged herein and hereby superseded, except that any obligation of Company to indemnify Municipality under a prior franchise or agreement shall be continuing as to those matters (if any) occurring during the term of said prior franchise or agreement on which Company was obligated to indemnify Municipality.

(b) Notices. Except as otherwise specified herein, all notices, consents, approvals, requests and other communications (herein collectively "notices") required or permitted under this franchise Agreement shall be given in writing and mailed by registered or certified first-class mail, return receipt requested addressed as follows:

If to Municipality: City Manager
City of Grand Blanc
203 E. Grand Blanc Road
Grand Blanc, MI 48439

Attorney
Varnum, Riddering, Schmidt & Howlett, LLP
Box 352
Grand Rapids, MI 49501-0352

If to Company: Vice President, Regulatory Affairs
Comcast Cable Communications, Inc.
29777 Telegraph Road, Suite 4400B
Southfield, MI 48034.

Vice President and General Manager
Comcast Cable Communications
3008 Airpark Drive South
Flint, MI 48507

All notices shall be deemed given on the day of mailing. Either party to this franchise agreement may change its address for the receipt of notices at any time by giving notice thereof to the other as provided in this section. Any notice given by a party hereunder must be signed by an authorized representative of such party.

(c) Conferences. The parties hereby agree to meet at reasonable times on reasonable notice to discuss any aspect of this franchise agreement, the provision of cable services or the cable system during the term of this franchise agreement.

(d) Governing Law. This franchise agreement shall be construed pursuant to the laws of the State of Michigan and the United States of America.

(e) Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this franchise agreement, or to exercise any right, term or remedy consequent upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this franchise agreement, but each and every covenant, agreement, term or condition of this franchise agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(1) Municipality may waive any obligation of Company under this franchise agreement, in whole or in part, at any time. This includes, but is not limited to, instances of a claim or showing by Company that the costs associated with the provision being waived would increase the rates Company is legally allowed to charge subscribers, such as a claim that such costs are an "external cost" which allow Company to increase its rates under the FCC rules.

- (2) Municipality grants this franchise solely for a cable system and for transaction of a cable television business. Company may assert claims to the effect that once its facilities have been placed in the streets and public ways it will be entitled under Federal law to use them for other purposes without the consent or authorization of Municipality and without necessarily paying compensation therefore. Municipality disputes any such claim. Municipality further asserts that if any such claims by Company were to be sustained there would be, among other things, an unconstitutional taking of Municipality's property in violation of the Fifth Amendment of the United States Constitution. Company disputes this claim. Neither the issuance nor the acceptance of this franchise constitutes or will be claimed to constitute a waiver or relinquishment of any rights or defenses of either Municipality or Company in connection with these disputed issues. Municipality and Company acknowledge that this section is not intended to be a comprehensive statement of their respective claims and positions and that they intend to defer all disputes that may arise out of or relate to use by Company of its facilities in the streets and public ways for purposes other than a cable system.
- (3) Company asserts that Municipality's franchise fees are limited by Federal statute to 5% of revenues from "cable services," all as defined in Section 622 of the Telecommunications Act of 1934, 47 U.S.C. Section 542. Municipality asserts that any such limit is unconstitutional, among other things an unconstitutional taking of Municipality's property in violation of the Fifth Amendment of the United States Constitution. Company disputes this claim. Neither the issuance nor the acceptance of this franchise constitutes or will be claimed to constitute a waiver or relinquishment of any rights or defenses of either Municipality or Company in connection with these disputed issues. Municipality and Company acknowledge that this section is not intended to be a comprehensive statement of their respective claims and positions and that they intend to defer all disputes that may arise out of or relate to statutory limits on franchise fees.

(f) Independent Contractor Relationship. The relationship of Company to Municipality is and shall continue to be an independent contractual relationship, and no liability or benefits, such as worker's compensation, pension rights or liabilities, insurance rights or liabilities or other provisions or liabilities, arising out of or related to a contract for hire or employer/employee relationship, shall arise or accrue to either party or either party's agents or employees as a result of the performance of this franchise agreement, unless expressly stated in this franchise agreement.

(g) Severability. If any section, paragraph, or provision of this franchise agreement shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this franchise agreement.

(h) Effective Date. This franchise agreement shall be effective as of September 1, 2001 ("effective date"). Any prior franchise shall terminate as of midnight of the day immediately preceding the effective date of this franchise agreement, except as provided in Section 806.15(a).

(i) FCC Rules. A copy of the FCC customer service rules as modified above and in effect on the date of this franchise agreement are shown in Appendix A. A copy of FCC Rule 76.501 as in effect on the date of this franchise agreement is shown in Appendix C.

(j) Captions. All captions are for convenience of use and have no substantive effect, except for those captions in Section 806.02 of this franchise agreement.

(k) Conflicts. In the event of a conflict between this franchise agreement and the provisions of any prior franchise or any franchise, permit, consent agreement or other agreement with Company, the provisions of this franchise agreement shall control.

(l) Force Majeure. In the event Company's performance of any of the terms, conditions or obligations required by this franchise agreement is prevented by a cause or event, not within Company's reasonable control, it shall be deemed excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof. Causes or events not within the control of Company shall include acts of God, strikes, sabotage, riots or civil disturbances, failure or loss of utilities, explosions, acts of public enemies and natural disasters.

(m) Franchise Agreement Accepted. Company further acknowledges by acceptance of this franchise agreement that it has carefully read the terms and conditions of this franchise agreement and accepts the lawful obligations imposed thereby. As of the effective date, and without waiving any rights Company may have to challenge the lawfulness or enforceability of the franchise agreement in the future, Company does not contend that any provision of the franchise agreement is unlawful or unenforceable.

(n) Waiver of Compliance. No failure by either party to insist upon the strict performance of any covenant, agreement, term or condition of this franchise agreement, or to exercise any right, term or remedy upon a breach thereof shall constitute a waiver of any such breach or such covenant, agreement, term or condition. No waiver of any breach shall affect or alter this franchise agreement, but each and every covenant, agreement, term or condition of this franchise agreement shall continue in full force and effect with respect to any other then existing or subsequent breach thereof.

(o) Reserved Rights. Municipality reserves all rights and powers under its police powers or conferred by Federal, State or local law. In particular, Municipality reserves the right to amend its Municipal Code and cable ordinance as it determines shall be conducive to the health, safety, welfare and accommodation of the public. Municipality agrees that by accepting this franchise Company has not waived its right to object to the application to it of actions by Municipality pursuant to its reserved rights or police powers.

(Ord. Unno. Passed 9-5-01.)

APPENDIX A
FCC CUSTOMER SERVICE RULES AS MODIFIED BY FRANCHISE

47 C.F.R. ' 76.309 Customer service obligations.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce the standards.

(b) Nothing in this rule should be construed to prevent or prohibit:

- (1) A franchising authority and a cable operator from agreeing to customer service requirements that exceed the standards set forth in paragraph (c) of this section;
- (2) A franchising authority from enforcing, through the end of the franchise term, pre-existing customer service requirements that exceed the standards set forth in paragraph (c) of this section and are contained in current franchise agreements;
- (3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or
- (4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section.

(c) Effective July 1, 1993, a cable operator shall be subject to the following customer service standards:

(1) Cable system office hours and telephone availability.

- A. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
 1. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
 2. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- B. Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed 30 seconds. These standards shall be met no less than ninety percent of the time under normal operating conditions, measured on a quarterly basis.

- C. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.
 - D. Under normal operating conditions, the customer will receive a busy signal less than three percent of the time.
 - E. Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
- (2) Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent of the time measured on a quarterly basis:
- A. Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
 - B. Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" the same day service is requested (for requests made prior to 3:00 p.m.) and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the same day service is requested (for requests made prior to 3:00 p.m.) and the next business day after notification of the service problem (for requests made after 3:00 p.m. on the prior business day).
 - C. The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

47 C.F.R. ' 76.1602 Customer service--general information.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Effective July 1, 1993, the cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

- (1) Products and services offered;
- (2) Prices and options for programming services and conditions of subscription. to programming and other services;
- (3) Installation and service maintenance policies;
- (4) Instructions on how to use the cable service;

- (5) Channel positions of programming carried on the system; and
- (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

(c) Subscribers shall be advised of the procedures for resolution of complaints about the quality of the television signal delivered by the cable system operator, including the address of the responsible officer of the local franchising authority.

47 C.F.R. ' 76.1603 Customer service--rate and service changes.

(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (b) of this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.

(b) Customers will be notified of any changes in rates; programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by ' 76.1602.

[Information collection requirements for subsection (c) are not yet effective; OMB approval pending.]

(c) In addition to the requirement of paragraph (b) of this section regarding advance notification to customers of any changes in rates, programming services or channel positions, cable systems shall give 30 days written notice to both subscribers and local franchising authorities before implementing any rate or service change. Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., change in external costs or the addition/deletion of channels). When the change involves addition or deletion of channels, each channel added or deleted must be separately identified. For purposes of the carriage of digital broadcast signals, the operator need only identify for subscribers, the television signal added and not whether that signal may be multiplexed during certain dayparts.

[Last sentence added by FCC 01-22, 66 FR 16554, March 26, 2001]

(d) A cable operator shall provide written notice to a subscriber of any increase in the price to be charged for the basic service tier or associated equipment at least 30 days before any proposed increase is effective. The notice should include the name and address of the local franchising authority.

(e) To the extent the operator is required to provide notice of service and rate changes to subscribers, the operator may provide such notice using any reasonable written means at its sole discretion.

(f) Notwithstanding any other provision of part 76 of this chapter, a cable operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any Federal agency, State, or franchising authority on the transaction between the operator and the subscriber.

Note 1 to ' 76.1603: Section 624(h) of the Communications Act, 47 U.S.C. 544(h), contains additional notification requirements which a franchising authority may enforce. [The statutory section states "A franchising authority may require a cable operator to do one or more of the following: (1) Provide thirty (30) day's advance written notice of any change in channel assignment or in the video programming service provided over any such channel. (2) Inform subscribers, via written notice, that comments on programming and channel position changes are being recorded by a designated office of the franchising authority."]

Note 2 to ' 76.1603: Section 624(d)(3) of the Communications Act, 47 U.S.C. 544(d)(3), contains additional notification provisions pertaining to cable operators who offer a premium channel without charge to cable subscribers who do not subscribe to such premium channel.

Note 3 to ' 76.1603: Section 631 of the Communications Act, 47 U.S.C. 551, contains additional notification requirements pertaining to the protection of subscriber privacy.

47 C.F.R. ' 76.1619 Information on subscriber bills.

(a) Effective July 1, 1993, bills must be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

(c) A cable franchise authority may enforce the customer service standards set forth in this section against cable operators. The franchise authority must provide affected cable operators 90 days written notice of its intent to enforce standards.
(Ord. Unno. Passed 9-5-01.)

APPENDIX B
GUARANTEE IN LIEU OF BOND

THIS AGREEMENT ("Agreement") is made this _____ day of _____, 200__ between Guarantor, Municipality and Company (for the purpose of this Agreement, the terms "Guarantor", "Municipality", and "Company" have the meanings ascribed to them below).

WHEREAS, the Company has accepted a "Franchise" (as defined below) with Municipality, relating to Company's cable system ("System"), which Franchise is hereby specifically referred to and incorporated herein, and made a part hereof; and

WHEREAS, _____, a(n) _____ corporation ("Guarantor") is the indirect parent company of the Company and has a substantial interest in the System and the conduct of the Company in complying with the Franchise, and any and all amendments thereof and any agreements related thereto; and

WHEREAS, Section 806.05(w) of the Franchise requires the Company, as principal, to furnish bond or bonds issued to cover the faithful performance of certain of the Company's obligations under the Franchise.

NOW THEREFORE, Guarantor hereby unconditionally guarantees the due and punctual performance of any and all obligations of Company contained in Section 806.05(w) of the Franchise.

Municipality shall give written notice to Guarantor of: (a) any defaults of Company in the performance of any such covenants and agreements; and (b) any presentment, demand, protest or notice of any kind which relates to Company's performance of the terms and conditions set forth in the Franchise.

This Agreement, unless terminated, substituted or canceled as provided herein, shall remain in full force and effect for the duration of the term of the Franchise, or as expressly provided otherwise in the Franchise.

Upon substitution of another Guarantor reasonably satisfactory to Municipality, this Agreement may be terminated, substituted or canceled upon thirty (30) days' prior written notice from Guarantor to Municipality and the Company.

Such termination shall not affect liability incurred or accrued under this Agreement prior to the effective date of such termination or cancellation.

Any notice given pursuant to this Agreement are to be given by certified mail and shall be addressed to the Guarantor and Company at _____ and to Municipality at _____.

No claim, suit or action under this Agreement by reason of any default of the Company shall be brought against Guarantor unless asserted or commenced within six (6) months after the effective date of such termination or cancellation of this Agreement.

IN WITNESS WHEREOF, the Guarantor, Company and Municipality have set their hands and seals on the _____ day of _____, 200__.

DEFINITIONS

(The following terms have meanings ascribed to them below)

Municipality: _____

Company: _____

Franchise: _____

GUARANTOR:

By: _____

Its: _____

COMPANY:

By: _____

Its: _____

Municipality:

By: _____

Its: Mayor _____

APPENDIX C
FCC DEFINITION OF CONTROL -- 47 C.F.R. ' 76.501

47 C.F.R. ' 76.501 Cross-ownership.

(a) No cable television system (including all parties under common control) shall carry the signal of any television broadcast station if such system directly or indirectly owns, operates, controls, or has an interest in a TV broadcast station whose predicted Grade B contour, computed in accordance with ' 73.684 of part 73 of this chapter, overlaps in whole or in part the service area of such system (i.e., the area within which the system is serving subscribers).

(b) [Reserved]

(c) Effective date. The provisions of paragraph (a) of this section are not effective until November 8, 1987, as to ownership interests proscribed herein if such interests were in existence on or before July 1, 1970 (e.g., if franchise were in existence on or before July 1970), and will be applied to cause divestiture as to ownership interests proscribed herein only where the cable system is directly or indirectly, owned, operated, controlled by, or has an interest in a non-satellite television broadcast station which places a principal community contour encompassing the entire community and there is no other commercial non-satellite television broadcast station placing a principal community contour encompassing the entire community.

(d) No cable operator shall offer satellite master antenna television service ("SMATV"), as that service is defined in ' 76.5(a)(2), separate and apart from any franchised cable service in any portion of the franchise area served by that cable operator's cable system, either directly or indirectly through an affiliate owned, operated, controlled, or under common control with the cable operator.

- (e) (1) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer SMATV service within its franchise area if the cable operator's SMATV system was owned, operated, controlled by or under common control with the cable operator as of October 5, 1992.
- (2) A cable operator may directly or indirectly, through an affiliate owned, operated, controlled by, or under common control with the cable operator, offer service within its franchise area through SMATV facilities, provided such service is offered in accordance with the terms and conditions of a cable franchise agreement.

(f) The restrictions in paragraphs (d) and (e) of this section shall not apply to any cable operator in any franchise area in which a cable operator is subject to effective competition as determined under section 623(1) of the Communications Act.

Note 1: The word "control" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

Note 2: In applying the provisions of this section, ownership and other interests in broadcast licensees and cable television systems will be attributed to their holders and deemed cognizable pursuant to the following criteria:

- (a) Except as otherwise provided herein, partnership and direct ownership interest and any voting stock interest amounting to 5% or more of the outstanding voting stock of a corporate broadcast licensee or cable television system will be cognizable;
- (b) No minority voting stock interest will be cognizable if there is a single holder of more than 50% of the outstanding voting stock of the corporate broadcast licensee or cable television system in which the minority interest is held;
- (c) Investment companies, as defined in 15 U.S.C. 80a-3, insurance companies and banks holding stock through their trust departments in trust accounts will be considered to have a cognizable interest only if they hold 10% or more of the outstanding voting stock of a corporate broadcast licensee or cable television system, or if any of the officers or directors of the broadcast licensee or cable television system are representatives of the investment company, insurance company or bank concerned. Holdings by a bank or insurance company will be aggregated if the bank or insurance company has any right to determine how the stock will be voted. Holdings by investment companies will be aggregated if under common management.
- (d) Attribution of ownership interests in a broadcast licensee or cable television system that are held indirectly by any party through one or more intervening corporations will be determined by successive multiplication of the ownership percentages for each link in the vertical ownership chain and application of the relevant attribution benchmark to the resulting product, except that wherever the ownership percentage for any link in the chain exceeds 50%, it shall not be included for purposes of this multiplication. (For example, if A owns 10% of company X, which owns 60% of company Y, which owns 25% of "Licensee", then X's interest in "Licensee" would be 25% (the same as Y's interest since X's interest in Y exceeds 50%), and A's interest in "Licensee" would be 2.5% (0.1×0.25). Under the 5% attribution benchmark, X's interest in "Licensee" would be cognizable, while A's interest would not be cognizable.)
- (e) Voting stock interests held in trust shall be attributed to any person who holds or share the power to vote such stock, to any person who has the sole power to sell such stock, and to any person who has the right to revoke the trust at will or to replace the trustee at will. If the trustee has a familial, personal or extra-trust business relationship to the grantor or the beneficiary, the grantor or beneficiary, as appropriate, will be attributed with the stock interests held in trust. An otherwise qualified trust will be ineffective to insulate the grantor or beneficiary from attribution with the trust's assets unless all voting stock interests held by the grantor or beneficiary in the relevant broadcast licensee or cable television system are subject to said trust.

2002 Replacement

- (g) (1) A limited partnership interest shall be attributed to a limited partner unless that partner is not materially involved, directly or indirectly, in the management or

operation of the media-related activities of the partnership and the licensee or system so certifies.

- (2) In order for a licensee or system to make the certification set forth in paragraph (g)(1) of this note, it must verify that the partnership agreement or certificate of limited partnership, with respect to the particular limited partner exempt from attribution, establishes that the exempt limited partner has not material involvement, directly or indirectly, in the management or operation of the media activities of the partnership. The criteria which would assure adequate insulation for purposes of this certification are described in the Memorandum Opinion and Order in MM Docket No. 83-46, FCC 85-252 (released June 24, 1985) as modified on reconsideration in the Memorandum Opinion and Order in MM Docket No. 83-46, FCC 86-410 (released November 28, 1986). Irrespective of the terms of the certificate of limited partnership or partnership agreement, however, no such certification shall be made if the individual or entity making the certification has actual knowledge of any material involvement of the limited partners in the management or operation of the media-related businesses of the partnership.

(h) Officers and directors of a broadcast licensee or cable television system are considered to have a cognizable interest in the entity with which they are so associated. If any such entity engages in businesses in addition to its primary business of broadcasting or cable television service, it may request the Commission to waive attribution for any officer or director whose duties and responsibilities are wholly unrelated to its primary business. The officers and directors of a parent company of a broadcast licensee or cable television system, with an attributable interest in any such subsidiary entity, shall be deemed to have a cognizable interest in the subsidiary unless the duties and responsibilities of the officer or director involved are wholly unrelated to the broadcast licensee or cable television system subsidiary, and a statement properly documenting this fact is submitted to the Commission. (This statement may be included on appropriate Ownership Report.) The officers and directors of a sister corporation of a broadcast licensee or cable television system shall not be attributed with ownership of these entities by virtue of such status.

(i) Discrete ownership interests will be aggregated in determining whether or not an interest is cognizable under this section. An individual or entity will be deemed to have a cognizable investment if:

- (1) The sum of the interests held by or through "passive investors" is equal to or exceeds 10 percent; or
- (2) The sum of the interests other than those held by or through "passive investors" is equal to or exceeds 5 percent; or

- (3) The sum of the interests computed under paragraph (i)(1) of this note plus the sum of the interests computed under paragraph (i)(2) of this note is equal to or exceeds 10 percent.

Note 3: In cases where record and beneficial ownership of voting stock is not identical (e.g., bank nominees holding stock as record owners for the benefit of mutual funds, brokerage houses holding stock in street names for benefit of customers, investment advisors holding stock in their own names for the benefit of clients, and insurance companies holding stock), the party having the right to determine how the stock will be voted will be considered to own it for purposes of this subpart.

Note 4: Paragraph (a) of this section will not be applied so as to require the divestiture of ownership interests proscribed herein solely because of the transfer of such interests to heirs or legatees by will or intestacy, provided that the degree or extent of the proscribed cross-ownership is not increased by such transfer.

Note 5: In applying the provisions of paragraphs (d) and (e) of this section, control and an attributable ownership interest shall be defined by reference to the definitions contained in Notes 1 through 4, provided however, that:

- (a) The single majority shareholder provisions of Note 2(b) and the limited partner insulation provisions of Note 2(g) shall not apply; and
- (b) The provisions of Note 2(a) regarding five (5) percent interests shall include all voting or nonvoting stock or limited partnership equity interests of five (5) percent or more. (Ord. Unno. Passed 9-5-01.)

APPENDIX D
SHARED EG CHANNEL INFORMATION
GENESEE-NORTH OAKLAND AREA COMMUNITIES

The following provides information on the two shared education/government ("EG") channels being provided for the ten participating Genesee-North Oakland communities under the renewal franchise with Comcast.

Two such channels are provided for each community, largely because the achieves the communities' goal of making sure that most/all subscribers receive both the school and government programming appropriate to the school district/community they live in, while doing so at the least expense to Comcast (by having the EG channels the same for the large areas served by an Optical Transfer Point, rather than having variations neighborhood by neighborhood (node by node)).

- I. North Area
 - A. Communities included
 - 1. City of Clio
 - 2. Vienna Charter Township
 - 3. City of Mount Morris
 - 4. Genesee Charter Township
 - B. Shared EG channels for these communities are:
 - 1. The North channel which is shared by the following schools and municipalities:
 - a. Mount Morris Public Schools
 - b. Clio Public Schools
 - c. City of Clio
 - d. Vienna Charter Township
 - e. City of Mount Morris
 - f. Genesee Charter Township
 - g. Other school districts serving the preceding communities who elect to participate via the studio location set forth in I.C.
 - 2. City of Flint channel
 - C. Shared EG channel studios located at (Section 5.4.1)
 - 1. Mount Morris High School or Clio High School
 - D. Additional remote signal input points located at (Section 5.4.2)
 - 1. Clio City Hall
 - 2. Mount Morris City Hall
 - 3. Vienna Township Hall
 - 4. Genesee Township Hall
 - 5. Mount Morris High School or Clio High School (whichever one does not have the studio)

II. West Area

A. Communities included

1. City of Flushing
2. Flint Charter Township

B. Shared EG channels for these communities are:

1. The West-1 (Flushing) channel which is shared by the following schools and municipalities:
 - a. Flushing Public Schools
 - b. City of Flushing
 - c. Other school districts serving the preceding community who elect to participate via the studio location set forth in II.C.
2. The West-2 (Flint Township) channel which is shared by the following schools and municipalities:
 - a. Carmen Ainsworth Public Schools
 - b. Flint Charter Township
 - c. Other school districts serving the preceding community who elect to participate via the studio location set forth in II.C.

C. Shared EG channel studios located at (Section 5.4.1)

1. Flushing High School (West-1/Flushing Channel)
2. Carmen Ainsworth High School (West-2/Flint Twp Channel)

D. Additional remote signal input points located at (Section 5.4.2)

1. Flushing City Hall (West-1/Flushing Channel)
2. Flint Charter Twp Hall (West-2/Flint Twp Channel)

III. South Area

A. Communities included

1. City of Grand Blanc
2. Grand Blanc Charter Township
3. Village of Holly
4. Holly Township

B. Shared EG channels for these communities are:

1. The South-1(Grand Blanc) channel which is shared by the following schools and municipalities:
 - a. Grand Blanc Public Schools
 - b. City of Grand Blanc
 - c. Grand Blanc Charter Township
 - d. Other school districts serving the preceding communities who elect to participate via the studio location set forth in III.C.
2. The South-2 (Holly) channel which is shared by the following schools and municipalities:
 - a. Holly Public Schools
 - b. Village of Holly

- c. Holly Township
 - d. Other school districts serving the preceding communities who elect to participate via the studio location set forth in III.C.
- C. Shared EG channel studios located at (Section 5.4.1)
 - 1. Grand Blanc High School (South-1/Grand Blanc Channel)
 - 2. The NEW Holly High School (South-2/Holly Channel)
- D. Additional remote signal input points located at (Section 5.4.2)
 - 1. Grand Blanc City Hall (South-1/Grand Blanc Channel)
 - 2. Grand Blanc Charter Township Hall (South-1/Grand Blanc Channel)
 - 3. Holly Village Hall (South-2/Holly Channel)
 - 4. Holly Township Hall (South-2/Holly Channel)

APPENDIX E
SAMPLE CONTRACT FOR PEG CHANNEL
EDUCATIONAL ACCESS CHANNEL AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 200__, between THE CITY/TOWNSHIP of _____ ("Municipality"), and the Public School System ("Schools").

WITNESSETH:

WHEREAS, pursuant to its _____ [year] cable television franchise ("Franchise") with _____ Cable Company ("Company"), Municipality has obtained for the benefit of the residents of Municipality, an educational access cable channel (the "Cable Channel") for educational use and related facilities; and

WHEREAS, the Schools have or will acquire television facilities and are desirous of providing programming on the cable system in Municipality; and

WHEREAS, the parties desire to give the Schools the responsibility to operate the Cable Channel for the purposes described herein-for the benefit of the residents of the Municipality; and

WHEREAS, the parties intend that the Cable Channel shall be used by the Schools for the purpose of providing non-commercial educational programming as defined herein; and

WHEREAS, in consideration of the covenants herein, the Schools agree to operate such channel upon the terms and conditions stated herein;

NOW, THEREFORE, in consideration of the respective covenants contained herein, the parties agree as follows:

1. Term of Agreement. This Agreement shall be effective for one (1) year from the date first written above ("Initial Term") and shall automatically renew for successive one-year terms ("Renewal Term") unless either party gives sixty (60) days notice of termination prior to the annual anniversary of this Agreement, except that in no event shall any Renewal Term extend past the expiration of Municipality's current Franchise with Company.

2. Definitions. For purposes of this Agreement, the parties hereby agree that "Educational Access" shall mean non-commercial cable access where educational institutions are the primary or designated programmers or users.

3. Cable Channel. The Schools shall be solely responsible for the administration and operation of the Cable Channel and Municipality shall have no responsibility therefore of any kind.

4. Operation of the Cable Channel. The Schools shall operate the Cable Channel for Educational Access programming purposes. The Schools shall operate the Cable Channel in compliance with applicable laws, rules, regulations, and judicial and agency decisions, and in compliance with the Franchise between Municipality and Company. In particular, Schools acknowledge that its use of the channel may have to be shared with other school systems, entities or municipalities on an equitable basis and that Municipality may adopt and revise rules about Company's use of the cable channel when it is not being used for its intended purpose.

5. Channel Sharing. Schools acknowledge that Municipality may require the Cable Channel to be shared with public access channels, other educational channels or with a government channel. If so, Schools will do same as from time to time directed by Municipality.

6. Government Channel. If and as requested by Municipality, Schools agree to provide live or videotaped coverage (as appropriate) on the Cable Channel of those meetings of Municipality's legislative body or subordinate bodies as Municipality may from time to time request, all at no cost to Municipality.

7. Program Schedule. The Schools shall maintain appropriate program schedules and prepare daily log sheets, accurately reflecting all programs cablecast on the Cable Channel, including the time of each program, the length of each program, and the format of the program. These records shall be retained for a period of at least two (2) years and made available to Municipality for review and examination upon request.

8. Promotion of Programming. The Schools shall promote the programming being conducted on the Cable Channel in an appropriate manner which, at a minimum, shall include preparation and distribution in and around Municipality of a weekly program schedule. Such schedule shall be provided to Municipality and the Schools shall use its best efforts to publicize such schedule in local newspapers on a weekly basis.

9. Amount of Programming. The Schools shall provide programming on the Cable Channel at least ____ hours per day and shall provide at least ____ hours of full-motion video (i.e., excluding character generated, bulletin board and similar programming) programming per week on the Cable Channel.

10. Records. The Schools shall maintain appropriate records and files regarding the Cable Channel's operations, correspondence, communications, programming plans, and history of operations, retaining such records for a period of at least three (3) years or such longer period as may be required by law, permitting Municipality to review and examine such records upon request, and permitting the general public to review and examine such records during normal business hours pursuant to such reasonable rules as the Schools may establish for such purpose, or as may be required by law.

11. Cost of Operation. The Schools shall provide and pay for all expenses of operation of the Cable Channel, including employees, equipment, materials, and services.

12. Programming. The Schools shall be responsible for insuring that programming which it produces or distributes on the Cable Channel does not violate any applicable constitutional, statutory or ordinance provision, FCC rule, FCC decision, judicial decision, any governmental regulation applicable to such programming, the Franchise, or any provision of Municipality's Franchise with Company. Also, the Schools shall require that each user of or person providing programming for the Cable Channel sign a form approved in advance by Company and Municipality. Such form shall provide, inter alia, that the user or person will be responsible for all programming he, she or it produces, and agrees to indemnify, defend, and hold harmless both the Schools, Company and Municipality, their officers, employees, and agents, from and against all claims, suits, and causes of action, of any kind whatsoever, arising out of his or her use of the Cable Channel, and the programming he or she produces.

13. Copyright Assignment. Upon request by Municipality, the Schools agree to grant to Municipality a non-exclusive right to use, in any form whatsoever, any copyrightable programming or related material created in whole or in part at the Schools or with Schools' equipment or cablecast on the Cable Channel, such that Municipality shall have the right to duplicate, air, distribute, and otherwise use such copyrightable material and related material as Municipality deems appropriate. To comply with Federal copyright law and fulfill its obligation in the preceding sentence, Schools agree to include in its forms, rules and guidelines and enforce a requirement that all persons or entities using the Schools' equipment assign to the Schools and Municipality a non-exclusive copyright in all works created at the Schools or with its equipment.

14. Copies. Upon request, the Schools shall provide Municipality with a videotape copy of any program or programs aired on the Cable Channel.

15. Organizations. The Schools shall join and have at least one qualified representative attend the annual meetings of (a) the National Association of Telecommunications Officers and Administrators, 1650 Tysons Blvd., Suite 200, McLean, VA 22102-3915, (703) 506-3275, and (b) the Alliance for Community Media, 666 11th Street, N.W., Suite 806, Washington, D.C. 20001, (202) 393-2650. The Schools shall join both the national and state chapters of each organization.

16. Indemnification. The Schools shall indemnify, defend, and save and hold harmless Municipality, its officers and employees, from and against all claims, suits, and causes of action of any kind whatsoever, including but not limited to libel, slander or copyright infringement actions, arising out of the Schools' operations or activities of the Cable Channel or the programming distributed on such channel.

17. Insurance. During the Initial Term of this Agreement, and any Renewal Term, the Schools shall secure, continuously maintain, and provide Municipality with acceptable proof of insurance of the following types and amounts:

- (a) Public liability insurance covering persons and property with limits of not less than Three Hundred Thousand Dollars (\$300,000) per person, not less than One Million Dollars (\$1,000,000) per occurrence for bodily injury, and not less than Fifty Thousand Dollars (\$50,000) aggregate in any one policy year against property damage.
- (b) Broadcaster's liability insurance in an amount of not less than Three Million Dollars (\$3,000,000).
- (c) Workers' compensation in compliance with the laws of the State of _____.
- (d) All insurance shall be written on an occurrence basis with no deductible to exceed \$_____.

Municipality shall be named as a co-insured or an additional insured on all of the foregoing insurance coverages, except for workers' compensation insurance. The proof of insurance provided to Municipality shall provide that Municipality will be given thirty (30) days prior written notice of any cancellation, non-renewal, or material reduction or change in any of the coverages provided.

18. Transfer of Assets and Records. Upon termination of this Agreement, including any extension or renewals thereof, and after request of Municipality or upon dissolution of the Schools' corporate existence, the Schools shall transfer title and possession of all of assets acquired, in whole or in part, with funds provided by Municipality and records required to be kept by this Agreement, to Municipality for use by any successor Cable Channel operator selected by Municipality, or in the absence of any such successor, for disposition by Municipality in a manner deemed appropriate by Municipality.

19. Breach/Remedy. Upon any breach of this agreement, including in particular the failure to maintain insurance coverage for libel claims, in addition to other remedies Municipality may immediately cancel this Agreement, require Schools to stop distributing programming on the Cable Channel, and/or direct Company to cease transmitting programming on such channel.

20. Nonassignability. This Agreement may not be assigned by the Schools without Municipality's prior written consent.

21. Conflict. In the event of a conflict between this agreement and the Franchise the Franchise shall control.

IN WITNESS WHEREOF, the parties have hereto set their hands as of the day and year first above written.

WITNESSES:

CITY/TOWNSHIP OF _____

By _____

Its _____

WITNESSES:

_____ PUBLIC SCHOOL SYSTEM

By _____

Its _____

(Ord. Unno. Passed 9-5-01.)

CHAPTER 810

Drive-In Restaurants

- 810.01 Disorderly or immoral conduct; loitering.
- 810.02 Garbage and rubbish.
- 810.03 Alcoholic beverages.
- 810.04 Access to premises.
- 810.05 Parking areas.
- 810.99 Penalty.

CROSS REFERENCES

- Alcoholic beverages - see GEN. OFF. Ch. 606
- Disorderly conduct generally - see GEN. OFF. 660.01
- Peace disturbances - see GEN. OFF. Ch. 666
- Littering generally - see GEN. OFF. 676.04
- Garbage and rubbish - see S.U. & P.S. Ch. 1060
- Signs generally - see B. & H. Ch. 1480

810.01 DISORDERLY OR IMMORAL CONDUCT; LOITERING.

(a) The owner or operator of a drive-in restaurant shall maintain quiet and good order upon the premises and shall not permit disorderly or immoral conduct or loitering. No owner or operator shall cause or create any noise or other nuisance on the parking area of a drive-in restaurant whereby the quiet and good order of the premises or of the neighborhood is disturbed.

(b) No person on the premises of a drive-in restaurant shall race the motor of any motor vehicle, needlessly bring a motor vehicle to a sudden start or stop, blow any horn or make or cause to be made any other loud or unseemly noise, nuisance or disturbance whereby the quiet and good order of the premises or of the neighborhood is disturbed. No person on the premises of a drive-in restaurant shall make profane, obscene, rude or insulting remarks in the hearing of any other person, nor shall any person lounge, loiter or hang about such premises after consuming the food or beverage provided by the drive-in restaurant.

(Ord. 30. Passed 4-8-64.)

810.02 GARBAGE AND RUBBISH.

(a) No person shall place, throw or deposit any waste material upon the outside premises or parking area of a drive-in restaurant, on any street, alley or adjoining property or in the vicinity of a drive-in restaurant, except in adequate receptacles provided for that purpose, nor shall the owner or operator of such restaurant permit such conduct.

(b) The owner or operator of a drive-in restaurant shall, at least once every twenty-four hours, dispose of waste materials which tend to create a public nuisance on the premises. The owner or operator shall keep the premises whereon the drive-in restaurant is located, together with the parking area and that portion of any street or alley adjoining the drive-in restaurant, free from waste material. The owner or operator shall provide the drive-in restaurant with a sufficient number of adequate refuse containers.
(Ord. 30. Passed 4-8-64.)

810.03 ALCOHOLIC BEVERAGES.

No person on the premises of a drive-in restaurant, whether in or out of a motor vehicle, shall drink, have in his or her possession or under his or her control, or offer to give to another to drink, any beer, wine or intoxicating liquor.
(Ord. 30. Passed 4-8-64.)

810.04 ACCESS TO PREMISES.

The owner or operator of a drive-in restaurant shall provide access available to public streets or other public ways from at least two points at all times. Such means of access shall be kept clear by the owner or operator at all times to facilitate departure of persons in motor vehicles and to permit entrance of fire apparatus or ambulances in cases of emergency.
(Ord. 30. Passed 4-8-64.)

810.05 PARKING AREAS.

(a) Illumination. The parking area of any drive-in restaurant shall be adequately illuminated by electric lights, but such illumination shall be so arranged by the owner or operator as to reflect away from any adjoining residential property.

(b) Paving or Treatment. The parking area shall be satisfactorily paved or treated by the owner or operator so as to avoid creating dust and so as to provide for adequate drainage of surface water.
(Ord. 30. Passed 4-8-64.)

810.99 PENALTY.

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

CHAPTER 818
Garage Sales

- 818.01 Definitions.
818.02 License required; fee.
818.03 License issuance; term;
display.
818.04 License information.
818.05 Exceptions.
818.06 Signs. (Repealed)
818.99 Penalty.

CROSS REFERENCES

- Theft - see GEN. OFF. 662.02
Peddlers - see B.R. & T. Ch. 850
Merchandise display on sidewalks - see S.U. & P.S. 1024.03
Advertising devices - see S.U. & P.S. 1024.04
Signs generally - see B. & H. Ch. 1480

818.01 DEFINITIONS.

As used in this chapter:

(a) "Garage sale" means and includes all sales entitled "garage sale," "lawn sale," "attic sale," "rummage sale," or "flea market sale," or any similar casual sale of tangible personal property which is advertised by any means whereby the public at large is or can be made aware of such sale.

(b) "Goods" means and includes any goods, warehouse merchandise or other property capable of being the object of a sale regulated by this chapter.

(Ord. 93. Passed 2-12-75.)

818.02 LICENSE REQUIRED; FEE.

No person shall conduct a garage sale in the City without first filing with the City Clerk the information specified in Section 818.04 and obtaining from the City Clerk a license to do so, to be known as a garage sale license. The fee for such license shall be two dollars (\$2.00).

(Ord. 93. Passed 2-12-75.)

818.03 LICENSE ISSUANCE; TERM; DISPLAY.

A garage sale license shall be issued to any person only twice within a twelve-month period, and no such license shall be issued for more than three consecutive calendar days.

Each license issued under this chapter shall be prominently displayed on the premises upon which the garage sale is conducted throughout the entire period of the licensed sale. (Ord. 93. Passed 2-12-75.)

818.04 LICENSE INFORMATION.

The license information to be filed with the City Clerk pursuant to this chapter shall be as follows:

- (a) The name of the person conducting the sale;
- (b) The name of the owner of the property on which the sale is to be conducted, and the consent of the owner if the applicant is other than the owner;
- (c) The location at which the sale is to be conducted;
- (d) The number of days of the sale;
- (e) The date and nature of any past sale; and
- (f) A statement or affirmation by the applicant that the information given is in full and true.

(Ord. 93. Passed 2-12-75.)

818.05 EXCEPTIONS.

This chapter shall not apply to or affect the following persons or sales:

- (a) Persons selling goods pursuant to an order or process of a court of competent jurisdiction;
- (b) Persons acting in accordance with their powers and duties as public officials; or
- (c) Any person selling or advertising for sale any items of personal property which are specifically named or described in the advertisement and which separate items do not exceed five in number. (Ord. 93. Passed 2-12-75.)

818.06 SIGNS. (REPEALED)

(EDITOR'S NOTE: Section 818.06 was repealed by Ordinance 213, passed April 11, 1990.)

818.99 PENALTY.

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

CHAPTER 850
Peddlers

850.01	Peddler and solicitor defined.	850.10	Use of streets.
850.02	License required.	850.11	Hours of sale.
850.03	Application of chapter.	850.12	Exhibition of licenses.
850.04	License applications; investigation fee.	850.13	Enforcement by police.
850.05	Investigations; license issuance; records.	850.14	Records of violations.
850.06	Health standards.	850.15	Revocation of licenses.
850.07	License fees.	850.16	Appeals.
850.08	Transferability of licenses.	850.17	Expiration of licenses.
850.09	Peace disturbances; prohibited actions.	850.18	Waiver of provisions.
		850.99	Penalty.

CROSS REFERENCES

Hawkers and peddlers generally - see M.C.L.A. Secs. 445.371 et seq.
 Peace disturbances - see GEN. OFF. Ch. 666
 Businesses in general - see B.R. & T. Ch. 802
 Garage sales - see B.R. & T. Ch. 818
 Merchandise display on sidewalks - see S.U. & P.S. 1024.03

850.01 PEDDLER AND SOLICITOR DEFINED.

(a) Peddler. As used in this chapter, "peddler" means and includes any person, whether a resident of the City or not, who travels by foot, automobile or any other type of conveyance, from place to place, from house to house or from street to street, carrying, conveying or transporting goods, wares, magazines, merchandise, meats, fish, vegetables, fruits, garden truck or farm products or provisions, offering and exposing the same for sale, or making sales and delivering articles to purchasers, or who, without travelling from place to place, sells or offers the same for sale from a wagon, automobile, railroad car or other vehicle or conveyance. "Peddler" also includes the words "hawker" and "huckster."

(b) Solicitor. As used in this chapter, "solicitor" means and includes any person, whether a resident of the City or not, traveling either by foot, wagon, automobile, or any other type of conveyance, from place to place, from house to house, or from street to street, taking or attempting to take orders for the sale of goods, wares, magazines, merchandise, or personal property of any nature whatsoever for future delivery, or for services to be furnished or performed in the future, whether or not such person has, carries or exposes for sale a sample of the subject of such sale, or whether they are collecting advance payments on such sales or not. "Solicitor" also includes the word "canvasser."

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.02 LICENSE REQUIRED.

No person shall engage in the business of peddler or solicitor in the City without first obtaining a license therefore as provided in this chapter. Any person or organization that is actively soliciting funds or donations of any kind, by whatever means, as opposed to soliciting solely for the purpose of distributing religious, political or other noncommercial information, is required to apply for and obtain a license as provided in this chapter, unless otherwise exempt under this chapter.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.03 APPLICATION OF CHAPTER.

The following shall be exempt from this chapter:

- (a) Newspaper peddlers.
- (b) Any persons traveling on an established route at the request, express or implied, of their customers.
- (c) Any salesperson calling on business establishments.
- (d) Any person under eighteen years of age peddling or soliciting under the sponsorship of any established public or private school or recognized charitable or religious organization.
- (e) Any person soliciting as the duly authorized representative of any nonprofit enterprise provided they are soliciting solely for the limited purpose of distributing religious, political or other noncommercial information and not actively soliciting any funds or donations of any kind.
- (f) Any person claiming exemption under this section shall provide proof satisfactory to the City Clerk of exempt status.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.04 LICENSE APPLICATIONS; INVESTIGATION FEE.

(a) Applicants for a license under this chapter shall file with the City Clerk a sworn application, in writing, in duplicate, on a form to be furnished by the City Clerk, which application shall give the following information:

- (1) The name and a description of the applicant;
- (2) The address (legal and local) of the applicant;
- (3) A brief description of the nature of the business and the goods to be sold, and, in the case of products of a farm or orchard, a statement as to whether or not such products are produced or grown by the applicant;
- (4) If employed, the name and address of the employer, together with credentials establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) If a vehicle is to be used, a description of the same, together with the license number or other means of identification;
- (7) A photograph of the applicant taken within sixty days immediately prior to the date of filing the application, which photograph shall be two inches by two inches, showing the head and shoulders of the applicant in a clear and distinguishing manner.
- (8) The fingerprints of the applicant and the names of at least two reliable property owners of the County who will certify as to the applicant's good character and

business responsibility, or, in lieu of the names of references, at the discretion of the Chief of Police, any other available evidence as to the good character and business responsibility of the applicant as will enable an investigator to properly evaluate such character and business responsibility.

- (9) A statement as to whether the applicant has been convicted of any crime, misdemeanor or violation of any Municipal ordinance, the nature of the offense, name of any applicable jurisdiction, case number and the punishment or penalty assessed therefore.

(b) At the time of filing the application, a fee, which shall be set and may be amended by resolution of City Council from time to time, shall be paid to the City Clerk to cover the cost of the investigation described in Section 850.05.

(Ord. 114. Passed 10-9-77; Ord. 232. Passed 12-13-95; Ord. 08-09. Passed 8-13-08.)

850.05 INVESTIGATIONS; LICENSE ISSUANCE; RECORDS.

(a) Upon receipt of the license application described in Section 850.04, the original shall be referred to the Chief of Police, who shall, within ten days from the date of the application, cause such an investigation of the applicant's business and moral character to be made as he or she deems necessary for the protection of the public good.

(b) If, as a result of such investigation, the applicant's character or business responsibility is found to be unsatisfactory, the Chief of Police shall endorse on such application his or her disapproval and reasons for the same and shall return the application to the City Clerk, who shall notify the applicant within three days after the completion of the investigation that his or her application is disapproved and that no license will be issued.

(c) If, as a result of such investigation, the character and business responsibility of the applicant are found to be satisfactory, the Chief of Police shall endorse on the application his or her approval, execute a certificate addressed to the applicant for the carrying on of the business applied for and return such certificate, along with the application, to the City Clerk, who shall, upon payment of the prescribed license fee, issue the license and deliver to the applicant his or her license certificate. Such certificate shall contain the seal of the City, the signature of the licensee, the class of license issued, the kind of goods to be sold thereunder, the amount of fee paid, the date of issuance and the length of time the same shall be operative, as well as the license number and other identifying description of any vehicle to be used by the applicant. The Clerk shall keep a permanent record of all licenses issued.

(Ord. 232. Passed 12-13-95; Ord. 08-09. Passed 8-13-08.)

850.06 HEALTH STANDARDS.

No license under this chapter shall be issued to a person who sells or expects to sell food for human consumption without the approval of the County Health Department. All vehicles used in the transportation or sale of foodstuffs shall be kept in a clean and sanitary condition at all times.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.07 LICENSE FEES.

(a) The fees for a peddler's or solicitor's license shall be set and may be amended by resolution of City Council from time to time.

(b) No fee shall be required of any person who is a war veteran and who has first obtained a peddler's license pursuant to Act 359 of the Public Acts of 1921, as amended, provided that the goods, wares and merchandise proposed to be sold by such person are his or her own.

(c) No fee shall be required of any person or organization that is conducting or operating a nonprofit enterprise and is required to apply for and obtain a permit because such person or organization is actively soliciting funds or donations of any kind, by whatever means, as opposed to soliciting solely for the limited purpose of distributing religious, political or other noncommercial information. Any person claiming an exemption under this subsection shall provide proof satisfactory to the City Clerk of their exempt status.

(d) For the purpose of this chapter, any period of one or more than one calendar day and not more than thirty calendar days shall be considered one month.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.08 TRANSFERABILITY OF LICENSES.

No license certificate issued under this chapter shall be transferred or assigned without the consent of Council.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.09 PEACE DISTURBANCES; PROHIBITED ACTIONS.

(a) No peddler, nor any person on his or her behalf, shall shout, make any cryout, blow a horn or use any loud-speaking radio or sound amplifying system upon any of the streets, alleys, parks or other public places of the City, or upon any private premises in the City from where sound is emitted or produced of sufficient volume to be plainly heard upon the streets, avenues, alleys, parks or other public places, for the purpose of attracting attention to any goods, wares or merchandise which a licensee proposes to sell, without the consent City Council.

(b) Peddling and/or soliciting is prohibited on any privately owned premises that is posted with a sign or other notice stating "no trespassing," "no peddlers," "no peddling," "no soliciting," "no solicitors," "do not disturb," or similar notification making apparent the desires of the owner or occupant of the premises.

(c) No peddler or solicitor shall remain on any premises or return to any premises after being asked or directed to leave by the owner, occupant or person in charge of such premises.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.10 USE OF STREETS.

No peddler or solicitor shall have any exclusive right to any location in the public streets, nor shall a peddler be permitted a stationary location or be permitted to operate in any congested area where his or her operations might impede or inconvenience the public. For the

purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested or the public impeded or inconvenienced.
(Ord. 232. Passed 12-13-95; Ord. 08-09. Passed 8-13-08.)

850.11 HOURS OF SALE.

No person covered by this chapter shall sell his or her goods at any time other than between the hours of 9:00 a.m. and 7:00 p.m., or sunset, whichever comes first.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.12 EXHIBITION OF LICENSES.

Peddlers and solicitors are required to exhibit their license certificates at the request of any resident of the City.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.13 ENFORCEMENT BY POLICE.

(a) Any police officer of the City shall require any person seen peddling or soliciting, and who is not known by such officer to be duly licensed, to produce his or her peddler's or solicitor's license certificate, and such police officer shall enforce this chapter against any person found to be violating the same.

(b) When the conduct of any peddler or solicitor is so inimical to the public health, safety, and general welfare as to constitute a nuisance or give rise to an emergency, the Chief of Police shall have the authority to summarily order the cessation of peddling or soliciting activities and suspend the license pending a hearing on the revocation of the license by City Council.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.14 RECORDS OF VIOLATIONS.

The Chief of Police shall report all violations of this chapter to the City Clerk, and the City Clerk shall maintain a record for each license issued and record the reports of violations thereof.
(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.15 REVOCATION OF LICENSES.

(a) Licenses issued under this chapter may be revoked by City Council, after notice and hearing, for any of the following causes:

- (1) Fraud, misrepresentation or false statements contained in the license application;
- (2) Fraud, misrepresentation or false statements made in the course of carrying on business as a peddler or solicitor;
- (3) A violation of any of the provisions of this chapter;
- (4) Conviction of a licensee for a crime or misdemeanor involving moral turpitude; or
- (5) Conducting the business of peddling or soliciting in an unlawful manner or in such a manner as to constitute a breach of the peace, nuisance or a menace to the public health, safety or general welfare.

(b) Notice of a hearing for revocation of a license shall be given in writing, setting forth specifically the grounds of complaint and the time and place of the hearing. Such notice shall be

mailed, postage prepaid, to the licensee at his or her last known address at least five days prior to the date set for the hearing.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.16 APPEALS.

Any person aggrieved by the action of the Chief of Police or the City Clerk in the denial of an application for a license, as provided in Sections 850.04 and 850.05, shall have the right of appeal to City Council. Such appeal shall be taken by filing with City Council, within fourteen days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. City Council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant in the same manner as provided in Section 850.15 for notice of a hearing on revocation. The decision and order of City Council on such appeal shall be final and conclusive.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.17 EXPIRATION OF LICENSES.

All licenses issued under this chapter shall expire on December 31 of the year of issuance, unless a shorter time period is stated on the license certificate, except licenses issued for a period of one month, which shall expire on the date specified on the license certificate.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.18 WAIVER OF PROVISIONS.

If, in the opinion of the City Clerk, any applicant who, by this chapter, is required to obtain a license, should, for any reason, not be required to obtain a license, or should not be required to comply with any of the provisions contained herein, including, but not limited to, the payment of any fees, such facts shall be presented to Council, in writing, by the City Clerk, and Council may waive the application of this chapter or any of the provisions hereof to any applicant.

(Ord. 114. Passed 10-9-77; Ord. 08-09. Passed 8-13-08.)

850.99 PENALTY.

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

CHAPTER 852
Public Gatherings

- 852.01 Definitions.
- 852.02 License required.
- 852.03 License application.
- 852.04 Drawings; plans.
- 852.05 Investigations.
- 852.06 License issuance or denial.
- 852.07 Conditions for denial.
- 852.08 License form; posting; transferability.
- 852.09 Site facilities.
- 852.10 License revocation.
- 852.11 Violations.
- 852.99 Penalty.

CROSS REFERENCES

Tents to be made of fire resistant material - see M.C.L.A. Sec. 29.7b

Outdoor theaters - see M.C.L.A. Sec. 29.93

Recreation generally - see M.C.L.A. Secs. 41.421 et seq.

Municipal police regulations re theaters and shows - see M.C.L.A. Secs. 431.201, 431.202

Breaking or entering tents - see M.C.L.A. Secs. 750.110, 750.111, 750.115

Licensing in general; fees, bonds and insurance - see B.R. & T. Ch. 802

852.01 DEFINITIONS.

As used in this chapter:

(a) "Attendant" means any person who obtains admission to an outdoor assembly by the payment of money or by the rendering of services in lieu of the payment of money for admission.

(b) "Licensee" means any person to whom a license is issued pursuant to this chapter.

(c) "Outdoor assembly," hereinafter referred to as "assembly," means any event, attended by more than 5,000 attendants, all or any part of which event includes a theatrical exhibition, public show, display, entertainment, amusement or other exhibition, including, but not limited to, musical festivals, rock festivals, peace festivals or similar gatherings, but does not mean:

(1) An event which is conducted or sponsored by a governmental unit or agency on publicly owned land or property;

(2) An event which is conducted or sponsored by any entity qualifying for tax exempt status under Section 501(c)(3) of the Internal Revenue Code of 1954, being 26 U.S.A. Sec. 501(c)(3), as incorporated by reference in M.C.L.A. 206.201 as amended; or

(3) An event held entirely within the confines of a permanently enclosed and covered structure.

(d) "Sponsor" means any person who organizes, promotes, conducts or causes to be conducted an outdoor assembly.

(Ord. 61. Passed 10-22-70.)

852.02 LICENSE REQUIRED.

No person shall sponsor, operate, maintain, conduct or promote an outdoor assembly in the City without first making application for and obtaining as hereinafter prescribed, a license therefor.

(Ord. 61. Passed 10-22-70.)

852.03 LICENSE APPLICATION.

An application for a license to conduct an outdoor assembly shall be made in writing on such forms and in such manner as prescribed by the City Clerk, and shall be made at least sixty days prior to the date of the proposed assembly. Each application shall be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) and shall include at least the following:

(a) The name, age, residence and mailing address of the person making the application. Where the person making the application is a partnership, corporation or other association, this information shall be provided for all partners, officers and directors or members. Where the person is a corporation, a copy of the articles of incorporation shall be filed, and the names and addresses shall be provided of all shareholders having a financial interest greater than five hundred dollars (\$500.00).

(b) A statement of the kind, character and type of the proposed assembly;

(c) The address, legal description and proof of ownership of the site at which the proposed assembly is to be conducted. Where ownership is not vested in the prospective licensee, he or she shall submit an affidavit from the owner indicating his or her consent to the use of the site for the proposed assembly.

(d) The dates and hours during which the proposed assembly is to be conducted; and

(e) An estimate of the maximum number of attendants expected at the assembly for each day it is conducted and a detailed explanation of the evidence of admission which will be used and of the sequential numbering or other method which will be used for accounting purposes.

(Ord. 61. Passed 10-22-70.)

852.04 DRAWINGS; PLANS.

Each application for a license required by this chapter shall be accompanied by a detailed explanation, including drawings and diagrams where applicable, of the prospective licensee's plans to provide for the following:

- (a) Police and fire protection;
- (b) Food and water supply and facilities;
- (c) Health and sanitation facilities;
- (d) Medical facilities and services, including emergency vehicles and equipment;
- (e) Vehicle access and parking facilities;
- (f) Camping and trailer facilities;
- (g) Illumination facilities;
- (h) Communications facilities;
- (i) Noise control and abatement;
- (j) Facilities for clean-up and waste disposal; and
- (k) Insurance and bonding arrangements.

In addition, the application shall be accompanied by a map of the overall site of the proposed assembly.

(Ord. 61. Passed 10-22-70.)

852.05 INVESTIGATIONS.

On receipt of an application for a license required by this chapter by the City Clerk, copies of the application shall be forwarded to the Chief of Police and the Health Officer, to the State Fire Marshal and to such other appropriate public officials as the City Clerk deems necessary. Such officers and officials shall review and investigate matters relevant to the application, and within twenty days of receipt thereof shall report their findings and recommendations to Council.

(Ord. 61. Passed 10-22-70.)

852.06 LICENSE ISSUANCE OR DENIAL.

Within thirty days of the filing of an application for a license required by this chapter, Council shall issue, set conditions prerequisite to the issuance of, or deny, a license. Council may require that adequate security or insurance be provided before a license is issued. Where conditions are imposed as prerequisite to the issuance of a license, or where a license is denied, notice thereof shall be mailed, within five days of such action, to the applicant by certified mail and, in the case of denial, the reasons therefor shall be stated in the notice.

(Ord. 61. Passed 10-22-70.)

852.07 CONDITIONS FOR DENIAL.

A license to conduct an outdoor assembly may be denied if:

- (a) The applicant fails to comply with any of the requirements of this chapter, with any conditions imposed pursuant hereto or with any other applicable provision of State or local law.

(b) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting document.

(Ord. 61. Passed 10-22-70.)

852.08 LICENSE FORM; POSTING; TRANSFERABILITY.

A license shall specify the name and address of the licensee, the kind and location of the assembly, the maximum number of attendants permissible, the duration of the license and any other conditions imposed pursuant to this chapter. It shall be posted in a conspicuous place upon the premises of the assembly and shall not be transferred to any other person or location.

(Ord. 61. Passed 10-22-70.)

852.09 SITE FACILITIES.

In processing an application for a license required by this chapter, Council shall, at a minimum, require the following:

(a) Security Personnel. The licensee shall employ, at his or her own expense, such security personnel as are necessary and sufficient to provide for the adequate security and protection of the maximum number of attendants at the assembly and for the preservation of order and protection of property in and around the site of the assembly. No license shall be issued unless the Chief of Police of the City, in cooperation with the Director of State Police, is satisfied that such necessary and sufficient security personnel will be provided by the licensee for the duration of the assembly.

(b) Water Facilities. The licensee shall provide potable water, sufficient in quantity and pressure to ensure the proper operation of all water using facilities under conditions of peak demand. Such water shall be supplied from a public water system, if available, and if not available, then from a source constructed, located and approved in accordance with M.C.L.A. 333.12701 to 333.12715, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law, or from a source and delivered and stored in a manner approved by the City Health Officer.

(c) Restroom Facilities. The licensee shall provide separate enclosed flush-type water closets in accordance with any other applicable State or local law. If such flush-type facilities are not available, the Health Officer may permit the use of other facilities which are in compliance with M.C.L.A. 333.12771, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law.

The licensee shall provide lavatory and drinking water facilities constructed, installed and maintained in accordance with M.C.L.A. 338.901 et seq., as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law. All lavatories shall be provided with hot and cold water, soap and paper towels. The

number and type of facilities required shall be determined, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Toilets	1:300	1:200
Urinals	1:100	
Lavatories	1:200	1:200
Drinking Fountains		1:500
Taps or Faucets		1:500

Where the assembly is to continue for more than twelve hours, the licensee shall provide shower facilities, on the basis of the number of attendants, in the following manner:

Facilities	Male	Female
Shower Heads	1:100	1:100

All facilities shall be installed, connected and maintained free from obstructions, leaks and defects and shall, at all times, be in operable condition as determined by the Health Officer.

(d) Food Service. If food service is made available on the premises, it shall be delivered only through concessions licensed and operated in accordance with M.C.L.A. 333.12901 to 333.12922, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law.

If the assembly is distant from food service establishments open to the public, the licensee shall make such food services available on the premises as will adequately feed the attendants.

(e) Medical Facilities. If the assembly is not readily and quickly accessible to adequate existing medical facilities, the licensee shall be required to provide such facilities on the premises of the assembly. The kind, location, staff strength, medical and other supplies and equipment of such facilities shall be as prescribed by the Health Officer.

(f) Liquid Waste Disposal. The licensee shall provide for liquid waste disposal in accordance with all rules and regulations pertaining thereto established by the Health Officer. If such rules and regulations are not available or if they are inadequate, then liquid waste disposal shall be in accordance with the United States Public Health Service Publication No. 526, entitled Manual of Septic Tank Practice. If liquid waste retention and disposal is dependent upon pumpers and haulers, they shall be licensed in accordance with M.C.L.A. 325.311 to 325.330, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law. Prior to the issuance of any license, the licensee shall provide the Health Officer with a true copy of an executed agreement in force and effect with a licensed pumper or hauler, which agreement will

ensure proper, effective and frequent removal of liquid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

(g) Solid Waste Disposal. The licensee shall provide for solid waste storage on, and removal from, the premises. Storage shall be in approved, covered, flytight and rodentproof containers, provided in sufficient quantity to accommodate the number of attendants. Prior to the issuance of any license, the licensee shall provide the Health Officer with a true copy of an executed agreement in force and effect with a licensed refuse collector, which agreement will ensure proper, effective and frequent removal of solid waste from the premises so as to neither create nor cause a nuisance or menace to the public health.

The licensee shall implement effective control measures to minimize the presence of rodents, flies, roaches and other vermin on the premises. Poisonous materials, such as insecticides or rodenticides, shall not be used in any way so as to contaminate food or equipment or to otherwise constitute a hazard to the public health. Solid waste containing food waste shall be stored so as to be inaccessible to vermin. The premises shall be kept in such condition as to prevent the harborage or feeding of vermin.

(h) Public Bathing Beaches. The licensee shall provide or make available or accessible public bathing beaches only in accordance with M.C.L.A. 333.12541 to 333.12546, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law.

(i) Public Swimming Pools. The licensee shall provide or make available public swimming pools only in accordance with M.C.L.A. 333.12521 to 333.12534, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law.

(j) Access and Traffic Control. The licensee shall provide for ingress to and egress from the premises so as to ensure the orderly flow of traffic onto and off of the premises. Access to the premises shall be from a highway or road which is a part of the County system of highways or which is a highway maintained by the State. Traffic lanes and other space shall be provided, designated and kept open for access by ambulance, fire equipment, helicopter and other emergency vehicles. Prior to the issuance of a license, the Director of the Department of State Police and the Director of the Department of State Highways shall approve the licensee's plan for access and traffic control.

(k) Parking. The licensee shall provide a parking area sufficient to accommodate all motor vehicles, but in no case shall he or she provide less than one automobile space for every four attendants.

(l) **Camping and Trailer Parking.** A licensee who permits attendants to remain on the premises between 2:00 a.m. and 6:00 a.m. shall provide for camping and trailer parking and facilities in accordance with M.C.L.A. 333.12501 to 333.12516, as amended, and the rules and regulations adopted pursuant thereto, and in accordance with any other applicable State or local law.

(m) **Illumination.** The licensee shall provide electrical illumination of all occupied areas sufficient to ensure the safety and comfort of all attendants. The licensee's lighting plan shall be approved by the Building Inspector.

(n) **Insurance.** Before the issuance of a license, the licensee shall obtain public liability insurance with limits of not less than one hundred thousand dollars/three hundred thousand dollars (\$100,000/\$300,000) and property damage insurance with a limit of not less than twenty-five thousand dollars (\$25,000) from a company approved by the Commissioner of Insurance of the State. Such insurance shall insure liability for death or injury to persons or damage to property which may result from the conduct of the assembly or conduct incident thereto, and such insurance shall remain in full force and effect in the specified amounts for the duration of the license. The evidence of insurance shall include an endorsement to the effect that the insurance company shall notify the City Clerk, in writing, at least ten days before the expiration or cancellation of such insurance.

(o) **Bonding.** Before the issuance of a license, the licensee shall obtain, from a corporate bonding company authorized to do business in the State, a corporate surety bond in the amount of one hundred thousand dollars (\$100,000), in a form to be approved by the City Attorney, conditioned upon the licensee's faithful compliance with this chapter and with all applicable State or local laws. Such bond shall indemnify the City, its agents, officers and employees and Council against any loss, injury or damage arising out of or in any way connected with the assembly, and shall indemnify the owners of property adjoining the assembly site for any costs attributable to cleaning up and/or removing debris, trash or other waste resulting from the assembly.

(p) **Fire Protection.** The licensee shall, at his or her own expense, take adequate steps, as determined by the State Fire Marshal, to ensure fire protection.

(q) **Sound Producing Equipment.** Sound producing equipment, including, but not limited to, public address systems, radios, phonographs, musical instruments and other recording devices, shall not be operated on the premises of the assembly so as to be unreasonably loud or raucous or so as to be a nuisance or disturbance to the peace and tranquility of the residents of the City.

(r) Fencing. The licensee shall erect a fence completely enclosing the site, of sufficient height and strength as will preclude persons in excess of the maximum permissible attendants from gaining access. Such fence shall have sufficient gates properly located so as to provide ready and safe ingress and egress.

(s) Communications. The licensee shall provide public telephone equipment for general use on the basis of at least one unit for each 1,000 attendants.

(t) Miscellaneous. Prior to the issuance of a license, Council may impose any other condition reasonably calculated to protect the health, safety, welfare and property of the attendants or residents of the City.

(Ord. 61. Passed 10-22-70.)

852.10 LICENSE REVOCATION.

Council may revoke a license to conduct an outdoor assembly whenever the licensee or his or her employee or agent fails, neglects or refuses to fully comply with any of the provisions of this chapter or with any provisions, regulations, ordinances, statutes or other laws incorporated herein by reference.

(Ord. 61. Passed 10-22-70.)

852.11 VIOLATIONS.

No licensee or his or her employee or agent shall knowingly:

(a) Advertise, promote, sell tickets to, conduct or operate an assembly without first obtaining a license as provided in his chapter;

(b) Conduct or operate an assembly in such a manner as to create a public or private nuisance;

(c) Conduct or permit, within the assembly, any obscene display, exhibition, show, play, entertainment or amusement;

(d) Permit any person on the premises to cause or create a disturbance in, around or near the assembly by obscene or disorderly conduct;

(e) Permit any person to unlawfully consume, sell or possess intoxicating liquor while on the premises; or

(f) Permit any person to unlawfully use, sell or possess any narcotics, narcotic drugs, drugs or other substances as defined in Act 343 of the Public Acts of 1952, as amended.

Each of such violations is a separate offense and is a nuisance per se immediately enjoined in the Circuit Court. In addition, each of such violations is a sufficient basis for revocation of the license and for the immediate enjoining in the Circuit Court of the assembly. In addition, each of such violations is punishable as provided in Section 852.99.

(Ord. 61. Passed 10-22-70.)

852.99 PENALTY.

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

CHAPTER 870

Taxicabs

- 870.01 Taxicab defined.
- 870.02 Business license required; application.
- 870.03 Character of applicant.
- 870.04 Business license fee; tags and stickers.
- 870.05 Vehicle equipment; inspections; identification.
- 870.06 Chauffeur's license required; drivers' behavior.
- 870.07 Insurance.
- 870.08 Compliance with Traffic Code.
- 870.09 Illegal use of taxicabs.
- 870.10 Passengers.
- 870.11 Rates of fare; meters.
- 870.12 Taxicab stands.
- 870.13 Taxicab driver's licenses.
- 870.14 Certification of need by Council.
- 870.15 Renewal of business licenses.
- 870.16 Revocation or modification of authorization.
- 870.99 Penalty.

CROSS REFERENCES

Carrying passengers; locking of doors - see M.C.L.A. Secs. 256.531, 256.532

Application for registration of taxicabs - see M.C.L.A. Sec. 257.217

Discrimination - see M.C.L.A. Secs. 750.146, 750.147

Uniform Traffic Code and Michigan Vehicle Code - see TRAF. Ch. 410

Disabled motor vehicles - see GEN. OFF. 676.02

Businesses in general - see B.R. & T. Ch. 802

870.01 TAXICAB DEFINED.

As used in this chapter, "taxicab" means and includes any vehicle used to carry passengers for hire, but not operating on a fixed route.
(Ord. 62. Passed 12-9-70.)

870.02 BUSINESS LICENSE REQUIRED; APPLICATION.

No person shall engage in the business of operating a taxicab in the City without first obtaining a license therefor. Applications for such licenses shall be made in writing to the City Clerk and shall state thereon the name of the applicant, the intended place of business and the number of cabs to be operated. If the applicant is a corporation, the names and addresses of the president and secretary shall be given.

(Ord. 62. Passed 12-9-70.)

870.03 CHARACTER OF APPLICANT.

No license required by this chapter shall be issued to or held by any person who is not a person of good character or who has been convicted of a felony, nor shall such license be issued to or held by any corporation if any officer thereof would be ineligible for a license under this section. (Ord. 62. Passed 12-9-70.)

870.04 BUSINESS LICENSE FEE; TAGS AND STICKERS.

The annual fee, payable in advance, for a taxicab business license, shall be twenty-five dollars (\$25.00) for each taxicab operated. Whenever the number of cabs so operated is increased during the license year, the licensee shall notify the City Clerk of such change and shall pay the additional fee.

Such fee shall be in lieu of any other vehicle fee required by ordinance, and the City Clerk shall issue suitable tags or stickers for the number of taxicabs covered by each license. Such tag or sticker shall be displayed in a prominent place on each taxicab while it is in use and may be transferred to any taxicab put into service to replace one withdrawn from service.

The licensee shall notify the City Clerk of the motor number and State license number of each taxicab operated and of the corresponding City tag or sticker number. (Ord. 62. Passed 12-9-70.)

870.05 VEHICLE EQUIPMENT; INSPECTIONS; IDENTIFICATION.

(a) No taxicab shall be operated unless it bears a State license duly issued. No such taxicab shall be operated unless it is equipped with proper brakes, lights, tires, horn, muffler, rear vision mirror and windshield wiper in good condition. The Chief of Police shall inspect every taxicab as often as may be necessary to enforce this section.

(b) Each taxicab, while operated, shall have on each side, in letters readable from a distance of twenty feet, the name of the licensee operating it. If more than one taxicab is operated by a licensee, each taxicab shall be designated by a different number and such number shall also so appear on each side of such taxicab.

(Ord. 62. Passed 12-9-70.)

870.06 CHAUFFEUR'S LICENSE REQUIRED; DRIVERS' BEHAVIOR.

(a) No person shall drive a taxicab, or be hired or permitted to do so, unless he or she is duly licensed as a chauffeur.

(b) No driver of a taxicab, while on duty, shall drink any intoxicating liquor, use any profane or obscene language, shout or call to prospective passengers or disturb the peace in any way.

(Ord. 62. Passed 12-9-70.)

870.07 INSURANCE.

No taxicab shall be operated unless it is covered by a bond or public liability policy as required by statute.

(Ord. 62. Passed 12-9-70.)

870.08 COMPLIANCE WITH TRAFFIC CODE.

Every driver of a taxicab shall obey all traffic rules established by statute or ordinance.

(Ord. 62. Passed 12-9-70.)

870.09 ILLEGAL USE OF TAXICABS.

No person shall knowingly permit any taxicab to be used in the perpetration of a crime or misdemeanor.

(Ord. 62. Passed 12-9-70.)

870.10 PASSENGERS.

The driver of any taxicab shall accept as a passenger any person who seeks to use the taxicab, provided that such person is not intoxicated and conducts himself or herself in an orderly manner. No person shall be admitted to a taxicab occupied by a passenger without the consent of the passenger.

The driver shall take his or her passenger to his or her destination by the most direct available route from the place where the passenger enters the cab.

(Ord. 62. Passed 12-9-70.)

870.11 RATES OF FARE; METERS.

No taxicab shall be operated unless it is equipped with a meter in good condition to record the amount to be charged on each trip or with posted zone rates approved by Council. Posted rates or meter charges shall be shown in figures visible to the passenger. Upon paying his or her fare, each passenger shall be given a receipt, upon request, showing the amount so paid and the name of the company or person operating the taxicab, together with the number of the taxicab if such company or person operates more than one taxicab in the City.

No passenger shall fail or refuse to pay the lawful fare at the termination of a trip.

The charges for taxicab service shall be subject to the approval of Council and may be reviewed from time to time as Council deems necessary.

No extra charge shall be made for baggage or parcels, the size of which baggage or parcels permits them to be carried in the taxicab.

(Ord. 62. Passed 12-9-70.)

870.12 TAXICAB STANDS.

Taxicab stands shall be located on public streets and areas as directed and approved by the Chief of Police. Each such stand shall be appropriately marked by signs erected under the supervision of the Chief of Police. No person shall park any vehicle other than a licensed taxicab in any taxicab stand. A licensed taxicab may be parked in any taxicab stand while such taxicab is in the charge of its driver on duty or awaiting a fare.

(Ord. 62. Passed 12-9-70.)

870.13 TAXICAB DRIVER'S LICENSES.

(a) Required. No person shall drive a taxicab unless he or she has obtained a license therefor as provided in this chapter.

(b) Fee. The annual fee for a taxicab driver's license shall be one dollar (\$1.00).

(c) Qualifications. No taxicab driver's license shall be issued to any person who is not competent to operate a motor vehicle or who is not familiar with traffic laws and ordinances. The Chief of Police shall examine each applicant for a taxicab driver's license to determine the competency of the applicant, and no such license shall be issued except on the applicant's ability to operate a motor vehicle as required herein.

(d) Revocation. The Mayor may revoke any taxicab driver's license for repeated violations of traffic laws or ordinances, or of any ordinance regulating the conduct of such drivers.

(Ord. 62. Passed 12-9-70.)

870.14 CERTIFICATION OF NEED BY COUNCIL.

No license to operate a taxicab in the City shall be issued unless and until Council certifies that the public need for taxicab service requires the additional service to be rendered by the applicant. In deciding this question, the Council shall consider the need of the public for taxicab service, the number of cabs in operation and the anticipated future demands.

870.15 RENEWAL OF BUSINESS LICENSES.

No certification as required by Section 870.14 shall be required for the renewal of any operator's business license.

(Ord. 62. Passed 12-9-70.)

870.16 REVOCATION OR MODIFICATION OF AUTHORIZATION.

If any business licensee on whose behalf a certificate has been issued fails to operate any or all of the taxicabs covered by such certificate for six consecutive days, the certificate may be revoked or modified by Council so as to cover and authorize only the number of taxicabs actually operated.

870.99 PENALTY.

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

CHAPTER 872
Open-Air Markets

872.01	Purpose.	872.11	Fire code compliance.
872.02	Definitions.	872.12	Market guidelines.
872.03	Permitted locations.	872.13	Market manager; powers and duties.
872.04	Property maintenance.	872.14	Hearings; revocation of vendor permit and appeals.
872.05	Hours and dates of setup and operation.	872.15	Vendor service of notice to quit.
872.06	Market permit required.	872.16	Products prohibited from being sold.
872.07	Vendor permit application.	872.17	Enforcement.
872.08	Noise control.	872.99	Penalty.
872.09	Refuse containers, litter and waste disposal.		
872.10	Produce and product containers.		

872.01 PURPOSE.

The City Council hereby establishes open-air markets for the purpose of creating a vibrant and exciting downtown public marketplace to serve the greater Grand Blanc community and provide a use that supports local farmers, artists and crafters.
(Ord. 06-05. Passed 6-14-06.)

872.02 DEFINITIONS.

- (a) ALocally grown produce@ shall be defined in the market guidelines.
- (b) ALocally produced products@ shall be defined in the market guidelines.
- (c) AMarket manager@ is an individual who will assume responsibility for the coordination of all market events and assure compliance with all regulations. The terms "manager" and "market manager" shall be used interchangeably throughout the remaining sections of this chapter.
- (d) AMerchandise for sale@ means wholesome, merchantable products of the farm, orchard, greenhouse, nursery, or forest that are produced and sold by local Michigan based growers. Locally produced arts and crafts may also be sold. Other products not listed in this definition may be approved for sale at market if approved by resolution of City Council.
- (e) AOpen-air market@ means an open-air market, without permanent structures and limited to the selling of locally grown fresh fruits, fresh vegetables, flowers, arts and crafts. The terms "market" and "open-air market" shall be used interchangeably throughout the remaining sections of this chapter.
- (f) AMarket guidelines@ are guidelines that clearly communicate the expectations and requirements of all persons, including vendors, patrons and the manager of the market.

- (g) A Vendor@ means a person, firm or corporation who rents, lets or sublets space in an open-air market, or who sells products in an open-air market. The vendor may also be the producer of the produce or products being sold to the public.
- (h) A Vendor booths, spaces or stalls@ are temporary structures or tents that are to be used by vendors of the open-air market. These structures may be covered or uncovered as determined by market guidelines. Other structures or vehicles may be used to hold products or produce for sale if determined to be appropriate by the manager.
(Ord. 06-05. Passed 6-14-06.)

872.03 PERMITTED LOCATIONS.

Open-air markets are permitted to be located on and around Grand Boulevard. All locations outside of the Grand Boulevard area must be approved by resolution of City Council.
(Ord. 06-05. Passed 6-14-06.)

872.04 PROPERTY MAINTENANCE.

(a) The driving of stakes or other devices into City right-of-way, including but not limited to streets or sidewalks, for the purpose of securing tents or any other type of vendor booth is expressly prohibited.

(b) Any person causing any damage to any street right-of-way, sidewalk or any other public or private property including but not limited to street trees, electrical outlets or streetlights shall be required to pay for any and all restoration or repair activities needed to restore the property to its original state.

(Ord. 06-05. Passed 6-14-06.)

872.05 HOURS AND DATES OF SETUP AND OPERATION.

Hours and dates of setup and operation of a market other than those listed in this section may be approved by resolution of City Council. Markets are required to comply with the following:

- (a) Setup and Tear Down Times. Vendors may set up booths two hours prior to the market opening;
- (b) Dates of Operation. Open-air markets may be operated between April 1st through October 31st of each year;
- (c) Days of Operation. Days of operation must be approved by resolution of City Council;
- (d) Hours of Operation. Markets shall be allowed to operate between the hours of 8:00 a.m. and 7:00 p.m.; and
- (e) Adjustment of Hours of Operation. The City Council, by resolution, may adjust hours and days of operation from time to time.

(Ord. 06-05. Passed 6-14-06.)

872.06 MARKET PERMIT REQUIRED.

It shall be unlawful to operate a market without first securing a permit from the City Administration.

(Ord. 06-05. Passed 6-14-06.)

872.07 VENDOR PERMIT APPLICATION.

Every vendor must submit an application for vending at the market to the manager for review and approval or denial.
(Ord. 06-05. Passed 6-14-06.)

872.08 NOISE CONTROL.

(a) No loud speakers or other audio amplifying devices are permitted unless approved by resolution of City Council.

(b) No vendor shall attract attention to their articles, goods, wares, or merchandise, or to any other service or activity by hawking or outcry in a loud and annoying manner.
(Ord. 06-05. Passed 6-14-06.)

872.09 REFUSE CONTAINERS, LITTER AND WASTE DISPOSAL.

(a) It shall be the responsibility of each vendor to furnish a sufficient number of refuse containers which shall be watertight, non-corrosive and tightly covered and adequately sized to hold all accumulations of garbage, offal and liquid waste from such operations. All containers shall be regularly emptied and not allowed to overflow with waste material at any time.

(b) The entire market area, including but not limited to the market and parking areas and vendor booths, shall be kept free of litter and all other waste material at all times.

(c) All waste must be disposed of during the market hours of operation and absolutely no waste material shall be left at the market site after the market closes.
(Ord. 06-05. Passed 6-14-06.)

872.10 PRODUCE AND PRODUCT CONTAINERS.

Boxes, crates, barrels, cartons and other produce or product containers must be kept clean and stored in neat piles at all times.
(Ord. 06-05. Passed 6-14-06.)

872.11 FIRE CODE COMPLIANCE.

All vendor booths or sales areas must be in compliance with all fire codes that have been adopted by the City. Fire code compliance inspections may be required when vendors use heating elements, grills or propane canisters at the assigned location, electrical generators and any other types of equipment that has the potential of causing fire, explosions or corrosion. All electrical cords from electrical services must be covered by and contained in a rubberized threshold or equivalent for safety and in no case shall electrical cords be situated in a manner where they could provide a tripping hazard.
(Ord. 06-05. Passed 6-14-06.)

872.12 MARKET GUIDELINES.

Market guidelines shall be drafted by the manager and approved by resolution of City Council. At a minimum the market guidelines shall contain the following:

- (a) Location of the market.
- (b) Days of the week and time of day for the market.

- (c) Length of season for operation of the market.
- (d) Assign and define size of individual selling space or booths.
- (e) List stall fees and/or payment structure.
- (f) Define permissible products or Alocally grown produce@ and Alocally produced products, arts and crafts@.
- (g) Product source restrictions.
- (h) List any required regulatory compliance grievance procedure.
(Ord. 06-05. Passed 6-14-06.)

872.13 MARKET MANAGER; POWERS AND DUTIES.

All market activities shall be under the supervision and control of the manager. The manager shall be appointed by City Council and report directly to the City Manager. The manager shall have the following duties:

- (a) Be responsible for assuring that the market is kept free of all litter and waste material, clean, safe, all waste containers emptied regularly and are not allowed to overflow with litter or other waste;
- (b) Enforcement of all provision of this chapter;
- (c) Drafting of vendor application and approval or denial of said applications;
- (d) Drafting and enforcement of all market guidelines;
- (e) Inspecting booths and other vendor sales areas for safety;
- (f) Be responsible for obtaining all required Federal, State and local licenses and/or permits;
- (g) Verifying all Federal, State and local governmental licenses have been obtained by vendors;
- (h) Verifying that all vendor licenses requiring public display are clearly visible to all individuals;
- (i) Assuring that the market opens and closes at the approved times;
- (j) Shall see that no nuisance activity is caused or practiced by buyers and sellers;
- (k) Shall direct the arrangement of stalls, tents or other temporary structures or sales areas;
- (l) Shall verify that all vendor sales areas are properly secured so that public safety is maintained;
- (m) Shall monitor vendors and assure that only approved goods are sold;
- (n) Shall not allow illegal sales of goods;
- (o) Verify that all products for sale that require refrigeration or are perishable are kept at the proper temperature as established by State or County Health Department guidelines;
- (p) Verify that absolutely no price fixing occurs such as price undercutting or artificial price inflation occurs;
- (q) Assure that only members who pay membership fees are permitted to sell products at the market;
- (r) Submit all market guidelines for City Council approval; and
- (s) Shall have the power to revoke vendor permits for violations of market guidelines or other City requirements.
(Ord. 06-05. Passed 6-14-06.)

872.14 HEARINGS; REVOCATION OF VENDOR PERMIT AND APPEALS.

(a) Whenever a City official or manager finds any vendor in violation of any of the requirements of this chapter or other City ordinance, the manager shall immediately notify, in writing, the vendor thereof to correct or abate the violation(s). If the violation is not abated within a reasonable period of time, established by the manager, then the manager shall immediately revoke the vendors permit and file a report of such violation with the City Administration.

(b) The vendor shall have thirty days to file a grievance or appeal, from the time he or she is notified of any revocation of vendor permit, with the City Council. The City Council shall have the final authority to reinstate a vendor's permit or permanently revoke the permit and thereby disallowing the vendor from doing business at the market.

(Ord. 06-05. Passed 6-14-06.)

872.15 VENDOR SERVICE OF NOTICE TO QUIT.

All vendor service of notice to quit, issued by City Council, shall be served upon the vendor listed on the vendor application and permit in at least one of the following manners:

- (a) Delivered to him or her in person;
- (b) Delivered to him or her via first class mail to the address listed on the vendors application;
- (c) By posting a copy in a conspicuous place in or about the market;
- (d) By sending a copy of the notice to quit by registered mail with return receipt; or
- (e) If registered mail is returned with receipt showing that said notice to quit has not been delivered to the vendor, then said notice to quit shall be posted in a conspicuous location in or about the market.

(Ord. 06-05. Passed 6-14-06.)

872.16 PRODUCTS PROHIBITED FROM BEING SOLD.

Unless approved by a resolution of City Council, the following products are prohibited from being sold at open-air markets: Commercially produced products and other prohibited products as defined in the market guidelines.

(Ord. 06-05. Passed 6-14-06.)

872.17 ENFORCEMENT.

It shall hereby be declared that all provisions of this chapter shall be policed and enforced by the manager. The market manager may ask the Police Department to intervene in cases that cannot be reasonably resolved by the manager.

(Ord. 06-05. Passed 6-14-06.)

872.99 PENALTY.

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

TITLE FOUR - Taxation

Chap. 880.	Tax Exemptions.
Chap. 882.	Real Estate Tax.

CHAPTER 880
Tax Exemptions

- 880.01 Definitions.
- 880.02 Exemption of senior citizen housing developments.
- 880.03 Annual service charge on Grand Meadows Apartments and Grand Meadows II Apartments.
- 880.04 Limitation on service charge.
- 880.05 Contractual effect of chapter.
- 880.06 Payment of service charge.
- 880.07 Effective period of chapter.

CROSS REFERENCES

- Real estate transfer; documentary stamp tax - see M.C.L.A. Secs. 207.501 et seq.
- Municipal tax rates - see M.C.L.A. Secs. 211.107a, 211.203
- Taxation generally - see CHTR. Ch. 14, Sec. 16, Ch. 20
- Limitation on taxation - see CHTR. Ch. 19, Sec. 2
- Real estate tax - see B.R. & T. Ch. 882

880.01 DEFINITIONS.

As used in this chapter:

- (a) "Act" means the State Housing Development Authority Act, being Act 346 of the Public Acts of 1966, as amended, M.C.L.A. 125.1401 et seq. and M.S.A. 116.114(1) et seq., as amended.
- (b) "Authority" means the Michigan State Housing Development Authority.
- (c) "Housing development" means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.
- (d) "Mortgage loan" means a loan to be made by the Authority to the sponsor for the construction and/or permanent financing of a housing development.

(e) "Senior citizen" means those persons exempted under Section 503(1)(c), the Elliot-Larsen Civil Rights Act, being M.C.L.A. 37.2503(1)(c), whose income does not exceed sixty percent of the area median income adjusted for family size.

(f) "Sponsor" means persons or entities who or which have applied to the Authority for a mortgage loan to finance a housing development.

(g) "Annual shelter rent" means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric or other utilities furnished the occupants.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.02 EXEMPTION OF SENIOR CITIZEN HOUSING DEVELOPMENTS.

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes shall be senior citizen housing developments which are financed or assisted pursuant to the Act. It is further determined that the housing developments known as Grand Meadows Apartments and Grand Meadows II Apartments are of this class.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.03 ANNUAL SERVICE CHARGE ON GRAND MEADOWS APARTMENTS AND GRAND MEADOWS II APARTMENTS.

The housing development identified as Grand Meadows Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after achievement of a seventy-five percent occupancy rate or January 1, 1985, whichever is earlier.

The housing development identified as Grand Meadows II Apartments and the property on which it shall be constructed shall be exempt from all property taxes from and after the issuance of a certificate of compliance.

The City, acknowledging that the sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this chapter and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established herein, and in consideration of the sponsor's offer, subject to receipt of a mortgage loan from the Authority, to construct, own and operate such housing development, hereby agrees to accept payment of an annual service charge for public services in lieu of all property taxes.

The annual service charge for the Grand Meadows Apartments shall be equal to two percent of the rents collected by the sponsor on that part of the housing development which is occupied by low income persons or families for the first year of operation after achievement of a seventy-five percent occupancy rate or January 1, 1985, whichever is earlier. Thereafter, for the second year through the fifteenth year, the annual service charge shall increase by 0.25 percent per year to a maximum of six percent. At the end of the fifteenth year of any time thereafter, the City

may review the annual service charge, and if it is determined upon such review that project revenues are adequate to meet an increase in the annual service charge, at the sole discretion of the City, the same may be increased by not more than 0.533 percent per year for years sixteen through thirty to a maximum of fourteen percent.

The annual service charge for the Grand Meadows II Apartments shall be equal to three and one-half percent of the annual sheltered rents collected by the sponsor on that part of the housing development which is occupied by senior citizens for sixteen years of operation after the issuance of a certificate of compliance. Thereafter, for the seventeenth through the thirty-fifth year, the annual service charge shall be reviewed and if the mortgage loan from the Authority is still in effect, the annual service charge stated aforesaid shall continue.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.04 LIMITATION ON SERVICE CHARGE.

Notwithstanding Section 880.03, the service charge to be paid each year in lieu of taxes for that part of the housing development which is tax exempt and which is occupied by other than low income persons or families or senior citizens shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

"Low income persons or families," as used in this section, shall have the same meaning given that term by the State Housing Development Authority pursuant to its rulemaking authority.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.05 CONTRACTUAL EFFECT OF CHAPTER.

Notwithstanding the provisions of Section 15(a)(5) of the Act to the contrary, a contract between the City and the sponsor, with the State Housing Development Authority as third party beneficiary thereunder, to provide tax payments in lieu thereof as previously described, is effected by the enactment of this chapter.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.06 PAYMENT OF SERVICE CHARGE.

The service charge in lieu of taxes, as determined according to this chapter, shall be payable in the same manner as general property taxes are payable to the City, except that the annual payment shall be made on or before December 31 of each year.

(Ord. 157. Passed 10-19-83; Ord. 205. Passed 3-8-89.)

880.07 EFFECTIVE PERIOD OF CHAPTER.

This chapter shall remain in effect and shall not terminate so long as a mortgage loan remains outstanding and unpaid or the State Housing Development Authority has any interest in the property, provided that construction of the housing development commences within fifteen months from the effective date of this chapter. The Grand Meadows Apartments were exempted by Ordinance 157, passed October 19, 1983. The Grand Meadows II Apartments

were exempted by Ordinance 205, passed March 8, 1989. Upon satisfaction in full of the Authority mortgage loan, this chapter shall automatically terminate.
(Ord. 212. Passed 3-15-90.)

CHAPTER 882
Real Estate Tax

- 882.01 Property tax administration fee.
882.02 Late penalty charge.

CROSS REFERENCES

- Real estate transfer; documentary stamp tax - see M.C.L.A. Secs. 207.501 et seq.
Municipal tax rates - see M.C.L.A. Secs. 211.107a, 211.203
Taxation generally - see CHTR. Ch. 14, Sec. 16, Ch. 20
Limitation on taxation - see CHTR. Ch. 19, Sec. 2
Tax exemptions - see B.R. & T. Ch. 880

882.01 PROPERTY TAX ADMINISTRATION FEE.

(a) There is hereby authorized the imposition of a property tax administration fee of one percent on all sums voluntarily paid for winter property taxes before February 28 of the succeeding year in which the same become due and payable, and for summer property taxes before August 31 of the succeeding year in which the same become due and payable.

(b) As used in this section, "property tax administration fee" means a fee to offset costs incurred by the City in assessing property values, collecting the property tax levies and in the review and appeal processes.

(c) If apprehensive of the loss of personal property tax assessed upon the roll, the City Treasurer may enforce collection of the tax at any time, and if compelled to seize property or bring an action, shall add one percent for a property tax administration fee.

(d) The City Treasurer is hereby directed and authorized to take such steps as may be necessary to implement this section.

(e) This section shall apply to all property tax levies that become a lien in 1983, or in any year thereafter, and this section shall continue in full force and effect unless and until revoked or rescinded by resolution of Council.

(f) Council hereby reserves the right and authority to waive all or part of the property tax administration fee imposed by this section for a specific tax levy and collection period by the adoption of a resolution or ordinance to that effect.

(g) Notwithstanding anything in this section to the contrary, there shall not be imposed the one percent property tax administration fee on that portion of taxes designated as City General Operating Taxes.
(Ord. 150. Passed 5-11-83.)

882.02 LATE PENALTY CHARGE.

(a) There is hereby authorized the imposition of a late penalty charge, equal to three percent, on all winter taxes paid after February 28 and before March 1 of the succeeding year in which such taxes become due and payable, and on all summer taxes paid after August 31 and before September 1 of the succeeding year in which such taxes become due and payable.

(b) The late penalty charge shall be waived for the homestead property of a senior citizen, paraplegic, quadriplegic, eligible serviceperson, eligible veteran, eligible widow or widower, totally and permanently disabled person or blind person, as those persons are defined in M.C.L.A. 206.501 to 206.532, as amended, if a person makes a claim before February 15 for a credit for that property provided by M.C.L.A. 206.501 to 206.532, as amended, presents a copy of the form filed for that credit to the City Treasurer and has not received the credit before February 15.

(c) If apprehensive of the loss of personal property tax assessed upon the tax roll, the City Treasurer may enforce collection of the tax at any time, and if compelled to seize property or bring an action in December, shall add three percent for a late penalty charge.

(d) The City Treasurer is hereby directed and authorized to take such steps as may be necessary to implement this section.

(e) This section shall apply to all property tax levies that become a lien in 1983, or in any year thereafter, and this section shall continue in full force and effect unless and until revoked or rescinded by action of Council.

(f) Council hereby reserves the right and authority to waive all or part of the late penalty charge imposed by this section for a specific tax levy and collection period by the adoption of a resolution or ordinance to that effect.
(Ord. 149. Passed 5-11-83.)