

**FRENCHTOWN CABLE COMMUNICATIONS SYSTEM FRANCHISE  
ORDINANCE FOR COMMUNICATIONS AND CABLEVISION, INC.  
Ord. No. 178; Date of Adoption: September 1996**

An Ordinance granting a non-exclusive Franchise to Communications and Cablevision, Inc., d/b/a River Raisin Cablevision, its successors and assigns, to install, operate and maintain a cable communications system in the Charter Township of Frenchtown, Monroe County, Michigan.

**WITNESSETH**

WHEREAS, Grantee currently provides cable service in Township under a pre-existing cable franchise or similar rights; and

WHEREAS, application or request has been duly made by Grantee for renewal of such Franchise with amendments such as to conform said Franchise to Federal statutes, rules and regulations governing cable television systems; and

WHEREAS, Grantee represents that it will provide adequate service to the residents of Township; and

WHEREAS, Township has duly considered and concluded that adoption of this Franchise on the terms set forth herein is in the public interest and would meet the needs and interest of the community;

NOW THEREFORE, in consideration of the mutual covenants and promises herein contained;

**THE CHARTER TOWNSHIP OF FRENCHTOWN HEREBY ORDAINS:**

This Ordinance shall be known and may be cited as the "Frenchtown Cable Communications System Franchise Ordinance for Communications and Cablevision, Inc."

**Section 1. Grant of Authority.**

The Charter Township of Frenchtown ("the Township"), Monroe County, Michigan, hereby grants to Communications and Cablevision, Inc., a Michigan corporation, d/b/a River Raisin Cablevision, hereinafter referred to as "Grantee," and to its successors and assigns, a non-exclusive Franchise, right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under all streets, alleys, public ways and public places and subsequent additions thereto in the Township, poles, wires, cables, underground conduits, manholes, and all other facilities necessary for the maintenance and operation of a cable communications system and/or a communications system (hereinafter referred to as "Cable Communications System") for the purpose of distributing television and radio programs and various other electronic services to

the public, all in accordance with the laws and regulations of the United States of America, the State of Michigan and the ordinances and regulations of Frenchtown Charter Township.

**Section 2. Conditions of Occupancy.**

- (1) Grantee may enter into one or more contracts with any electric utility, telephone company or the owner or lessee of any poles, posts or conduits located within the Township to whatever extent such contract or contracts may be expedient and of advantage to Grantee in furnishing the service covered by this Franchise to its subscribers.
- (2) Grantee shall, at the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its aerial facilities to permit the moving of a building. The expense of such temporary raising or lowering of aerial facilities shall be paid by the person requesting the same, and Grantee shall have the authority to require such payment in advance. Grantee shall be given at least two (2) regular business days notice to arrange for the necessary adjustment of its aerial facilities.
- (3) Poles and towers shall be erected so as not to interfere with traffic over the streets and alleys, and the location of all poles, towers or other obstructions in public rights-of-way or on public lands shall be fixed with the prior written approval of the Charter Township of Frenchtown, giving consideration to the reasonable use of such streets and alleys. Provided further, that the location shall not be a vested interest and such poles, towers or other obstructions shall be relocated by Grantee whenever they restrict or obstruct the use or location of said streets and alleys.
- (4) All streets and sidewalks, and all public and private property, disturbed or damaged in the construction or maintenance of the Cable Communications System shall be promptly repaired by Grantee at its expense and to the satisfaction of the Township.
- (5) Grantee shall be subject to all ordinances now in force or that may be hereafter enacted relative to the use of the streets and alleys and other public and private places of the Township, and shall likewise be subject to all laws of any nature dealing with public and private rights.

**Section 3. Liability, Indemnity and Insurance.**

- (1) Grantee shall exercise precaution to avoid damage to public and private property and members of the public in the construction, installation, operation and maintenance of the Cable Communications System authorized herein.
- (2) Grantee hereby assumes all responsibility for any and all damage to public and/or private property caused by the fault or negligence of Grantee or its agents in the

construction, installation, operation, or maintenance of the Cable Communications System.

- (3) Grantee shall indemnify, protect, defend, and save harmless the Township from and against any and all claims and demands for damages to public and/or private property and injury or death to persons, including, but not limited to, payments under any Worker's Compensation Law or under plan for employees' disability and death benefits, which may arise out of or be caused by any of Grantee's activities under this Franchise. Grantee shall carry insurance to protect the Township from and against any and all claims, demands, actions, judgments, costs, expenses, and liabilities of every name and nature which may arise or result, directly or indirectly, from or by reason of Grantee's activities under this Franchise, including such insurance as will protect it from all claims under any Worker's Compensation Laws in effect that may be applicable to it. All insurance required shall cover Grantee and the Township as their respective interests may appear, and shall remain in force the entire life of the Franchise. Such insurance policy(ies) shall include an endorsement that the insurer will not cancel or change the policy of insurance issued to Grantee except after thirty (30) days written notice given to the Township by registered mail.
- (4) For the calendar year 1996, and thereafter until changed by the Township Board as specified below, Grantee shall carry public liability and bodily injury insurance of at least Five Hundred Thousand Dollars (\$500,000.00) for one person, One Million Dollars (\$1,000,000.00) for each occurrence, and Five Hundred Thousand Dollars (\$500,000.00) property damage insurance; provided, however, that Grantee may self-insure the first One Hundred Thousand Dollars (\$100,000.00) of such amounts.
- (5) No later than June 1st of each year, Grantee shall submit to the Township Board certificates of insurance showing the coverage required herein and certifying that the insurance policy(ies) contain an endorsement that the insurer will not change or cancel such policy(ies) of insurance except after thirty (30) days written notice given to the Township by registered mail. At any regular meeting following receipt of the certificates, the Township Board may review the certificates and may by motion increase or decrease the amount of insurance coverage required in Subsection (4) hereof.

#### **Section 4. Subscriber Rates and Charges.**

- (1) The rates and charges for service hereunder shall be fair and reasonable and designed to meet all costs of service, including a fair and adequate rate of return on Grantee's investment to provide service hereunder. Except as otherwise provided under Federal Law or FCC regulations, Grantee's rates for service shall be the same at all times in all areas of the Township.

- (2) As to Cable Services, Township acknowledges that as of the date of this Franchise, its ability to regulate rates and charges is limited by the Cable Communications Policy Act of 1984, as amended by the Cable Television and Consumer Protection and Competition Act of 1992, and as further amended by the Telecommunications Act of 1996 and applicable FCC regulations.
- (3) Nothing herein shall prohibit Grantee from charging less than the rates and charges as set forth herein or as they may be changed in the future.

**Section 5. Free Connection and Service.**

Upon request, Grantee shall furnish, free of charge, outside connections and service to a single distribution point at each hospital, public and parochial school and Township government building located within the Township when other connections are being made within the particular areas of any such hospital, school or Township building; provided, however, all inside wiring and work shall be done at the expense of the hospital, school, or Township government, as the case may be, and provided that a service cable has previously been installed in reasonable proximity to such hospital, school, or public building.

**Section 6. Franchise Term.**

The term of the Franchise granted Communications and Cablevision, Inc. herein shall be extended an additional ten (10) years from the date of passage of this Ordinance (i.e., through and including June 8, 2006), and upon Grantee's request, may be extended for a successive ten (10) year term. Grantee shall give written notice to the Township of intent to extend the Franchise not later than ninety (90) days prior to the end of the initial term. Written notice of intent to extend the Franchise shall be provided to the Township Clerk at the Clerk's office by certified mail, return receipt requested. If the Township fails to respond upon expiration of the ninety (90) days, the Franchise shall be considered extended for a successive ten (10) year term. The Township shall extend this Franchise provided Grantee has substantially complied with the provisions herein.

**Section 7. Service Area.**

Service shall be provided to those sections of the Township where the weighted average residential density is equal to or greater than forty (40) units per mile, thirty (30) units per mile through calendar 1997; twenty-five (25) units per mile in 1998 and 1999; and twenty (20) units per mile after calendar 1999.

**Section 8. Unusual Construction.**

- (1) In unusual circumstances, such as a requirement for special construction, a distance of more than one hundred and fifty (150) feet from distribution cable to connection of service to subscribers, or a weighted average residential density less than the density requirements outlined in the preceding Section, in order that existing subscribers shall not be unfairly burdened, service may be made available as follows:
- (2) A potential subscriber located beyond the area where the Cable Communications System is extended free of charge under the preceding provisions may obtain service by making a contribution in aid of construction to extend the System to a point at which such potential subscriber is entitled to service without additional charge for line extensions. Annually during the five-year period commencing at the completion of such a subscriber-funded line extension, as new subscribers are added to such line extension, Grantee shall collect funds from such new subscribers and refund shall be made by Grantee to subscribers who made such contribution in aid of construction. The amount of the collection and refund shall be determined by applying the provisions of this Section to compare what the contribution (if any) would have been with the new subscribers compared to the contribution actually made, with the difference reduced to zero at the rate of twenty percent (20%) per year over the five (5) years. Examples of the application of this section are set forth in Exhibit A.
- (3) The preceding shall apply whether the cable would be located in Public Ways or in private ways/easements (the latter being generally available to Grantee under its statutory ability to use existing utility easements for cable purposes). For line extensions or drops exceeding the preceding standards, the subscriber(s) shall only be charged for the increment by which the extension/drop exceeds the standard. Unless waived in writing by Township, for all new plats, planned unit developments or subdivisions (collectively "plats") within 1.5 miles of Grantee's existing Cable Communications System or where Grantee is paid or reimbursed for same by the owner/developer, Grantee shall install the portion of the Cable Communications System to be physically located in such plats at the same time as other utilities are installed.

### **Section 9. Approval of Transfer.**

Grantee shall not sell or transfer this Franchise without prior approval by the Township, which approval shall not be unreasonably withheld. Grantee shall give the Township written notice not less than ninety (90) days before such proposed sale or transfer. Failure of the Township to act within sixty (60) days from receipt of the notice will constitute approval; provided that no sale or transfer shall be effective until the purchaser or transferee has filed with the appropriate office of the Township an instrument duly executed, reciting the fact of sale or transfer, the financial and technical responsibility of the transferee, accepting the terms of this Franchise and agreeing to perform all conditions hereof. Notwithstanding the above, this Franchise may be sold or transferred without Township approval to any person, partnership, corporation or other entity in which Grantee or its principal stockholder(s) has a majority or

controlling interest. Township approval shall not be required for collateral assignment of this Franchise for financing purposes.

**Section 10. Fees.**

- (1) Grantee shall, on January 15 of each year of operation under this Franchise, pay to the Township three percent (3%) of its annual gross subscriber receipts taken and received by Grantee for cable television services rendered to subscribers located within the Township during the previous twelve (12) calendar months. At the time of this annual payment, Grantee shall furnish the Township a report showing Grantee's annual gross subscriber receipts during the preceding year and such other information as the Township may reasonably request with respect to properties and expenses related to Grantee's services within the Township during such period.
- (2) The Township may elect, at its sole discretion, to increase the amount of the Franchise Fee to a higher percentage, not exceeding five percent (5%) or reduce it to a lesser or no percentage. If Township so elects, it shall give Grantee at least sixty (60) days written notice of same, and thereafter, Grantee shall pass through to subscribers the amount of any increase or decrease in the Franchise Fee pursuant to Section 622 (c) of the Communications Act of 1934 (47 USC 542 (c)) as amended. Township may revoke the election upon similar notice.
- (3) "Annual gross subscriber receipts" shall mean all compensation taken and received by Grantee for supplying regular subscriber service, that is, monthly cable service sold to Grantee's subscribers under this Franchise, but shall not include other revenues derived from its cable communications system, including but not limited to, per-program or per-channel charges; leased channel revenues; advertising revenues; installation; connection or relocation charges. Gross annual subscriber receipts shall not include taxes on services furnished by Grantee which are or may be imposed upon any subscriber by any City, State or other government unit and collected by Grantee for such government unit.

**Section 11. Prohibited Practices - Discrimination.**

Grantee shall not unjustly discriminate among its subscribers under this Franchise in its services or rates. Provided, however, Grantee may provide free connection and service to hospitals, public and parochial schools, and Township government buildings. Nothing herein shall be deemed to prohibit promotional offerings or a graduated scale of rates and charges or classified rates and charge schedules to which any customer coming within such classification shall be entitled.

**Section 12. Customer Service Standards.**

- (1) Grantee shall maintain a business office or toll-free telephone listing in the Township for the purpose of receiving inquiries and complaints from its

subscribers and other residents of the Township. Grantee shall investigate all complaints promptly and shall, in good faith, attempt to resolve them promptly and equitably.

(2) Telephone Service:

- (a) Grantee shall have a local telephone number or 800 number for use by subscribers toll-free, twenty-four (24) hours per day, seven (7) days per week.
- (b) Grantee's numbers shall be listed in bold type, with appropriate explanations, in the directory published by the local telephone company (Michigan Bell, GTE and the like) and Grantee shall make reasonable efforts to be listed in significant private directories (Talking Directories and the like).
- (c) Trained Company representatives will be available to respond to subscriber telephone inquiries twenty-four (24) hours per day, although after Normal Business Hours such representatives shall only be required to respond to inquiries relating to outages, repairs or service calls, with other matters deferred until the next business day (unless low workload allows them to be handled then).
- (d) After Normal Business Hours, calls relating to matters other than outages, repairs and service calls may be answered by a service or automated response system, including an answering machine. Such inquiries received after Normal Business Hours must be responded to by a trained Company representative on the next business day.
- (e) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under Normal Operating Conditions, measured on a quarterly basis.
- (f) Grantee shall, if requested, provide reports to Township quarterly (monthly if Township shall request same) showing on a consistent basis, fairly applied, the number of telephone calls originating from within Township or other appropriate area and, in addition, measuring Grantee's compliance with the standards of this Section. Such report shall show Grantee's performance, excluding periods of abnormal operating conditions, and if Grantee contends any such conditions occurred during the period in question, it shall also

describe the nature and extent of such conditions and show Grantee's performance excluding the time periods such conditions were in effect.

- (g) Under Normal Operating Conditions, the subscriber will receive a busy signal less than three percent (3%) of the time.
  - (h) Normal Business Hours for the purpose of this Section shall mean from 8:00 AM to 8:00PM, Monday through Friday and 9:00 to Noon on Saturday, excluding New Year's Day, Good Friday, Memorial Day, the Fourth of July, Labor Day, Thanksgiving Day, Christmas Eve Day (December 24) and Christmas Day.
- (3) Service Calls: The following shall apply to subscribers requesting installations or service: Grantee shall, at the subscriber's option, either (i) schedule the subscriber to be the first call of the day or last call of the day on a first come, first served basis, (ii) schedule the appointment for a date certain on a "call to meet" basis where as the service technician finishes his/her prior task, the technician calls the subscriber and arranges to meet the subscriber shortly thereafter, or (iii) establish a four (4) hour appointment window with the subscriber (or adult representative of the subscriber). Such four (4) hour window shall be entirely in the AM or entirely in the PM unless the subscriber requests and Grantee agrees to the contrary.
- (a) Grantee shall respond to the request for service in accordance with the option selected by the subscriber.
  - (b) Grantee may not cancel an appointment with a subscriber after 4:00 PM on the business day prior to the scheduled appointment.
  - (c) If Grantee's technician is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will promptly be contacted. The appointment will be rescheduled, as necessary, at a time certain which is convenient for the subscriber.
  - (d) In the event access to the subscriber's premises is not made available to Grantee's technician when the technician arrives during the established appointment window, the technician shall leave written notification stating the time of arrival and requesting that Grantee be contacted again to establish a new appointment window. In such case, the required response time for the request for service shall be twenty-four (24) hours from the time Grantee is contacted to establish the new appointment window.



- (e) Notwithstanding the foregoing, if Grantee's technician telephones the subscriber's home during the appointment window and is advised that the technician will not be given access to the subscriber's premises during the appointment window, then the technician shall not be obliged to travel to the subscriber's premises or to leave the written notification referred to above, and the burden shall again be upon the subscriber (or adult representative of the subscriber) to contact Grantee to arrange for a new appointment window, in which case the required response time for the request for service shall again be twenty-four (24) hours from the time Grantee is contacted to establish the new appointment window.
- (f) Except as otherwise provided above, Grantee shall be deemed to have responded to a request for service under the provisions of this Section when a technician arrives at the service location.
- (g) A violation by Grantee of the provisions of this Section shall entitle the subscriber to one (1) month's free basic service.

(4) Disconnection:

- (a) Grantee may only disconnect a subscriber for failure to pay if at least sixty (60) days have elapsed after the due date for payment of the subscriber's bill and Grantee has provided at least ten(10) days written notice to the subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection.
- (b) Grantee may not disconnect a subscriber for failure to pay amounts that are in dispute during a billing dispute.
- (c) Grantee may disconnect a subscriber at any time if Grantee, in good faith, believes that the subscriber has tampered with or abused Grantee's equipment, that there is a signal leakage problem (or other non-compliance with FCC or other standards which poses a risk to lives or property) on subscriber's premises, or that subscriber is or may be engaged in the theft of Cable Services.
- (d) Grantee shall promptly disconnect any subscriber who so requests disconnection. No period of notice prior to requested termination of service may be required of subscribers by Grantee. No charge may be imposed upon the subscriber for any cable service delivered after the effective date of the disconnect request (unless there is a delay in returning Grantee's equipment). 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 Grantee.

- (5) Small Claims Court: If a subscriber files a claim with the Small Claims division/branch of Michigan's State District Courts that is within such division/branch's jurisdiction (as from time to time revised), Grantee agrees as follows:
  - (a) Grantee will not appear by counsel in or use lawyers in such court unless the subscriber/plaintiff is represented by counsel.
  - (b) Grantee will not remove or transfer such claim to District Court or any other court.
  - (c) Grantee will not appeal any such judgment rendered by the Small Claims branch/division.
  - (d) Township agrees to encourage cable subscribers to adhere to the same guidelines as Grantee and as set forth in this Section.

### **Section 13. Access to the System.**

- (1) Channels made available. Grantee shall provide on the Communications System in the basic tier of service (and lowest tier of service, if different) the following non-commercial channel options:
  - (a) A combined public, education and governmental channel (collectively, the PEG channel).
- (2) Township acknowledges that all municipalities, school districts and customers served (as the case may be) downstream of a given fiber node, microwave relay point, or headend through the comparable point (if any) downstream, where different program insertion on such channel is possible, must make (or not disagree with) the same election and share the same channel. Township agrees to share the PEG channel on an equitable basis with other municipalities and school districts served by such channel.
- (3) Grants, Upon written request by the Township, the Grantee will consider grants to the Township, its designee, or such other entity as Township may appoint, to be used to purchase video and audio equipment for use in producing programming for the PEG channel. Grantee also agrees to provide technical expertise to Township, or its designee, to assist in the purchase, selection, or installation of any video or audio equipment to ensure compatibility with Grantee's system and/or Grantee's communications equipment. Prior to providing such grant, Grantee shall advise the Township whether, to what extent, and in what manner, such cost, if any, will or may be included in the rates and charges paid by cable

subscribers, including the amount per subscriber per month, and how it may appear (if at all) on the subscriber's bill.

**Section 14. Pay-Per-View.**

- (1) Subscribers shall be given the option of not having pay-per-view- or per-program service available at all or only having such service provided upon the subscriber providing a security number selected by an adult representative of subscriber.
- (2) Blocking: Upon request by a subscriber, Grantee shall entirely block such subscriber from receiving both the audio and video portion of a channel on which programming is provided on a per-program or pay-per-view basis. Scrambling of the signal shall be insufficient to comply with this provision.

**Section 15. Payment Option.**

Prepayment: Grantee will provide all subscribers with the option of prepaying for service twelve (12) months in advance with a prepayment discount of five percent (5%).

**Section 16. Revocation.**

Subject to the requirements of Federal law, this Franchise may be revoked upon thirty (30) days written notice if Grantee violates any of the terms or conditions specified herein. Provided, however, the Township must first furnish Grantee in writing the reasons for revocation and grant it a reasonable time to correct such violations prior to any termination of this Franchise. Provided, further, Grantee shall have the right to a public hearing before the Township Board prior to termination of this Franchise.

**Section 17. Removal of Equipment.**

- (1) Upon termination of this Franchise, Grantee shall either transfer its equipment and facilities located in public places in the Township to a purchaser which has been approved by the Township or remove its equipment and facilities from public places, except that equipment and facilities which the Township may permit Grantee to abandon in place.
- (2) Grantee agrees to execute and deliver to the Township a good and sufficient bond, with corporate surety, in a sum to be agreed upon by the parties, but not less than Fifty Thousand (\$50,000.00) Dollars, conditioned upon Grantee's obligation to remove all equipment and facilities owned by it from public places located in the Township upon termination of this Franchise.

**Section 18. Quality of Service.**

Grantee's receiving equipment and distribution lines and related electronic components, insofar as technically possible, shall be installed and maintained so as to provide pictures at

subscribers' receivers throughout the system essentially of the same visual quality as those received at Grantee's antenna site. Installation and maintenance of equipment shall be such that standard NTSC color signals shall be transmitted with reasonable fidelity to any subscriber color receiver. Grantee's service shall meet all technical standards set forth by the Federal Communications Commission.

**Section 19. Separability.**

If any 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 20. Captions.**

The captions or headings used herein are for purposes of convenience only and shall not be construed to modify, amend or alter the provisions to which they refer.

**Section 21. Activities Prohibited.**

- (1) It shall be unlawful for any person to make any connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of Grantee's Cable Communications System for the purpose of enabling himself or others to receive any television signals, radio signals, pictures, programs, sounds or other information or intelligence transmitted over Grantee's Cable Communications System without authority from and payment to Grantee.
- (2) It shall be unlawful for any person, without the consent of the Grantee, to willfully tamper with, remove, or injure any cable wires, or other equipment used for the distribution of television signals, radio signals, pictures, programs, sounds, or any other information or intelligence transmitted over Grantee's Cable Communications System.

**Section 22. Penalties.**

It shall be a misdemeanor punishable by a fine of not more than Five Hundred (\$500.00) Dollars or by confinement in jail for a term not to exceed ninety (90) days, or both, for any person to violate any of the provisions of this Ordinance.

**Section 23. Enabling Ordinance.**

This Ordinance is adopted pursuant to the Frenchtown Charter Township Community Antenna Television System Ordinance #120.

**Section 24. Effective Date.**

This Ordinance shall become effective thirty (30) days after final passage and publication in the Monroe Evening News, a newspaper having general circulation in Frenchtown Charter Township, Monroe County, Michigan.

**EXHIBIT A**  
**CONTRIBUTION IN AID OF CONSTRUCTION**

Example 1: Subscriber one pays \$1,000.00 for a line extension in year one. In year two, a second subscriber is added to the extension. Even with both subscribers the homes per mile standard for a free extension is not met. Company in year two collects \$400.00 ( $\$1000/2$  less 20%) from subscriber two and pays it to subscriber one.

Example 2: Subscriber one pays \$1,000.00 for a line extension in year one. In year three, two subscribers are added to the extension and with both the homes per mile standard for a free extension is met. Company in year three collects zero from subscribers two and three but refunds \$600.00 ( $\$1,000$  less 40%) to subscriber one.

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