

Part 25

25.000

**CABLE TELEVISION SERVICE**  
**Ord. No. 61**

An ordinance for the purpose of transmission and distribution of television signals, including radio and other signals, in the Village of Hopkins, by means of cable to private subscribers and does not include the operation of a master television system, the distribution system of which is confined to private property; and to provide for the public peace, health, safety and general welfare of persons or property therein.

THE VILLAGE OF HOPKINS ORDAINS:

**25.001 Definitions.**

Sec. 1. For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. "*Village*" is the Village of Hopkins.
- b. "*Permittee*" is the holder of a permit issued pursuant to this Ordinance.
- c. "*Council*" is the Village Council of the Village of Hopkins.
- d. "*Person*" is any person, firm, partnership, association, corporation, company or organization of any kind.
- e. "*Gross Subscriber Revenues*" shall mean gross receipts from all revenues received by the Permittee from subscribers located within the Village including all revenues from cable service including premium service. Gross Subscriber Revenues shall include revenues received by the Permittee as charges for installations, reconnections and modifications of any installations, but not

fees for inspections or repairs thereto. Gross Subscriber Revenues shall not include unrelated business income and/or income received from the lease and/or sale of real or personal property, bad debts, deposits or refunds to Subscribers and/or taxes on services furnished by the Permittee imposed upon any Subscriber by state, Village, or other governmental unit and collected by the Permittee on behalf of said governmental unit.

- f. *"Cable Television"* is the business of transmission and distribution of television signals, including radio signals and other signals, or any other type of closed circuit transmission by means of electrical impulses, by means of cable to private subscribers and does not include the operation of a master television antenna system, the distribution system of which is confined to private property.
- g. *"Street"* is a street, alley or other public way in the Village.

#### **25.002 Permit required.**

Sec. 2. No person shall provide Cable Television service within the limits of the Village without first obtaining a permit as hereinafter provided in this Ordinance.

Permittee shall pay to the Village for the privilege of operating a Cable Television system under the permit granted pursuant to this Ordinance a sum equivalent to not less than two percent (2%) of the annual gross subscriber revenue received by the Permittee. This permit fee is payable quarterly. Nothing in this Ordinance shall exempt any Permittee from the payment of ad valorem taxes on its property or equipment or on the income earned by it or from any other tax which it might be validly obligated to pay if it were not subject to the permit fee herein imposed.

**25.003 Application.**

Sec. 3. Permits to provide Cable Television service hereunder will be granted by the Council as hereinafter provided and shall be applied for by written application in form approved by the Village President and filed with the Village Clerk, which application shall include, but not be limited to, name of applicant; local business address; principal officers or owners; principal stockholders if a corporation; location of antenna tower or towers; general description of proposed distribution system in the Village, showing area proposed to be served and indicating whether applicant will require poles in the streets within the Village or whether cables and appliances to be utilized by it in the streets in the Village will be located on existing poles of utility companies; and service to be provided.

**25.004 Financial statement.**

Sec. 4. Each applicant shall attach to his application an authenticated statement of financial condition and net worth, sufficient in form and content so that the Council may readily determine its financial responsibility and its ability to finance the proposed undertaking.

Permittee shall file with the Village Clerk, annually, a statement of its revenues received from its operations under its permit issued pursuant to this Ordinance within sixty (60) days after the close of its fiscal year, shall make its financial records relating thereto available to the Village for inspection at a place designated by it within the Village, at any reasonable time.

**25.005 Indemnification.**

Sec. 5. Permittee shall indemnify and hold the Village harmless at all times during the term of this permit and specifically agrees that it will pay all damages and penalties which the Village may be legally required to pay as a result of operation of a cable system. Such damages and penalties shall include, but

not be limited to, damages arising out of copyright infringements and other damages arising out of the installation, operation, or maintenance of the Cable Television system authorized herein, whether or not any act or omission complained of is authorized, allowed, or prohibited by this permit, or this Ordinance.

#### **25.006 Insurance.**

Sec. 6. Permittee shall provide insurance in such form as shall protect the Village and itself from and against any and 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 pursuant to the authority of the permit granted hereunder, in limits of not less than \$1,000,000.00 for personal injury or death of any one person and \$300,000.00 for damage to property resulting from any one occurrence. Permittee shall provide Workers' Compensation Insurance as provided by the laws of the State of Michigan, as amended.

All of said insurance coverage shall provide a thirty (30) day notice to the Village in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective. Copies of all certificates of insurance required hereunder shall be furnished to and filed with the Village Clerk prior to the commencement of operations or the expiration of prior policies as the case may be. The Permittee shall pay and by the acceptance of this permit specifically agrees, that it will pay all reasonable expenses incurred by the Village in defending itself with regard to all damages, penalties, or other claims resulting from the acts of Permittee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney fees, and shall include the value of any services rendered by the Village attorney or any other officers or employees of the Village.

**25.007 Rights of permittee in streets.**

Sec. 7. Permittee shall have the right, so long as its permit is in force and effect, to utilize the streets of the Village to the extent set forth in its application, or as otherwise provided by the Council in its permit for the transmission of television and radio and other signals as herein authorized from its antenna location or locations to the premises of subscribers. Permittee may erect all such wires, cables and appurtenances in the said streets, subject to approval of the Village Council of the placement of any such poles, or Permittee may, at its option, authorize, subject to the same conditions as to the placement of poles, the installation of such cables and appurtenances by others on a lease, rental, fee or other basis, and all such wires, cables, conduits, appurtenances and poles placed or installed by others for the use of Permittee shall exist and continue to exist solely by authority of the permission granted to said Permittee.

**25.008 Conditions of street occupancy.**

## Sec. 8.

- a. *Use.* All transmission and distribution structures, lines and equipment erected by the Permittee or on its behalf within the Village 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. *Restoration.* 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 Village Council, 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.

- c. *Relocation.* In the event that any time during the existence of a permit granted hereunder, the Village 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 Village shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- d. *Conduit districts.* In areas of the Village in which telephone lines and electric lines are underground, all Permittee's lines, cables and wires shall be underground.
- e. *Construction standards.* 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.

Cross reference—Excavations on public streets, Pt. 88.

## **25.009 Operation of Cable Television system.**

### **Sec. 9.**

- 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 Cable Television system, comply with all applicable laws, ordinances, and rules, regulations and requirements of regulatory agencies.

**25.010 Duty to provide service.**

Sec. 10. Permittee shall make its Cable Television service available to all residents of the Village who can be reached by its distribution system as mutually agreeable between the Board and Permittee.

**25.011 Granting of permit.**

Sec. 11. The Council shall grant a Cable Television permit hereunder to each applicant who makes proper application, establishes its qualifications as herein set forth, furnishes the required insurance and assurances and who established that its operations will not impose an unreasonable burden on Village streets. No permit granted hereunder shall be exclusive. An agreement to provide Cable Television service entered into by the Council and an applicant shall be considered the permit.

**25.012 Term of permit.**

Sec. 12. Each permit issued hereunder shall be for a term of not to exceed twenty (20) years, as agreed to by the Village and the Permittee or until terminated as herein provided if termination occurs sooner. The permit granted hereunder shall be deemed to constitute a contract between the Village and the Permittee. Nothing in this section shall prohibit Permittee from seeking a renewal or extension of a permit.

**25.013 Transfer.**

Sec. 13. Permits granted hereunder are not transferable except upon approval of the Council. The proposed transferee shall file an application in form approved by the Village President and shall satisfy all other requirements of this Ordinance. Any transfer of this permit by the Permittee to one of its subsidiaries shall not be considered transferred with respect to this section.

**25.014 Termination.****Sec. 14.**

- 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. In addition to all other rights and powers pertaining to the Village by virtue of this franchise or otherwise, the Village preserves the right to terminate and cancel this permit and all rights and privileges of the Permittee hereunder in the event that the Permittee:
  - (1) Violates any provision of this permit or any rule, order or determination of the Village, Council or their agents made pursuant to this permit, except where such violation is without fault or through excusable neglect;
  - (2) Becomes insolvent, unable or unwilling to pay its debts, or is adjudged as bankrupt;
  - (3) Attempts to evade any of the provisions of this franchise or practices any fraud or deceit upon the Village; or
  - (4) Unless otherwise agreed to, fails to begin the design of the system within ninety (90) days after necessary governmental approvals and pole-leasing agreements from utilities owning said poles, or fails to begin construction within six (6) months thereafter, or fails to make reasonable efforts to complete construction within eighteen (18) months after commencement of such construction, or fails to complete such construction substantially within two (2) years from the effective date of this franchise. Permittee shall be given sixty (60) days written notice to correct any such default or noncompliance before the Council may proceed to terminate the permit as above provided for under this



section. Permittee shall be entitled to a hearing before the Council to determine the findings of fact and the propriety of the termination of the permit. The determination of the Council and its decision shall be final.

- c. Upon termination of its permit, Permittee shall at its own expense remove from the streets in the Village all its facilities and equipment therein utilized by it in its Cable Television operation, unless the Council shall specifically authorize it to leave all or part of such facilities and equipment in place.

**25.015 Public service and public broadcasting.**

Sec. 15. Permittee shall make available for public use a number of channels as mutually agreeable between the Council and the Permittee.

**25.016 Service to public buildings.**

Sec. 16. The Permittee shall furnish free, without monthly fees, installation or service charges, a single television outlet to all schools, fire and police stations in the Village of Hopkins provided such building is within 400 feet of an existing line of the system, and provided further that Permittee will not have any responsibility or cost as to any wiring inside the public buildings.

**25.017 Cablecasting commission.**

Sec. 17. The Council may create a Cablecasting Commission hereinafter referred to as the "Commission" which will be composed of five (5) members who serve for five (5) year staggered terms, said members to be appointed by the Village President with the consent and approval of the Council. The Council may delegate to the Commission such duties as it may from time to time deem necessary.

**25.018 Penalty.**

Sec. 18. Any person who shall violate any of the provisions of this Ordinance shall be subject to a fine of not more than \$500.00, such fine in the discretion of the Court.

**25.019 Severability.**

Sec. 19. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

**25.020 New rules.**

Sec. 20. This permit is granted subject to the right of the Village or the Permittee to re-negotiate the terms of this permit at any time after the effective date of this permit upon thirty (30) days notice to the Permittee if Federal or State regulations substantially alter the service, conditions or standards upon which the Cable Television system is to operate.

**25.021 Ordinances and permits repealed.**

Sec. 21. All ordinances or parts of ordinances or permits in conflict with the provisions of this Ordinance are hereby repealed and altered to conform with the provisions of this Ordinance.

Part 26

**26.000**

**ELECTRIC FRANCHISE; CONSUMERS  
POWER COMPANY  
Ord. No. 46 (1 of 1981)**

An ordinance granting to Consumers Power Company, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the Village of Hopkins, Allegan County, Michigan, for a period of thirty years.

THE VILLAGE OF HOPKINS ORDAINS:

**26.001 Grant of franchise.**

Sec. 1. That wherever the word "Grantee" appears in this ordinance, it is hereby intended to designate, and shall be held to refer to the Consumers Power Company, a Michigan corporation, its successors and assigns. The right, power and authority is hereby granted and vested in said Grantee to construct, maintain and commercially use electric lines, consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the Village of Hopkins, Allegan County, Michigan, for a period of thirty years.

(Adopted: 3-9-81)

**26.002 Responsibility of Grantee.**

Sec. 2. In consideration of the rights, power and authority hereby granted, all of which shall vest in the Grantee for a period of thirty (30) years as aforesaid, said Grantee shall faithfully perform all things required by the terms hereof.

(Adopted: 3-9-81)

**26.003 Conditions of work.**

Sec. 3. No highway, street, alley, bridge or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair and shall be restored to the same good order and condition as when such work was commenced. All towers, masts, poles and other supports shall be set and all wires shall be suspended or buried in a careful and proper manner so as not to injure persons or property. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the Council of the Village. (Adopted: 3-9-81)

Cross reference—Excavation of public streets, Pt. 88.

**26.004 Indemnification.**

Sec. 4. The Grantee shall at all times keep and save the Village free and harmless from all loss, costs and damage to which it may be subject by reason of the negligent construction and maintenance of the towers, masts, poles, wires and other structures and appliances, the erection, burial and maintenance of which are hereby authorized.

(Adopted: 3-9-81)

**26.005 Rates and charges.**

Sec. 5. The Grantee shall be entitled to charge the inhabitants of said Village for electric energy for light, heat and power, the rates as approved by the Michigan Public Service Commission. Said rates shall be subject to review and change at any time by the Michigan Public Service Commission or its successors, upon proper application by either said Grantee or the Village, acting by the Village Council, being made thereto, and the regularly filed rates as approved by said Michigan Public Service Commission or its successors, as applicable to said Village of Hopkins, shall at all times be the lawful rates.

All bills for electric energy shall be payable monthly. The Grantee may collect the minimum charge as

specified in said schedule. It shall also furnish and maintain commercially accurate meters to measure the energy furnished. Said Grantee shall at all reasonable times have access to the premises of its customers, for the purpose of reading, inspecting, removing and replacing such meters.

(Adopted: 3-9-81)

**26.006 Rights not exclusive.**

Sec. 6. The rights, power and authority herein granted, are not exclusive.

(Adopted: 3-9-81)

**26.007 Rules and regulations.**

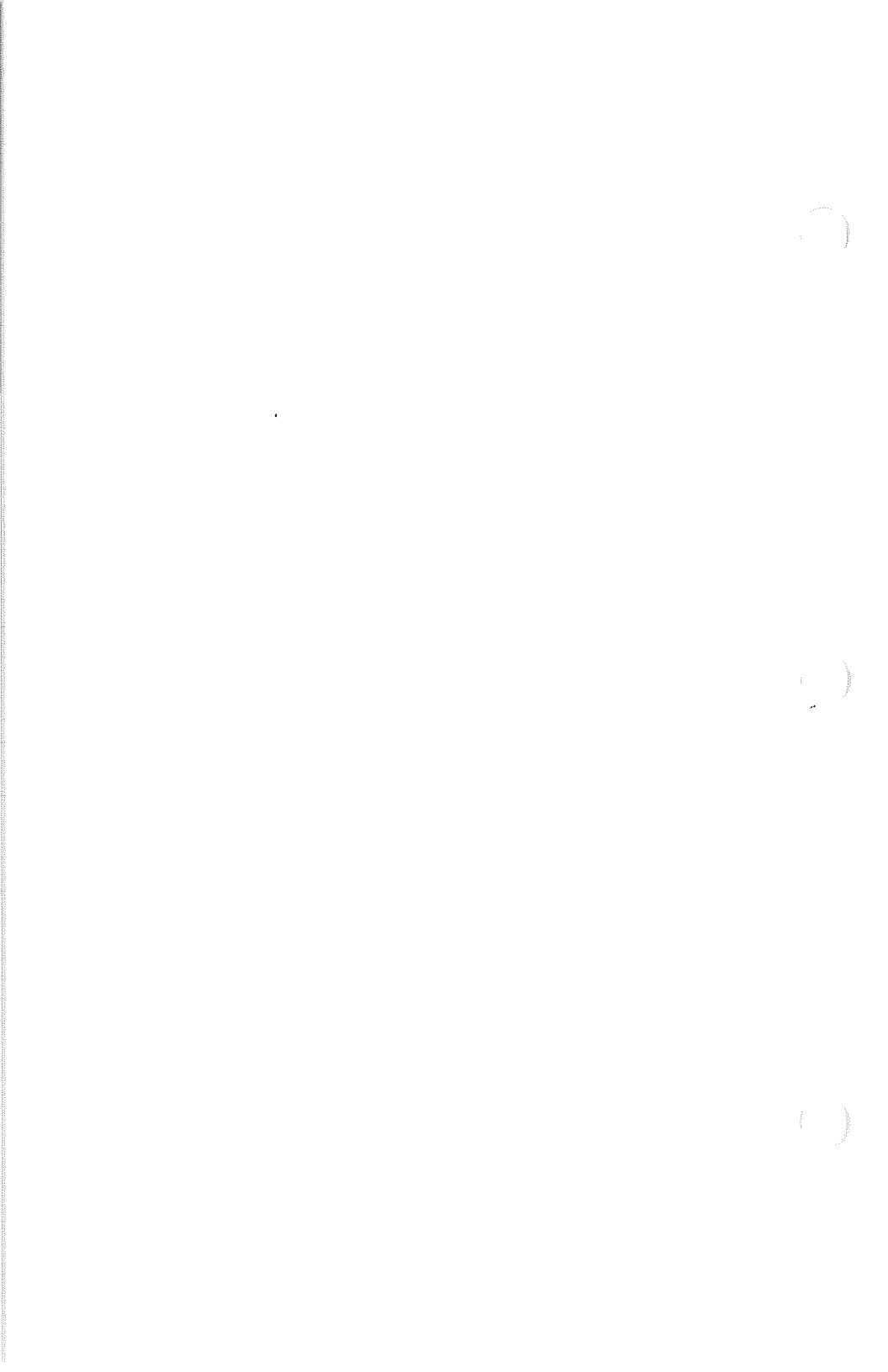
Sec. 7. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Village.

(Adopted: 3-9-81)

**26.008 Ratification and acceptance.**

Sec. 8. The franchise granted by this ordinance is not subject to revocation, and shall be and become valid and binding only upon its ratification by the affirmative vote of at least three-fifths of the electors of said Village voting thereon at a regular or special municipal election to be held in the manner provided by law. This ordinance shall not be submitted to the electors unless the Grantee shall, within thirty days after the adoption hereof, file with the Village Clerk its written acceptance, subject to the ratification by the electors of the Village. Upon the acceptance hereof and the ratification by the electors as aforesaid, this ordinance shall constitute a contract between the Village and the Grantee for the full term of thirty (30) years from and after the date of such ratification by the electors.

(Adopted: 3-9-81)



Parts 27—34. Reserved.

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