

ORDINANCE #40
CATV SERVICE

Adopted: 03/09/71
Effective: 03/19/71

THE TOWNSHIP OF BANGOR ORDAINS:

SECTION 1. No person shall engage in the business of transmitting and distributing television signals, including radio signals, by means of cable to private subscribers without first obtaining a permit as hereinafter provided in this Ordinance. This service shall be hereinafter referred to as "CATV Service", which shall not include, however, the operation of a master television antenna system, the distribution system of which is confined to private property.

SECTION 2. Application for a permit to provide CATV Service shall be made to the Township Board in writing and shall include the following:

- (A) Name and address of applicant and names of principal owners, and if a corporation, names of principal stockholders.
- (B) Location proposed of antenna tower or towers.
- (C) Description of the proposed distribution system in the township showing area to be served and methods of serving the subscribers.
- (D) *Service to be provided. (Amended by Ordinance #105, effective 02/23/79)*
- (E) Extent to which the services offered by the applicant will be made available without charge to public schools.

SECTION 3. Each applicant shall attach to his application an authenticated statement of financial condition and net worth.

SECTION 4. Upon determination that the applicant has complied with all legal and that the plan is in the best interest of the township requirements/and a determination by the Board that the applicant is financially responsible with adequate resources to undertake the service, the Township Board shall grant a permit upon the following terms and conditions:

- (A) *The permittee shall furnish proof of public liability insurance to pay all claims for injury or damage to persons or property, both real and personal, resulting from the construction, erection, operation or maintenance of said television system in the limits as adopted by resolution of the Township Board. Each policy shall provide for ten days' notice in writing to the Township Clerk of a change in the policy or a cancellation. (Amended by Ordinance #301, effective 11/17/05)*
- (B) *Permittee shall pay the Township for the privilege of operating a CATV service system 5% of the annual cross operating revenues received by it and not*

refunded, in fees from service charges to subscribers located within the Township, payable quarterly. This percentage figure shall be subject to review at the end of a five year term. Nothing in this ordinance shall exempt any permittee from payment of ad valorem taxes on his property or equipment or any other tax which he might validly be obligated to pay. (Amended by Ordinance #45, effective 03/17/72)

- (C) Permittee shall file with the Township Clerk annually an audited statement of revenues received from its operations under the permit issued pursuant to this Ordinance within Sixty (60) days after the close of its fiscal year and shall make its financial records relating thereto available to the township for inspection at the place designated by it within the township at any reasonable time and shall maintain separate records as to its business conducted pursuant to its permit issued hereunder.

SECTION 5. Permittee shall have the right during the time its permit is in force to utilize the streets of the township to the extent set forth in its application, insofar as such use is within the control of the township, subject to the following:

- (A) All transmission and distribution structures, lines and equipment erected by the permittee or on its behalf within the township shall be so located as to cause minimum interference with the reasonable use of streets, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of said streets.
- (B) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, permittee shall, at its own cost and expense and in a manner approved by the Bay County Road Commission, replace and restore all paving, sidewalk, driveway or surfacing of any street or alley disturbed, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of five (5) years.
- (C) In the event that any time during the existence of a permit granted hereunder, the township shall lawfully widen, realign or otherwise alter the street right-of-way, or construct, reconstruct, realign, change the grade of or otherwise alter pavement of any watermain, fire hydrant, sewer or appurtenance, the permittee and anyone acting for it in connection with the use of the streets, upon reasonable notice by the township, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- (D) In areas of the township in which telephone lines and electric utility lines are underground, all permittee's lines, cables and wires shall be underground.
- (E) Permittee's distribution system in the public streets shall comply with all applicable laws and regulations and ordinances and all its wires and cables suspended from poles in the streets shall comply with the minimum clearances above ground required for telephone lines, cables, wires and conduits.

- (F) Permittee shall meet all the requirements of the rules and regulations of the Bay County Road Commission as applicable to the roads in the township.

SECTION 6. Operation of CATV system

- (A) Permittee's receiving and distribution equipment and facilities shall be constructed, operated and maintained so as to provide usable signals at subscribers' television receivers essentially of the same quality as received at the antenna site.
- (B) Permittee shall in the operation of its CATV system, comply with all applicable laws, ordinances and rules, regulations and requirements of regulatory agencies.
- (C) Permittee shall not, without prior approval of the Board, utilize the streets of the township for the furnishing of the service commonly known as "Pay T.V." Nothing herein contained shall be deemed to prohibit, as incidental to the transmission of television signals, the origination and transmission of weather, time, local civic events and civil defense announcements or programs for which no additional charge is made.
- (D) Permittee shall not repair, service or sell television or radio receiving sets, parts or accessories to its CATV subscribers.

SECTION 7. Permittee shall make its CATV service available to all residents of the township who can be reached by its distribution system as mutually agreeable between the Board and permittee.

SECTION 8. No permit shall be granted hereunder until the applicant has established that it has obtained any permit, license or order required by any rule, order or regulation of the Federal Communications Commission which has been promulgated prior to Board action on its application; or an opinion letter of Permittee's counsel that such permit, license or order is not required.

SECTION 9. *Each permit issued hereunder shall be for the term of not exceeding fifteen (15) years and shall be renewed auto-matically for a like period unless notice is given by the Town-ship or permittee more than 180 days prior to the end of permit period that the said permit shall not be renewed. (Amended by Ordinance #45, effective 03/17/72, amended by Ordinance #123, effective 07/03/81)*

SECTION 10. Permits granted hereunder are not transferable except upon approval of the Board. The proposed transferee shall file an application in form approved by the Township Supervisor and shall satisfy all other requirements of this ordinance.

SECTION 11. Permits may be terminated as follows:

- (A) Permittee may surrender its permit at any time, in which event it shall refund to

subscribers all prepaid and unearned service and other charges collected from subscribers.

- (B) The Board may terminate the permit of any permittee who shall default in any of its obligations hereunder, except for causes beyond the reasonable control of the permittee, provided that the permittee shall be given sixty days written notice to correct any such default or non-compliance before the Board may proceed to terminate the permit under this section. Permittee shall be entitled to a hearing before the Board to determine the propriety of termination of the permit by it pursuant to this section, and the decision of the Board shall be final. Notwithstanding the provisions hereinbefore made, the Board may terminate the permit of any permittee in accordance with the franchise requirements of the Constitution and Statutes of the State of Michigan.
- (C) Upon termination of its permit, permittee shall at its own expense remove from the township streets all its facilities and equipment therein utilized by it in its CATV operation, unless the Board shall specifically authorize it to leave all or part of such facilities and equipment in place.

SECTION 12. This ordinance shall be published on or before the 18th day of March, 1971, in the Bay City Times and shall take effect on the 19th of March, 1971.