

TOWNSHIP OF HOMER  
 COUNTY OF MIDLAND

CABLE TELEVISION BASIC SERVICE AND  
 ASSOCIATED EQUIPMENT RATE REGULATION ORDINANCE

Ordinance No. 1401

An ordinance to provide for the regulation of rates for cable television basic service and associated equipment; to repeal all ordinances or parts of ordinances in conflict herewith; and to provide for an effective date of this ordinance.

TOWNSHIP OF HOMER  
MIDLAND COUNTY

ORDAINS:

SECTION I

SHORT TITLE

This ordinance may be known and referred to as the "HOMER  
 TOWNSHIP CABLE TELEVISION RATE REGULATION ORDINANCE".

SECTION II

PURPOSE

The purpose of this ordinance is to regulate rates of cable television basic service and associated equipment through adoption of regulations consistent with the provisions of the Federal Communications Act of 1934, as amended, including the Cable TV Consumer Protection and Competition Act of 1992, Public Law 102-385 and the Federal Communication Commission's Rules and Regulations promulgated pursuant thereto; and to provide procedures applicable to rate regulation which offer a reasonable opportunity for comment by interested parties.

SECTION III

DEFINITIONS

The following words and terms used in this Ordinance are defined as follows:

A. Act, means the Federal Communications Act of 1934, as amended, specifically including the amendments contained in the Cable Television Consumer Protection and Competition Act of 1992, Public Law 102-385.

B. Associated Equipment, means equipment used by a subscriber to receive basic service cable programming regardless of whether such equipment is also used to receive other tiers of regulated programming service and/or unregulated tiers of programming service(s). Associated equipment includes, but is not limited to:

1. Converter boxes;
2. Remote control units;
3. Connections for additional television receivers; and
4. Other cable home wiring.

C. Basic Service, means the level or tier of cable television programming which includes, at a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system), a public, educational and/or governmental programming required by the Franchise Authority to be carried as a basic service, and any additional video programming signals added to the basic service by the Regulated Cable Operator.

D. Existing Rates - The rates for basic service and associated equipment charged by a Regulated Cable Operator on the initial date of regulation by the Franchising Authority.

E. F.C.C., means the United States Federal Communications Commission.

F. F.C.C. Rules and/or Regulations, means any and all rules and/or regulations which the F.C.C. promulgates and/or adopts pursuant to the Act.

G. Franchising Authority, means the Township Board.

H. Rate Increase, means an increase in rates for basic service and/or associated equipment including among others increases in rates that are the result of reductions in programming provided under the basic service.

I. Ordinance, means this Cable Television Basic Service Regulation Ordinance.

J. Regulated Cable Operator, means any operator of a cable television system that is subject to regulation by a Certified Franchising Authority.

K. Township shall mean the HOMER Township of MIDLAND COUNTY MICHIGAN.

## SECTION IV

UNDEFINED WORDS OR TERMS

Any word or term which is not specifically defined in Section III of this ordinance shall be given its normal, ordinary meaning. Provided that any word or term which is used in this ordinance and which is not specifically defined in Section III of this Ordinance but is defined in F.C.C. Rules or Regulations shall have the meaning given to such word or term in the F.C.C. Rules and/or Regulations.

## SECTION V

RATE REGULATION - ADOPTION OF F.C.C.  
RULES AND/OR REGULATIONS

A. The Township, by this reference, hereby adopts all rules and regulations regarding basic service rates and associated equipment rates which the F.C.C. promulgates pursuant to the Act, and makes said rules and regulations part of this Ordinance.

B. The Township has submitted an application to the F.C.C. for certification as a cable Franchising Authority pursuant to the Act. Upon certification as a cable Franchising Authority, the Township shall regulate the basic service rates and associated equipment rates in compliance with the Act, the F.C.C. Rules and/or Regulations and this Ordinance.

C. Upon receiving its certification, the Franchising Authority shall send written notice of its certification and notice that it has adopted the required regulations, return receipt requested, to all Regulated Cable Operators within the Township. The date upon which the Franchising Authority gives this notice is the initial date of regulation.

## SECTION VI

DESIGNATION OF THE CABLE FRANCHISING AUTHORITY

A. Effective upon certification of the Township as a cable Franchising Authority, the Township Board is hereby designated as the cable Franchising Authority for the Township and shall execute the powers, duties and responsibilities given to the cable Franchising Authority in this ordinance, the Act and the F.C.C. Rules and/or Regulations.

## SECTION VII

REGULATED CABLE OPERATORS

A. A Regulated Cable Operator shall comply with all duties and obligations imposed upon the Regulated Cable Operator by the Act, F.C.C. Rule and/or Regulations, and this Ordinance.

B. A Regulated Cable Operator has the burden of proving that its submitted existing rates or a proposed rate increase comply with the Act and FCC rules and regulations.

## SECTION VIII

SUBMISSION OF EXISTING RATE SCHEDULE

A. Within 30 days of receiving the notice identified in Section V.C. of this ordinance, a Regulated Cable Operator shall submit an original and 8 copies of a written schedule of the Regulated Cable Operator's existing rates to the Franchising Authority. Said schedules shall be addressed in care of the Township Clerk.

B. The schedule(s) identified in Section VIII.A. of this ordinance shall contain a detailed statement explaining whether the Regulated Cable Operator's existing rates comply with existing F.C.C. Rules and/or Regulations for basic service rates and associated equipment rates.

C. Upon receipt of the existing basic service rate and associated equipment rate schedule(s), the Township Clerk shall provide the schedule(s) to the Franchising Authority within 7 days.

## SECTION IX

FRANCHISING AUTHORITY  
EXISTING RATE REVIEW

A. Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a Tolling Order by the Franchising Authority pursuant to Section XIII of this Ordinance, the Franchising Authority shall hold a public hearing on the existing rate schedule(s) which the Regulated Cable Operator submitted to the Franchising Authority, and enter a decision on said submitted schedule(s) within 30 days of the date the Township Clerk received the schedule(s). If the time for conducting the public hearing is extended pursuant to Section XIII of this Ordinance, a public hearing should be held and decision rendered, before the extended time period expires.

B. The existing rates identified in the submitted schedule(s) of rates shall go into effect 30 days from the date of the Township Clerk's receipt of the schedule(s) unless the Franchising Authority disapproves the rate or extends the time period for conducting the review of existing rates pursuant to Section XIII of this Ordinance.

C. If the Franchising Authority fails to act on the submitted existing rates by the end of the respective tolling period then the rates will remain in effect. If the Franchising Authority subsequently disapproves any portion of said rates, refunds may not be ordered unless a brief written order is issued by the Franchising Authority before the end of the respective tolling period directing the Regulated Cable Operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

## SECTION X

### REGULATION OF RATE INCREASES

A. A Regulated Cable Operator cannot institute a rate increase charged to its subscribers unless the Regulated Cable Operator complies with the Act, F.C.C. Rules and/or Regulations this Ordinance.

B. A Regulated Cable Operator which proposes a rate increase must submit at least 8 copies of the proposed rate increase(s) request to the Franchising Authority in care of the township clerk.

## SECTION XII

### FRANCHISING AUTHORITY RATE INCREASE REVIEW

A. Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a Tolling Order by the Franchising Authority pursuant to Section XIII of this Ordinance, the Franchising Authority shall conduct a public hearing and render a decision upon the Regulated Cable Operator's proposed rate increase request within 30 days of the Township Clerk's receipt of a proposed rate increase request. If the time for holding the public hearing is extended pursuant to Section XIII of this Ordinance, the public hearing should be held and decision rendered, before the extended time period expires.

B. A proposed rate increase requested by a Regulated Cable Operator will become effective after thirty (30) days have elapsed from the date the Township Clerk received the proposed rate increase request unless the Franchising Authority disapproves the proposed rate increase or; extends the time period for

conducting the review of the proposed rate increase pursuant to Section XIII of this Ordinance.

C. If the Franchising Authority allows rate increases to go into effect at the end the respective tolling period through inaction and then subsequently disapproves any portion of such rates, than refunds may not be ordered unless a brief written order is issued by the Franchising Authority before the end of the respective tolling period, directing the Regulated Cable Operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

### SECTION XIII

#### TOLLING ORDER

A. If the Franchising Authority is unable to determine, based upon the material submitted by the Regulated Cable Operator that the existing rates or proposed rate increase(s) are reasonable or if the Regulated Cable Operator has submitted a cost of service showing, then the Franchise Authority may toll the 30 day deadline for an additional 90 days in cases not involving cost of service showings or for an additional 150 days in cases involving cost of service showings.

B. In order for the Franchising Authority to toll the 30 day period pursuant to Section XIII of this Ordinance, the Franchising Authority must issue an order explaining that additional time and/or information is necessary in order for the Franchising Authority to act upon the existing rates or the proposed rate increase. Said order must be in writing, by resolution adopted within said 30 day period.

C. The Franchising Authority shall send a copy of the tolling order to the Regulated Cable Operator by First Class Mail within 7 days after the effective date of the decision.

### SECTION XIV

#### PUBLIC HEARING

A. During the public hearing on the review of a Regulated Cable Operator's existing rates or on review of a proposed rate increase, the Franchising Authority shall provide the Regulated Cable Operator and all other interested persons with the opportunity to comment on the rates either in person, in writing, or by agent.

B. The Franchising Authority may conduct as many public hearings as necessary to carry out the provisions of the Act, FCC Rules and Regulations and this Ordinance.

C. If the Franchising Authority deems it necessary, either prior to or following a public hearing the Franchising Authority may direct the preparation of a written report for the Franchising Authority. This report may contain a recommendation to the Franchising Authority for its decision on the review of the existing rate schedule(s) or proposed rate request submitted by a Regulated Cable Operator. This recommendation should also summarize and be based upon the schedule or request submitted by the Regulated Cable Operator; comments or objections to the schedule or request which the Franchising Authority received from the Regulated Cable Operator; any additional information received from the Regulated Cable Operator; information which the Franchising Authority received from a consultant, its staff or its attorney; and other information which it deems appropriate.

D. The Franchising Authority shall send, by First Class Mail, a copy of any report to the Regulated Cable Operator prior to the Franchising Authority's consideration of the report at a public hearing.

#### SECTION XV

##### PUBLIC HEARING NOTICE

A. The Franchising Authority shall send a written notice of the date, time and location of the public hearing to the Regulated Cable Operator which submitted the existing rates or proposed rate increase for review no less than 7 days before the date of the public hearing. Said notice is to be sent to the Regulated Cable Operator by First Class Mail.

B. The Franchising Authority shall cause to be published, in a qualified newspaper of general circulation within the township, a notice of the public hearing on the existing rate schedule(s) or proposed rate increase request no less than 7 days before the public hearing. Said notice shall:

1. State that a Regulated Cable Operator has submitted the existing rate schedule(s) or proposed rate increase request to the Franchising Authority for review pursuant to this ordinance;
2. State the location and times at which the public may examine the submitted schedule(s) of existing rates or proposed rate increase request.
3. State the date, time and location at which the Franchising Authority will conduct the public hearing.
4. State that all interested persons shall have an opportunity to comment on the rates at the public

hearing, and/or to submit written comments on or before the date of the public hearing to the Franchising Authority.

#### SECTION XVI

##### FRANCHISING AUTHORITY DECISION ON REVIEW OF EXISTING RATES OR PROPOSED RATE INCREASE

The Franchising Authority shall issue a written order supported by its reasons, by resolution which:

- A. Approves the Regulated Cable Operator's existing rate or proposed rate increase; or
- B. Disapproves the Regulated Cable Operator's existing rate or proposed rate increase; or
- C. Approves, in part, and disapproves, in part, the Regulated Cable Operator's existing rate or proposed rate increase; and/or
- D. Orders a rate reduction; and/or
- E. Prescribes a reasonable rate; and/or
- F. Determines that a refund hearing should be held pursuant to Section XVII of this Ordinance; and/or
- G. Orders any further appropriate relief permitted by this ordinance, the act or the F.C.C. Rules and/or Regulations.

#### SECTION XVII

##### REFUND HEARING

A. If the Franchising Authority determines that the subscribers to a Regulated Cable Operator may be entitled to a refund pursuant to F.C.C. Rules and Regulations (specifically 47 CFR 76.942), the Franchising Authority shall include a notice in its decision issued pursuant to Section XVI, that the Franchising Authority will hold a public hearing to consider ordering the Regulated Cable Operator to make a refund to subscribers.

B. The Franchising Authority shall then conduct a public hearing to determine whether to order a refund to subscribers and the amount of the refund.

C. The Franchising Authority shall send, by First Class Mail, to the Regulated Cable Operator, written notice of the date, time and location of the public hearing. Said notice must be sent no less than 7 days before the public hearing.



## SECTION XVIII

REFUND HEARING - DECISION

A. At any refund hearing the Regulated Cable Operator may appear in person, by agent or in writing to comment upon whether the Franchising Authority should order a refund.

B. Members of the public may also comment at the refund hearing in person, by agent or in writing.

C. At the conclusion of the refund hearing, the Franchising Authority shall issue a written order, by resolution:

1. Denying a refund; or
2. Ordering the Regulated Cable Operator to implement a refund.

## SECTION XIX

NOTICE OF FRANCHISING AUTHORITY DECISIONS

A. All decisions of the Franchising Authority issued pursuant to Section XVI and/or Section XVIII of this ordinance shall be:

1. In writing, by resolution, supported by its reasons; and
2. Effective as of the date the Franchising Authority makes the decision.

B. Notice of all decisions of the Franchising Authority issued pursuant to Section XVI and/or Section XVIII of this ordinance shall be published in a qualified newspaper of general circulation in the Township no less than 15 days after the effective date of the decision. Said notice shall include:

1. A summary of the Franchising Authority's written decision;
2. A statement that copies of the Franchising Authority's decision are available for public inspection;
3. A statement as to the location at which, and times during which, the public may inspect copies of the Franchising Authority's decision.

C. The Franchising Authority shall send, by First Class Mail, a copy of the Franchising Authority's decision to the

Regulated Cable Operator not more than 7 days after the effective date of the Franchising Authority's decision.

SECTION XX

PROPRIETARY INFORMATION AND PRODUCTION DOCUMENTS

The Franchising Authority may require the Regulated Cable Operator to produce documents needed to make rate decisions. Requests that proprietary information be held confidential shall be supported by the Regulated Cable Operator and be handled in a manner analogous to the procedures and criteria set forth in 47 CFR 0.459.

SECTION XXI

SEVERABILITY

The provisions of this Ordinance are hereby declared to be separable and if any clause, sentence, word, section, or provision is declared void or unenforceable for any reason, by any court of competent jurisdiction, it shall not affect any portion of the Ordinance other than said part or portion thereof.

SECTION XXII

REPEAL OF CONFLICTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION XXIII

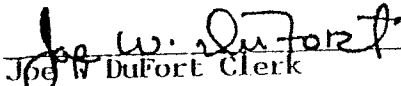
EFFECTIVE DATE

This ordinance shall become effective upon publication of the ordinance in a qualified newspaper of general circulation within the Township.

\_\_\_\_\_ HOMER TOWNSHIP

Dated: october 6th 1993

Barbara Radosa Supervisor

  
Joe W. DuFort Clerk