

ORDINANCE NO. 5

LIBERTY T.V. CABLE FRANCHISE ORDINANCE

AN ORDINANCE GRANTING A FRANCHISE TO LIBERTY T.V. CABLE, INC., ITS SUCCESSORS AND ASSIGNS, TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWNSHIP. SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE PROVIDING FOR TOWNSHIP REGULATION AND USE OF THE CABLE TELEVISION SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISION.

THE TOWNSHIP OF ROLLIN ORDAINS:

SECTION 1. Short Title

This ordinance shall be known and may be cited as the "Cable Television Franchise 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 the context, words used in the present tense 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 Township of Rollin.
- b. "Company" is Liberty T.V. Cable, Inc.
- c. "Board" is the Township Board of the Township of Rollin.
- d. "Person" is any person, firm partnership, association, corporation, company or organization of any kind.
- e. "F.C.C." is the Federal Communications Commission.

SECTION 3. Grant of Authority

1. Pursuant to full consideration and approval of the Company's legal, character, financial, technical and other qualifications, and the adequacy, feasibility and extent of its construction arrangements, and as part of a full public proceeding affording due process, there is hereby granted by the Township to the Company the right and privilege to construct, erect, operate, maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof and additions thereto, in the Township, poles, wires, cables, underground conduits, manholes and other television conductors, and fixtures necessary for the maintenance and operation in the Township of a cable television system for the interception, sale and distribution of television signals.

2. Non-Exclusive Grant. The rights and privileges herein set forth shall not be exclusive, and the Township reserves the right to grant similar rights and privileges to any person at any time during the period of this franchise.

SECTION 4. Compliance with Applicable Laws and Ordinances

The Company shall, at all times during the life of this franchise, be subject to all lawful exercise of the police power of the Township and to such reasonable regulation as the Township shall hereafter by resolution or ordinance provide.

SECTION 5. Company Liability-Indemnification

The Company shall indemnify and save the Township and its agents and employees harmless from any and all claims for personal injury, property damage, patent infringement, copyright claims and any and all other claims of any kind whatsoever, including attorney fees, expenses of investigation and litigation, and any other expenses of any kind whatsoever which may arise from the installation or operation of the television antenna system or any other equipment owned or used by the Company. In the event suit shall be filed against the Township, either independently or jointly with the Company, to recover for any such claim or demand, the Company shall defend the Township, its agents and employees, in such action, and in the event a final judgment is obtained against the Township or its agents or employees, either independently or jointly with the Company, the Company shall pay said judgment and all costs and hold the Township and its agents and employees harmless therefrom. For the purpose of furnishing further assurance to the Township in this respect the Company shall at its expense at all times carry and maintain public liability insurance insuring the Company and the Township against any and all liability arising from the installation or operation of said system. The policy or policies of insurance involved shall be subject to approval by the Board and shall be maintained in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) for damage to property in any one occurrence, not less than Five Hundred Thousand Dollars (\$500,000.00) for injury or death to any one person, and not less than One Million Dollars (\$1,000,000.00) for injury or death to all persons affected by any one occurrence. The Company shall further maintain at all times at its expense Workers Compensation coverage for all of its employees subject to such coverage. Certificates evidencing all of the foregoing insurance shall be filed with the Township Clerk prior to the effective date of this franchise.

SECTION 6. Service Standards

1. The Company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be, set forth by the Board as provided for in Section 12 of the ordinance, or by any State or Federal regulatory agency.

2. Notice of Interruption for Repairs. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installation, the Company shall do so at such time as will cause the least amount of inconvenience to its customers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

3. Complaints. The Company shall maintain a business office with a toll-free telephone listing, so located that maintenance service shall be promptly available to subscribers upon request. Notice of the procedures

adopted by the Company and the Township for the investigation and resolution of all complaints regarding system operations (a copy of which is attached hereto as Exhibit "A") shall be given to each subscriber at the time of initial subscription to the cable service. Any person having a complaint regarding the Company's operations may direct such complaint to the System Manager or, if not satisfied with the disposition of such complaint, to the Township Clerk, Township Hall, Adrian Township, Michigan or his designate, who shall have primary responsibility for the continuing administration of this franchise and implementation of complaint procedures.

4. Federal Standards. This franchise is governed by and subject to all applicable rules and regulations of the F.C.C. regarding minimum franchise standards and technical standards. Any modifications of the provisions of 47 C.F.R. Section 76.31 of the Rules and Regulations of the F.C.C. governing franchise standards shall be incorporated into this ordinance by the Township and the Company within one (1) year of the adoption of the modifications. The Company shall transmit black and white and color signals equalling or superior to the technical standards prescribed by the F.C.C.

5. The Company shall at all times maintain and operate its system in such a manner that it will not interfere with regular television reception.

6. The Company and any person connected with it in any manner whatsoever is expressly prohibited from selling or servicing television sets or any parts or equipment related thereto.

7. Consistent with F.C.C.'s signal carriage rules, the Company shall carry the maximum number of broadcast signals allowable on the cable television system, subject to the system's existing channel capacity.

8. The system will also be engineered to provide an Audio Alert System. This system would allow certain authorized officials to automatically over-ride the "audio" signal on all channels and transmit and report emergency information.

SECTION 7. Company Rules

The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof or of laws of the State of Michigan, and shall be subject to the rules and regulations of the F.C.C. or any other regulatory agency having jurisdiction over cable television.

SECTION 8. Condition of Street Occupancy

1. All transmission and distribution structures, lines and equipment erected by the Company within the Township shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said

streets, alleys or other public ways or places. The Company shall obtain any required written permits prior to construction. No right-of-way through cemetery property shall be granted to Company.

2. In case of any disturbance of pavement, sidewalk, driveway or other surfacing the Company shall at its expense and in a manner approved by the Township replace and restore the same in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of five years.

3. In new developments, or in those places where a subscriber or property owner requests that service connections be placed underground, trenching costs (or a fractional share of joint trench costs based upon relatively required trench dimensions of joint users) for the underground installation may be charged to and will be borne by the developers, subscribers or property owners; and provided further that in underground installations, amplifiers and subscriber tap-off devices may nevertheless be placed in appropriate housings on or above the surface of the ground.

4. The Company shall use existing utility poles only and shall not erect or place additional poles within the Township without prior consent of the Board.

5. Upon receiving prior notice of at least two (2) regular business days from a person properly authorized to use Township streets for the purpose of moving any building, the Company shall raise or remove any or all of its cables or wires to allow the moving of such building. The Company shall have the right to demand advance payment of the costs involved in removing or relocating said cables or wires from said person.

SECTION 9. Preferential or Discriminatory Practice Prohibited

The Company shall not as to rates, charges, service, facilities, rules, regulations, or in any other respect, make or grant any preference or advantage to any person, nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

SECTION 10. Extension Policy

The Company is authorized to construct and operate the cable television system in any and all areas of the Township, and it shall, upon request, extend its facilities to any and all such areas; provided, however, if in the opinion of the Company such an extension is economically impracticable, the Company may seek financial assistance from the developer, contractor, subscriber or property owner requesting service before it is required to enter into any new construction. Once construction has begun, however, erection of new facilities shall be completed without unreasonable delay. Disputes, if any, concerning the meaning of "economically impracticable" as used herein shall be subject to review by the Township Board.

SECTION 11. Approval of Transfer

The Company shall not sell or transfer its plant or system to another, nor transfer any rights under this franchise to another, without Board approval. Provided, that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the Office of the Township Clerk an instrument, duly executed, reciting the fact of such sale, assignment, or lease accepting the terms of the franchise and agreeing to perform all the conditions thereof.

SECTION 12. Township Rights in Franchise

1. Township Rules. The right is hereby reserved to the Township to adopt, in addition to the provisions herein contained, and in other existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power provided that such regulations, by ordinance or otherwise, shall be reasonable, and not in conflict with the rights herein granted, and shall not be in conflict with the laws of the State of Michigan or the rules and regulations of the F.C.C.

2. Use of System by Township. The Township shall have the right during the life of this franchise, free of charge, where aerial construction exists, or maintaining upon the poles of the Company within the Township limits the wire and pole fixtures necessary for a police and fire alarm system.

3. Supervision and Inspection. The Township shall have the right to supervise all construction or installation work performed subject to the provisions of this ordinance and to make such inspections as it shall find necessary to insure compliance with governing ordinances.

4. Procedure After Termination or Renovation. Upon the renovation of this franchise by the Board, or at the end of the term of this franchise the Township shall have the right to determine whether the Company shall continue to operate and maintain its cable system pending the decision of the Township as to the future maintenance and operation of such system.

5. Drop Connections. The Company shall, as economically practicable ("economically practicable" being described in Section 10 of this franchise), provide one free installation, connection and service therefor, to each public school and municipal building located within the Township limits of the Township of Rollin.

SECTION 13. Payment to the Township

The Company shall pay to the Township for the privilege of operating the cable television antenna system under the franchise a sum equivalent to three percent (3%) of the annual gross subscriber revenues taken in and received by it from delivery of television signals within the Township. For the purposes of this franchise, gross subscriber revenues shall be limited to that revenue the licensee receives as a result of providing its customers with regular subscriber services, and shall not include revenues derived from per-program or per-channel charges, leased channel revenue, advertising revenues, or any other income derived from the system. The franchise fee set forth herein shall be due and payable in cash in full within sixty (60)

days following the close of each fiscal year of the Company.

SECTION 14. Rates

1. Concurrently with the adoption of this ordinance, the Township shall approve the schedule of rates to be charged the Company's subscribers, which schedule (attachment hereto as Exhibit "B" and hereby made a part of the franchise) has been established in the manner provided for in this Section 14 and shall be in full force and effect immediately upon adoption of this ordinance by the Township and its acceptance by the Company.

2. Rate Commission

a. The rates which the Company may charge under this ordinance shall be fixed by agreement between the Township and the Company pursuant to the procedures set forth in this section.

b. Not more than sixty (60) days, nor less than forty-five (45) days prior to the expiration of the first two year period following the enactment of this ordinance, the subsequent two year periods respectively, a Rate Commission consisting of two persons shall be appointed in the following manner: One commissioner shall be appointed by the Board and one commissioner shall be appointed by the Company. The two commissioners thus appointed shall review the rates then in effect and being charged by the Company, and shall establish fair and reasonable rates to be charged by the Company for the next ensuing two year period under the terms of this ordinance.

c. In the event that the said two commissioners to be appointed cannot agree within thirty (30) days after their appointment upon a fair and reasonable rate to be charged by the company for any such ensuing two year period during the life of this ordinance, then said two commissioners shall select a third commissioner, and the three commissioners so selected shall proceed to determine a fair and reasonable rate to be charged by the Company for any such ensuing two year period. In the event of the appointment of the third commissioner, a majority of said commissioners shall have power to determine and establish such fair and reasonable rates to be charged by the Company for such ensuing two year period. When such rates are so determined by the Rate Commission, they shall promptly report the same in writing to the Board and to the Company. Such rates when so determined and reported shall become effective in accordance with and under the terms of this ordinance, and the company shall put the same into effect.

d. In the event that the rate Commission fails to fix such rates on or before the expiration of any two year period, then the rates in effect for the preceding two year period shall remain in force and effect until such rates are finally determined and established in accordance with the terms of this ordinance for the two year period then in question. The Township shall pay the fees and expenses of the commissioner appointed by it, and the Company shall pay the fees and expenses of the commissioner appointed by the Company. The fees and expenses of the third commissioner, in the event of the appointment of such a Commissioner, shall be borne equally between the Township and the Company. If during the term of this Ordinance and in any two year period the Company desires to reduce any of its rates it may do so by filing its new schedule of rates with the Township

and if either the Township or the Company desire a revision of rates during any two year period, a rate commission shall be appointed within thirty (30) days of request being made in the manner provided for in the preceding paragraphs of this Section 14, provided, however, that neither the Township nor the Company shall request the appointment of a rate commission within a period of ten (10) months immediately following the effective date of the last established rate. The new rate shall then be effective as of the date it is filed with the Board.

e. Savings to Customers. If during the term of this franchise the Company receives refunds or if the cost to the Company of receiving the television signals which it relays is reduced by order of any regulatory body having competent jurisdiction, the Company shall pass on to its customers such refunds or any savings resulting from such reduced costs.

f. This Subsection 2 having been approved as part of a public proceeding affording due process, each rate established pursuant to the procedure set forth in said Subsection shall be deemed to have been approved by the Township pursuant to such public proceeding.

SECTION 15. Records and Reports

The Township shall have access at all reasonable hours to all of the Company's plans, contracts and engineering, accounting, financial, statistical, customer and service records relating to the property and the operation of the Company and to all other records required to be kept hereunder. The following records and report shall be filed with the Township Clerk and in the local office of the Company:

a. Company Rules and Regulations. Copies of such rules, regulations, terms and conditions adopted by the Company for the conduct of its business.

b. Gross Subscriber Revenues. An annual summary report showing gross subscriber revenues received by the Company from its operations within the Township during the preceding year and such other information as the Township shall request with respect to properties and expenses related to service by the Company within the Township.

SECTION 16. Term of Franchise

The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof, as required by law and upon filing of acceptance by the Company with the Township Clerk, and shall continue in force and effect for a term of fifteen (15) years after the effective date of this franchise.

SECTION 17. Acceptance of Franchise

If the Company shall decide to exercise the rights and privileges set forth in this ordinance, it shall file in writing its unequivocal acceptance of all of the terms and provisions hereof with the Township within thirty (30) days of the final adoption of this ordinance. Such an acceptance shall constitute an agreement on the part of the Company to comply with all of the terms, conditions and provisions of this ordinance.

SECTION 18. Publication Costs

The Company shall assume the cost of publication of this franchise as such publication is required by law and shall pay the same upon demand by the Township.

SECTION 19. 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 20. Tree Trimming

The Company shall have the authority to trim trees upon overhanging Township streets, alleys, sidewalks and other public places in order to prevent the branches of such trees from contacting its wires, cables, equipment, in accordance with Township Ordinance and after written land owner permission as well as Township permit is issued, if required.

SECTION 21.

This franchise is subject to revocation at the will of the Rollin Township Board; provided, however, that in considering whether to revoke this franchise the board shall take into account the following:

a. Whether the Company complied with all material terms and conditions of this franchise, or if the Company, by act or omission, violated any material term or condition of this franchise or failed to cure such violation within a reasonable time after receiving written notice thereof.

b. Whether the Company's failure to perform according to the provisions of this franchise is due to circumstances beyond its control.

The Township shall not exercise its rights under this Section without first providing for a public hearing on the issues involved. All parties shall be given an opportunity to be heard in which reasonable due process shall be afforded.

Adopted: January 12, 1983

/s/ _____
Oscar Hauch
Rollin Township Supervisor

I, Robert Mason, the duly elected Township Clerk, certify that the foregoing ordinance was properly enacted by the Township Board of the Township of Rollin, Lenawee County, Michigan, on January 12, 1983 and that it was published in the Bi-County Herald on January 25, 1983.

/s/ _____
Robert Mason
Rollin Township Clerk