

CHARTER TOWNSHIP OF HAMPTON ORDINANCE NO. 15

CHARTER TOWNSHIP OF HAMPTON  
CABLE ANTENNA TELEVISION SERVICE ORDINANCE

THE CHARTER TOWNSHIP OF HAMPTON ORDAINS:

An Ordinance for the purpose of transmission and distribution of television signals, including radio signals, in the Charter Township of Hampton, 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.

Section 1. Short Title.

This Ordinance shall be known and cited as the "Charter Township of Hampton Cable Antenna Television Service Ordinance".

Section 2. Definitions.

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) "Township" is the Charter Township of Hampton.
- (b) "Permittee" is the holder of a permit issued pursuant to this Ordinance.
- (c) "Board" is the Township Board of the Charter Township of Hampton.
- (d) "Person" is any person, firm, partnership, association, corporation, company or organization of any kind.

(e) "Community Antenna Television" or "CATV" is the business of transmission and distribution of television signals, including radio signals, 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.

(f) "Street" is a street, alley or other public way in the Township.

### Section 3. Permit Required.

No person shall provide CATV service within the limits of the Township without first obtaining a permit as hereinafter provided in this Ordinance.

### Section 4. Application.

Permits to provide CATV service hereunder will be granted by the Board as hereinafter provided and shall be applied for by written application in form approved by the Township Supervisor and filed with the Township 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 Township, showing area proposed to be served and indicating whether applicant will require poles in the Township streets or whether cables and appliances to be utilized by it in Township streets will be located on existing poles of utility companies; service to be provided and rates to be charged, including installation charge per location, service charge for one receiver and for each additional receiver on the same premises.

### Section 5. Financial Statement.

Each applicant shall attach to his application an authenticated statement of financial condition and net worth, sufficient in form and content so

that the Board may readily determine its financial responsibility and its ability to finance the proposed undertaking.

Section 6. Indemnification.

Permittee shall save the Township harmless from all loss sustained by the Township on account of any suit, judgment, execution, claim or demand whatsoever resulting from the construction, operation or maintenance of its television system in the Township. The Township shall notify the permittee within 30 days after the presentation of any claim or demand, either by suit or otherwise, made against the Township under which permittee would be liable as set forth above. Such notice shall be given in writing to the person and at the place indicated in the application for the permit.

Section 7. Insurance.

Permittee shall provide insurance in such form as shall protect the Township 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 \$500,000 for personal injury or death of any one person, \$1,000,000 for personal injury or death of two or more persons in any one occurrence and \$25,000 for damage to property resulting from any one occurrence. Each policy shall provide for ten (10) days' notice in writing to Township of change in the policy or cancellation.

Section 8. Rights of Permittee in Streets.

Permittee shall have the right, so long as its permit is in force and effect, to utilize the streets of the Township to the extent set forth in its application, or as otherwise provided by the Board in its permit for the transmission of television and radio 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 Township Engineer 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.

Section 9. Conditions of Street Occupancy.

- (a) Use. 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) 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 Township Engineer, 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) Relocation. 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) Conduit Districts. 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) 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.
- (f) Permit Fee. Permittee shall pay to the Township for the privilege of operating a CATV system under the permit granted pursuant to this ordinance a sum equivalent to 3 percent of the annual gross 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 the one year term. 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.
- (g) Annual Financial Statement. Permittee shall file with the Township Clerk, annually, an audited statement of 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 Township for inspection at a 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 10. 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 11. Duty to Provide Service.

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 12. Preliminary Requirement to Granting Permit.

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 13. Granting of Permit.

The Board shall grant a CATV 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 Township streets. No permit granted hereunder shall be exclusive.

Section 14. Term of Permit.

Each permit issued hereunder shall be for the term of one year and from year to year thereafter until terminated as herein provided.

Section 15. Transfer.

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 16. Termination.

- (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 60 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 17. Penalty.

Any person who shall violate any of the provisions of this ordinance shall be subject to a fine of not more than \$100.00 or imprisonment in the County Jail not to exceed 90 days or both, such fine and imprisonment in the discretion of the Court.



Section 18. Separability.

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.

Section 19. Ordinances Repealed.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Section 20. Effective date.

This ordinance shall take effect immediately upon publication thereof.

CLERK'S CERTIFICATION

I, Ella Jane Martini, as Clerk of the Charter Township of Hampton, Bay County, Michigan, hereby certify that the within Ordinance was duly adopted by the Charter Township of Hampton Board on the 8<sup>th</sup> day of December, 1970, at a regular meeting of said Board at which a quorum was present. I further certify that said Ordinance was duly published in the Bay City Times, being a newspaper generally circulating within said Township on the 12<sup>th</sup> day of December, 1970.

Ella Jane Martini  
Ella Jane Martini, Clerk  
Charter Township of Hampton  
Bay County, Michigan

Introduced: December 1, 1970.  
Published: December 7, 1970.  
Adopted: December 8, 1970.  
Published: December 12, 1970.  
Effective Date: December 12, 1970