

### **23.01 SHORT TITLE**

This chapter shall be known and may be cited as the "Cable Television Ordinance regarding CC VIII Operating, L.L.C."

### **23.02 GRANT OF NON-EXCLUSIVE FRANCHISE**

Whereas, the public interest will be served by the granting of a non-exclusive franchise to CC VIII Operating, L.L.C., to erect, install, construct, reconstruct, maintain, operate, dismantle, test, repair, replace, retain, and use a cable communications system in, upon, along, across, above, over, under or in any manner connected with the streets, lanes, avenues, sidewalks, alleys, bridges, and highways, and other public places in the Town of Randall, as the same now or in the future may exist, for the purpose of transmission and distribution of television signals and other cable communications services to the inhabitants of the said Town of Randall, for a period of fifteen (15) years, and regulating the same.

### **23.03 DEFINITIONS**

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

(1) **Basic Service**

Any service tier which includes the retransmission of any local television broadcast signals and/or any public access, educational, or government channels.

(2) **Town**

The Town of Randall as the same now or in the future may exist.

(3) **Force Majeure**

A strike; acts of God; acts of public enemies; orders of any kind of a government of the United States of America or of the State of Wisconsin or any of their departments, agencies, or political subdivisions; riots; epidemics; landslides; lightning; earthquakes; fires; tornadoes; storms; floods; washouts; droughts; civil disturbances; explosions; partial or

entire failure of utilities or any other cause or event not reasonably within: the control of the disabled party.

(4) **Franchise**

The authorization to operate a cable television system, including all mutual rights, duties and obligations of the Franchisee and the Town as contained in this instant Ordinance and as contained in any other written document related to this instant Ordinance, as agreed to by the Town and the Grantee.

(5) **Franchisee or Grantee**

CC VIII Operating, L.L.C., its successor or any affiliated company in accordance with the provisions of this Ordinance, and its agents, employees, transferees or assignees.

(6) **Gross Receipts or Revenues**

All revenues collected by the Franchisee from the provision of cable television services, within the Town of Randall. Gross receipts or revenues include all revenue collected for all cable services. Gross receipts or revenues shall not include non-cable services. Gross receipts or revenues include, but is not limited to, fees charged subscribers for basic service; fees charged subscribers for any optional, premium, per channel or per program service; fees charged subscribers for any tier or service: installation, disconnection, re-connection and change in service fees; leased channel fees; converter rentals or sales. Gross receipts or revenues shall not include any taxes on services furnished by the Franchisee (including the franchise fee) which are imposed upon any subscriber or user by the State, County, Town or other governmental unit and collected by the Franchisee on behalf of said governmental unit.

(7) **Street**

The surface of and the space above and below any public street, road, highway, freeway, lane, path, way, alley, court, sidewalk, boulevard, parkway, drive, or any public easement or right-of-way now or hereafter held by the Town which shall entitle Grantee to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, confluent, vaults, man holes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a System.

(8) **System**

Those antennas, cables, wires, lines towers, waveguides, or other conductors, converters, equipment or facilities,

designed and constructed within the Town for the purpose of producing, providing, receiving, transmitting, amplifying and distributing audio, video and other forms of electronics or directional duplex signals.

#### **23.04 GRANT OF AUTHORITY**

Franchisee shall be given the right and privilege to construct, erect, operate, and maintain in, upon, along, across, above, over, and under the streets, alleys, public ways now laid out or dedicated and in compatible easements, and all extensions, thereof, and additions thereto, in the Town, poles, wires, cables, underground conduits, manholes, and other equipment and fixtures necessary for the maintenance and operation of a cable system.

Franchisee shall raise or lower wires or equipment upon the reasonable request of any third person, including any person holding a building permit. Expenses associated with raising and lowering the wires or equipment shall be paid by the person requesting the same (except in cases where Franchisee is required to bear the costs under other provisions of this Franchise) and the Franchisee may require advance payment. Franchisee shall be entitled to require that it be given up to thirty (30) days advance notice by the person requesting the movement.

#### **23.05 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES**

(1) This Franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules and regulations and Town of Randall ordinances.

(2) Grantee's rights are subject to the police powers of the Town to adopt and enforce ordinances necessary of general applicability to the health, safety and welfare of the public that are not otherwise inconsistent with the terms and conditions of this Franchise. Grantee shall comply with all applicable general laws and ordinances enacted by the Town pursuant to that power.

#### **23.06 TERRITORIAL AREA INVOLVED**

This Franchise is granted for the territorial boundary of the Town of Randall.

### **23.07 FRANCHISE NON-EXCLUSIVE**

The Franchise granted herein is non-exclusive. The Town specifically reserves the right to grant, at any time, one or more additional franchises for a System in accordance with state and federal law.

In the event that the Town of Randall in future grants one (1) or more Franchise(s) or similar authorization(s), for the construction, operation and maintenance of any communication facility which shall offer services substantially equivalent to services offered by the Franchisee, the Town shall not make the grant on substantially more favorable or less burdensome terms. If the Franchisee finds that the agreement(s) granting said other Franchise(s) contain provisions imposing substantially lesser obligations on the Company(s) thereof than are imposed by the provisions of this instant Franchise, Franchisee may in writing petition the Town for a modification of this Franchise. The Franchisee shall be entitled, with respect to said lesser obligations to such modification(s) of this Franchise as may be determined to be necessary to insure fair and equal treatment by this Franchise and said other agreements, however, the Franchise shall be bound by the Town Board's decision in response to the Franchisee's petition and shall not appeal the Town Board's decision. The Town Board's decision shall be in writing.

In the future event that a non-Franchise multi-channel video programming distributor provides service to the residents of the Town, the Franchisee shall have a right in writing to petition the Town for Franchise amendments that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the Franchisee. The petition shall: indicate the presence of a non-Franchised competitor(s); identify the basis for Franchisee's belief that certain provisions of the Franchise place Franchisee at a competitive disadvantage; and identify the regulatory burdens to be remanded or repealed in order to eliminate the competitive disadvantage. The Franchisee shall be bound by the Town Board's decision in response to the Franchisee's petition and shall not appeal the Town Board's decision. The Town Board's decision shall be in writing.

### **23.08 WRITTEN NOTICE**

All notices or demands required to be given under this Franchise shall be deemed to be given when delivered personally to the persons designated below or upon the date actually received as evidenced by registered or certified mail receipt addressed as follows:

If to the Town:	Town Clerk
	P.O. Box 116
	34530 Bassett Road

Bassett, WI 53101

If to the Grantee: Charter Communications  
ATTN: Tim Vowell  
Government Relations Manager  
5618 Odana Road, Suite 150  
Madison, WI 53719

and to

Charter Communications  
ATTN: M. Celeste Vossmeier  
Vice President Government Relations  
12444 Powers Court Drive, Suite 100  
St. Louis, MO 63131

and

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

### **23.09 COMPLIANCE WITH FCC REGULATION**

Franchisee shall comply with all applicable rules and regulations of the Federal Communications Commission.

### **23.10 Construction and Use of Facilities**

(1) Subject to the Town's approval, the Grantee shall have the right to erect and maintain its own poles at locations as it may find necessary for the proper construction and maintenance of the Cable Communications System. Approval shall be procured by the Grantee from the proper Town department providing for the erection of these poles, and the Grantee shall comply with such reasonable conditions as the Town may impose.

(2) The Grantee's transmission and distribution system poles, wires, and appurtenances, shall be located, erected, and maintained so as not to endanger or interfere with the lives or persons or to interfere with any improvements the Town may deem proper to make or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges, sidewalks, or other public property. Removal/relocation of poles or equipment when necessary to avoid such interference shall be at the Grantee's expense.

(3) Construction and maintenance of the System shall be performed in an orderly and workmanlike manner. Grantee shall at all times comply with the National Electrical Safety Code of

the National Board of Fire Underwriters, the Franchisee's Construction Code, such applicable ordinances and regulations of the Town affecting electrical and structural installations which may be presently in effect or changed by future ordinance, applicable Federal Communications Commission or other federal, state, and local regulations.

(4) All installation of cable distribution facilities shall be of a permanent nature, durable, installed in accordance with good engineering practice, and of such sufficient height to comply with all existing Town regulations, ordinances, and state laws, so as not to interfere with the right of the public or individual property owner and shall not interfere unduly with the travel and use of public places by the public during the construction, repair, or removal thereof, and shall not unduly obstruct or impede traffic.

(5) Cable shall be installed underground at Grantee's expense where both the existing telephone and electrical utilities are already underground. In the event that telephone or electrical utilities are reimbursed by the Town or any agency thereof for the placement of cable underground or the movement of cable, Grantee shall be reimbursed upon the same terms and conditions as the telephone or electric utilities.

(6) The Grantee shall maintain its System so that poles, posts, and other structures of public utilities which are available shall be used to the extent practicable to minimize interference with travel. Before placing or setting poles, posts and other structures overhead or underground, the Grantee shall file notice of such intention with the Town by providing the Town with print or prints indicating the location of facilities to be installed. Ten (10) days prior to the installation of any facilities the Grantee shall notify affected residents whose properties may be disturbed.

(7) Whenever by reason of the construction, repair, maintenance, relocation, widening, raising, lowering of the grade, or vacation of any street by the Town or by the location or manner of construction, reconstruction, maintenance or repair of any public property, structure or facility by the Town, or any public improvement, it shall be deemed necessary by the Town for the Grantee to move, relocate, change, alter or modify any of its facilities or structures, such change, relocation, alteration or modification shall be promptly made by the Grantee upon thirty (30) days written notice from the Town. In the event the Grantee, after such notice, fails or refuses to commence, pursue or complete such relocation work within a reasonable time, the Town shall have the authority, but not the obligation, to remove or abate such structures or facilities and to require the Grantee to pay to the Town the cost of such relocation, alteration, or modification.

(8) The Grantee, upon request of any person holding a building moving permit or permit to move oversized loads issued by the Town, shall temporarily raise or lower its wires to permit the moving of buildings or oversized loads. The expense of such temporary removal or raising or lowering of the wires shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than thirty (30) days advance notice to arrange for such temporary wire changes. Any service disruption provisions of this Franchise shall not apply in the event that the removal of Grantee's wires, cables, poles or other facilities results in temporary service disruptions.

(9) The Grantee shall have the authority to trim trees upon and overhanging the streets of the Town so as to prevent the branches of such trees from coming in contact with the Grantee's wires and cables.

(10) The Town shall have the right to inspect all construction or installation work performed pursuant to the provisions of this Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

### **23.11 Reservation of Street Rights**

(1) Nothing in this Franchise shall be construed to prevent the Town from constructing, maintaining, repairing or re"locating sewers; grading, paving, maintaining, repairing, relocating, and/or altering any street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

(2) All such work as described above in subsection (1) shall be done, insofar as practicable in such a manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Grantee.

(3) Nothing contained in this Franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities while performing any work connected with grading, re-grading, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

### **23.12 CONDITIONS ON STREET USE**

Franchisee shall endeavor to obtain rights to use facilities belonging to other Franchise holders within the Town. Approval of the assignment of such rights to the Franchisee by such other Franchise holder is hereby expressly given by the Town, it being the intention of the Town that the Franchisee will utilize public utility facilities where feasible.

### **23.13 SIGNAL QUALITY**

The System shall produce a picture in black and white or color, and produce a sound, all of which will comply with all technical standards of the Federal Communications Commission.

### **23.14 SERVICE TERRITORY**

Franchisee's distribution system shall be capable of providing service to all potential subscribers requesting service within the Franchisee service area within the boundary limits of the Town of Randall and shall extend its distribution system to serve additional subscribers in any un-served areas of the Town as of the effective date of this Ordinance whenever the number of un-served homes passed by such extension would exceed thirty (30) homes per mile; provided that such extensions are technically and economically feasible to the Franchisee.

Where the length of a drop cable required to serve an individual resident would exceed 150 feet, the subscriber served by such a drop cable shall pay the cost of installing a feeder cable to a point where the subscriber will receive a signal without degradation of picture quality or reliability.

### **23.15 PERFORMANCE STANDARDS**

- (1) The Grantee shall construct, operate and maintain its System according to the specifications of the Federal Communications Commission.
- (2) The Grantee's System shall be designed and rated for twenty-four (24) hours a day continuous operation.
- (3) The Grantee shall at all times employ a proper standard of care and shall install, maintain and use approved methods and devices for preventing failures or accidents which are likely to cause damages, injuries or nuisances to the public.
- (4) The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the



shortest time possible. Insofar as possible, such interruptions shall be preceded by notice and shall occur during periods of minimum use of the System.

### **23.16 CUSTOMER COMPLAINTS**

(1) The Grantee shall at all times comply with the customer service standards of the Federal Communications Commission.

(2) During the term of this Franchise, the Grantee shall maintain a local or toll-free telephone number for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions, billing inquiries and similar matters. The Grantee shall provide trained personnel to receive and process telephone and in-person calls concerning service problems during normal business hours. Outside of normal business hours, the Grantee may provide an answering service or answering machine to receive telephone calls concerning service problems.

(3) As customers are connected or reconnected to the System, the Grantee shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address, and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed.

(4) When there have been similar complaints made, or where there exists other evidence, which in the judgment of the Town casts doubt on the reliability or quality of the cable service, the Town shall have the right and authority to require that the Grantee test, analyze, and report on the performance of the System. The Grantee shall fully cooperate with the Town in performing such testing and shall prepare results and a report, if requested, within fifteen (15) business days after written notice from the Town. Such report shall include the following information:

(a) The nature of the complaint or problem which precipitated the special tests.

(b) What System component was tested.

(c) The equipment used and procedures employed in testing.

(d) The method, if any, in which such complaint or problem was resolved.

(e) Any other information pertinent to said tests and analysis which may be required.

(5) The Town may require that tests be monitored by a professional engineer selected by the Town at the Town's expense.

### **23.17 CUSTOMER SERVICE AND RATE REGULATION**

Franchisee shall comply with applicable federal, state and local laws for the protection of privacy of cable subscribers. Franchisee shall render efficient repair service, and interrupt service only for good cause and for the shortest time possible. A toll-free telephone number shall be maintained so that complaints and repair requests may be received by Franchisee at any time. All non-emergency service requests and complaints shall be responded to within five (5) days of receipt. All emergencies and/or system outages will be responded to within twenty-four (24) hours.

Franchisee shall give the Town thirty (30) days prior written notice of any rate increases, channel lineup or other substantive service changes. Prior to implementing any rate adjustment for service, Grantee shall give customers and Town notice according to the existing applicable state and federal laws. The Town reserves the right to review and approve any increases in rates for service, to the extent not prohibited by federal or state law, through approval or disapproval of a rate revision request after affording Grantee due process.

The Franchisee shall by appropriate means, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the Franchisee.

The equipment installed by the Franchisee in the subscriber's home shall remain the property of the Franchisee and shall be subject to reasonable inspection and service by the Franchisee at reasonable hours, and removal upon non-payment or termination of the service.

### **23.18 COMMUNITY PROGRAMMING**

Franchisee shall reserve one local access/PEG (Public, Education, Government) Channel.

### **23.19 SERVICE TO TOWN AND SCHOOLS**

Franchisee shall provide and maintain one free connection of basic cable service to each municipal building, and to all public and parochial primary and secondary schools located in the Town that pass by the cable system and a cable drop from the plant shall not exceed 150 feet to the building. The cost of any internal wiring and

additional costs to add drops or equipment beyond 150 feet for cable drops shall be borne by the Town or school. In addition, the Grantee agrees to provide such access channels as are required by the Federal Communications Commission rules and regulations.

### **23.20 FEE TO TOWN**

Franchisee shall pay to the Town for the privilege of operating a cable system under this Franchise five percent (5%) of its gross receipts. The Town shall provide written notice to the Franchisee of the Town's request to increase the Fee to five percent (5%). The Franchise shall have ninety (90) days from the date of the written notice to implement the five percent (5%) Fee. Such percentage shall be payable to the Town on an annual basis due no later than ninety (90) days following the end of the period.

The Town shall have the right to inspect for up to three (3) previous years the Franchisee's records showing its gross receipts for all services from which its contracted payouts are computed. No acceptance of any payout by the Town shall be construed as a release of or an accord or satisfaction of any claim the Town might have for further or additional sums payable under the terms of this Franchise.

### **23.21 LIABILITY, INDEMNIFICATION AND INSURANCE**

(1) The Grantee shall, at its sole cost and expense, fully indemnify and hold harmless the Town, its officers, boards, commissions, agents and employees, against and from any and all claims, demands, causes of actions, action suits, proceedings, damages, liabilities and judgments, of every kind arising out of or pertaining to the Grantee's construction or operation of the System in the Town, including, but not limited to, damages for injury or death or damages to property, real or personal, and against all liabilities to others and against all loss, cost and expense, resulting or arising out of any of the same.

(2) In order for the Town to assert its rights to be indemnified and held harmless, the Town must:

(a) Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;

(b) Afford Grantee the opportunity to participate in and fully control any compromise, settlement, resolution or disposition of such claim or proceeding, unless the Town is named as a joint defendant and/or liability is joint and several; and

(c) Fully cooperate in the defense of such claim and make available to Grantee all such information under its control relating thereto.

(3)	<u>Liability Insurance</u>	<u>Limits</u>
	Commercial General Liability	\$1,000,000 per occurrence, Combined Single Liability (C.S.L.) \$2,000,000 General Aggregate
	Auto Liability including coverage on all owned, non-owned and hired autos	\$1,000,000 per occurrence C.S.L.
	Umbrella Liability	\$1,000,000 per occurrence C.S.L.

The Town shall be added as an Additional Insured to the above Commercial General Liability and Auto Liability Insurance Coverage, including the Umbrella Liability.

(4) The Grantee shall comply with all the provisions of the Workmen's Compensation Law of Wisconsin.

The Franchisee shall furnish the Town with current Certificates of Insurance evidencing such coverage.

### **23.22 DURATION AND RENEWAL OF FRANCHISE**

This Franchise and the rights, privileges and authority hereby granted shall take effect and be in force after the final passage of this instant Ordinance, and shall continue in force and effect for a term of fifteen (15) years. This instant section is null and void and of no force and effect if section 23.23 below is not complied with.

### **23.23 PERIOD OF ACCEPTANCE**

The Grantee shall be deemed to have forfeited and abandoned all rights, privileges and authority conferred by this Ordinance and this Ordinance shall be null and void and of no force and effect, unless the Grantee shall, within sixty (60) days after the final passage of this instant Ordinance, file with the Town Clerk its written acceptance of the rights, privileges and authority hereby conferred and accepting the terms, conditions and restrictions hereby imposed. The written acceptance shall be approved by the Town Board. If the written acceptance is not approved by the Town Board, then this instant Ordinance is null and void and of no force and effect.

#### **23.24 EMERGENCY USE FACILITIES**

In the case of any emergency OT disaster, the Franchisee shall upon request of the Town, make available its facilities for emergency use during the emergency or disaster.

#### **23.25 MAPS**

Upon request of the Town, Grantee shall maintain on-file with the Town a true and accurate map or set of maps showing all System equipment installed and in place in streets and other public places.

#### **23.26 PUBLIC RECORDS**

The Town shall have access to records and other like materials of the Franchisee upon reasonable prior notice as mutually agreed upon by the Town and Franchisee.

#### **23.27 BOOKS AND REPORTS**

(1) The Town shall have the right to inspect, upon five (5) hours written notice, at any time during normal business hours at the System office all books, records, maps, revenue statements, service complaint logs, performance test results, record of requests for service and other like materials of Grantee which are reasonably necessary to monitor the immediate compliance with the terms of this Franchise.

(2) Any petition, application, communication or report submitted by Grantee or on behalf of or relating to Grantee to the Federal Communications Commission, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting the System authorized pursuant to this Franchise shall, upon written request by the Town Board, be submitted to the Town. Copies of such documents or relevant responses to such documents shall be furnished to the Town within fifteen (15) business days of the written request by the Town.

(3) The Town and their agents and representatives shall have the authority, during normal business hours, to arrange for and conduct an inspection of the books and records of Grantee and its equipment for purposes related to the enforcement of this Franchise. Grantee shall first be given fifteen (15) days written notice of the inspection request, the description of and purpose for the inspection and description, to the best of

the Town's ability, of the books, records, documents and equipment it wants to inspect.

### **23.28 TRANSFER OR ASSIGNMENT OF FRANCHISE**

(1) This Franchise shall not be sold, assigned or transferred, either in whole or in part, or leased or sublet in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein, pass to or vest in any person without full compliance with the procedure set forth in this section.

(2) The provisions of this section shall apply to the sale or transfer of all or a majority of Grantee's assets, merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation or sale or transfer of stock in Grantee so as to create a new controlling interest. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(a) The parties to the sale or transfer shall make a written request to the Town for its approval of a sale or transfer.

(b) The Town shall reply in writing within thirty (30) days of the written request and shall indicate approval of the request or its determination that a public hearing is necessary due to potential adverse effect on Grantee's subscribers.

(c) If a public hearing is deemed necessary pursuant to subsection (b) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given fourteen (14) days prior to the hearing by public notice thereof. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the Town.

(d) Within thirty (30) days after the closing of the public hearing, the Town shall approve or deny in writing the sale or transfer request.

(e) Within thirty (30) days of any transfer, Grantee shall file with the Town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer or ownership or control or lease, certified and sworn to as correct by the Grantee.

(3) In reviewing a request for sale or transfer pursuant to subsections (1) and (2) above, the Town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and Grantee shall assist the Town in so inquiring. The Town may condition said transfer upon such terms and conditions as it deems reasonably appropriate, provided, however, the Town shall not unreasonably withhold its approval and any such terms and conditions shall be related to the legal, technical, and financial qualifications of the prospective controlling party. In no event shall approval of any transfer be effective until and unless the transferee has expressly assumed the liabilities and obligations of the Grantee under the terms and conditions of this instant Ordinance" and Franchise. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signator to this instant Ordinance and Franchise, as required pursuant to section 23.23 of this instant Ordinance.

(4) Notwithstanding anything contrary, no such consent shall be required for a transfer or assignment to any person controlling, controlled by, or under the same common control as the Grantee.

### **23.29 FORFEITURE OF FRANCHISE**

(1) In addition to all other rights and powers pertaining to the Town by virtue of this Franchise or otherwise, the Town reserves the right to terminate and cancel this Franchise and all rights and privileges of the Franchisee hereunder in the event that the Franchisee:

- (a) Violates any provision of this Franchise.
- (b) Becomes insolvent, unable or unwilling to pay its debts, is adjudged bankrupt.
- (c) Practices any fraud or deceit upon the Town.

(2) Such termination and cancellation shall be by Ordinance duly adopted after thirty (30) days written notice to the Franchisee and shall in no way affect any of the Town's rights under this Franchise or any provisions of law. In the event that such termination and cancellation depends upon a finding of fact, such finding of fact shall be made by the Town Board. Before this Franchise may be terminated and canceled under this section, the Franchisee must be provided with an opportunity to be heard before the Town Board and an opportunity to cure any condition leading to termination or cancellation. If the Franchisee has corrected the condition leading to termination or cancellation within the thirty (30) days written notice of

termination or cancellation, or, if such correction requires more than thirty (30) days, has begun to the satisfaction of the Town Board to correct any such condition, this Franchise shall remain in effect.

(3) Prevention or delay of any performance under the Franchise due to circumstances beyond the control of Franchisee or Town, i.e., Force Majeure, as defined in section 23.03 (3) of this instant Ordinance, shall not be deemed noncompliance with or a violation of this Franchise.

### **23.30 UNAUTHORIZED CONNECTIONS OR MODIFICATIONS**

(1) It shall be unlawful for any person, without the expressed consent of the Grantee to make any connection, extension, or division whether physically, acoustically, inductively, electronically or otherwise with or to any segment of the System for any purpose whatsoever.

(2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of the System for any purpose whatsoever.

(3) It shall be unlawful for any person to construct, operate, or maintain a System without having first applied for and received a franchise from the Town.

### **23.31 ACTIVITIES PROHIBITED**

The Grantee shall not allow its cable system operations to interfere with television reception of persons not served by the Grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities servicing the residents of the Town. The Grantee's system shall have the operational capacity to prevent and void interference with reception of off-the-air signals.

### **23.32 EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE**

Franchisee shall comply at all times with applicable federal, state and local laws and all executive and administrative orders relating to nondiscrimination, equal employment and affirmative action.

### **23.33 SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this instant Ordinance is for any reason held invalid,



unconstitutional or unenforceable, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portions hereof.

#### **23.34 MODIFICATION**

No provision of this instant Ordinance or any other related legal document shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Town and the Grantee.

#### **23.35 INTEGRATION**

This instant Ordinance sets forth the entire Agreement between the parties respecting the subject matter hereof. All agreements, covenants, representations and warranties, express and implied, oral and written, of the parties with regard to the subject matter hereof are contained herein. No other agreements, covenants, representation and warranties, express or implied, oral or written, have been made by any party to another with respect to the matter of this instant Ordinance. All prior and contemporaneous conversations, negotiations, possible and alleged agreements, representations, covenants and warranties with respect to the subject matter hereof are waived, merged herein and therein and superseded hereby and thereby.

#### **23.36 LIMITED PURPOSES**

This Franchise is granted by the Town to the Grantee purely for the purpose of using easements, streets and highways of the Town to erect and construct the Grantee's System and is not intended to convey any copyright or patent privileges.

#### **23.37 TIME OF ACCEPTANCE**

(1) Upon acceptance of this Franchise, pursuant to section 23.23 of this instant Ordinance, Grantee shall be bound by all the terms and conditions contained herein.

(2) With its acceptance, Grantee shall also deliver any security deposit and insurance certificates.

(3) This Franchise, upon acceptance by Grantee, shall supersede all other documents with the Town purporting to authorize Grantee the right to provide cable communications services within the Town.

**23.38 PENALTY**

Except as otherwise provided herein, any person found in violation of any provision of this chapter or any order, rule or regulation made hereunder shall be subject to a penalty as provided in Section 25.04 of this Code of Ordinances.