
CHAPTER 22
CABLE TELEVISION

- 22.01- [Purpose](#)
 22.02- [Short Title](#)
 22.03- [Definitions](#)
 22.04- [Restrictions of Business Activities of Grantee](#)
 22.05- [Initial System Installation Schedule](#)
 22.06- [Financial Considerations](#)
 22.07- [Services to be Provided](#)
 22.08- [Technical Configuration and Capacity](#)
 22.09- [Rates](#)
 22.10- [Protection of Individual Rights](#)
 22.11- [Rights Reserved to the Town](#)
 22.12- [Protections Afforded the Grantee](#)
 22.13- [Supervision of the Grantee](#)
 22.14- [Intended Scope of This Chapter](#)
 22.15- [Limitations of the Grantee's Recourse](#)
 22.16- [Incorporation of the Grantee ' s Proposal](#)
 22.20- [Penalty](#)
-

22.01 PURPOSE. It is the purpose of this chapter to provide for the granting of a franchise to construct, maintain and operate a CATV system in the Town and to set forth The obligations and rights of the Town and grantee accompanying such grant.

22.02 SHORT TITLE. This chapter shall be known, and may be cited as, the "Town of Brookfield Cable Franchise Ordinance".

22.03 DEFINITIONS. For the purpose of this chapter, the following terms, phrases, words, and their derivations shall have the meaning given herein. When consistent with the context, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural. The word "shall" is always mandatory and not merely directory.

1. BASIC SERVICE. The simultaneous delivery by the grantee to television receivers, of those broadcast and nonbroadcast television channels which are required to be provided by §22.07(2)(a), (3)(b), (c), (d), (e) and (g).

2. CABLE SYSTEM, CABLE COMMUNICATIONS SYSTEM, OR CATV SYSTEM. A system, located within the Town only, of antennas, coaxial cables, wires, wave guides or other conductors, electronic equipment or facilities designed, constructed or used for the production of television signals, interception and receipt of television or radio signals directly or indirectly off the air, and the distribution or transmission of such signals and other communications services by means of cable or other similar services to subscribers.

3. CHANNELS. A group of frequencies in the electromagnetic spectrum capable of carrying an audio data or audiovisual television signal. Each channel is a block of frequencies containing 6MHz bandwidth.

4. CONVERTER. An electronic device, which converts signals to a frequency not susceptible to interference with the television receiver of a subscriber, and by an appropriate channel selector also, permits a subscriber to view all signals delivered at designated dial locations.

5. EDUCATIONAL ACCESS CHANNEL. That channel which the grantee is required to provide by §22.07(3)(d).

6. FCC. The Federal Communications Commission.

7. GRANTEE. The recipient of the franchise granted under this chapter.

8. GRANTEE'S PROPOSAL. Encompasses the following 2 documents: " An Application for the Construction and Operation of a Cable Television System to Serve the Town of Brookfield, Wisconsin, submitted to the office of the Town Clerk by RVS Cablevision Corporation, of Elm Grove, Wisconsin; a cover letter from Richard V. Steffen, President of RVS Cablevision Corporation.

9. GROSS RECEIPTS. Total receipts of the grantee of money or its equivalent which the grantee has received for providing basic service to its subscribers in the Town, including income from pay cable, advertising and lease access; provided that installation charges actually paid by subscribers and received by the grantee shall be excluded from gross receipts in determining payments due to the Town.

10. LEASED ACCESS CHANNEL. That channel which the grantee is required to provide by §22.07(3)(f).

11. MUNICIPAL ACCESS CHANNEL OR GOVERNMENT ACCESS CHANNEL. That channel which the grantee is required to provide by §22.07(3)(e).

12. PERSON. Any person, firm, partnership, association, corporation, company, or organization of any kind.

13. PUBLIC ACCESS CHANNEL. That channel which the grantee is required to provide by §22.07(3)(c).

14. SUBSCRIBER. Any person or entity receiving for any purposes the cable service of the grantee.

15. TO MONITOR. To observe a one-way or 2-way communications signal without the express prior consent of the subscriber receiving or sending the communication signal, whether the signal is observed by visual or electronic means for any purpose whatsoever.

16. TOWN. The Town of Brookfield, Wisconsin or any appointed designate thereof.

17. TOWN BOARD. The present governing body of the Town or any successors to the legislative powers of the body, or any appointed designate thereof.

22.04 RESTRICTIONS OF BUSINESS ACTIVITIES OF GRANTEE. (1) GRANT OF AUTHORITY. (a) There is

hereby granted by the Town the right, privilege and franchise to construct, operate and maintain a CATV system in the streets of the Town for a period of 15 years, this time

period to begin one month after the passage, acceptance and effective date of this chapter, subject to the rights, obligations, conditions and restrictions as hereinafter provided.

(b) The right to use and occupy the streets for the purpose herein set forth shall not be exclusive and the Town reserves the right to grant a similar use of the streets to any person at any time during the period of this franchise.

(c) This chapter and the franchise awarded pursuant to the terms of this chapter shall relate to and cover the entire present territorial limits of the Town and any area hereafter annexed thereto during the term of the franchise. The grantee agrees to and shall install and furnish CA TV service to all residents of the Town.

(2) EXPIRATION OF GRANT. (a) After the expiration of the term for which the franchise is granted, the Town shall have the right to determine whether the grantee shall continue to operate and maintain the CATV system pending the decision of the Town as to the future maintenance and operation of the system.

(b) Upon the expiration of this franchise, the Town shall have the right to purchase the grantee's cable system. Should the Town decide to purchase the cable system, it shall do so at a price not to exceed its then fair value. In determining the fair value of the system, the original cost of all tangible and intangible property, as well as the salvage value, book value, replacement cost, cash flow, and other factors may be considered. Under no circumstances shall any valuation be made for "good will" or for any right or privilege granted by this chapter. Payment for the cable system shall be rendered to the grantee within 120 days after the Town has exercised its right in this area.

(c) If the Town elects to purchase the cable system, or the franchise to operate the cable system is awarded to a new grantee, upon expiration of the franchise, the grantee shall sell the system to the Town or to the new grantee, whichever is applicable. The price for such sale shall be the fair value of the system as defined in par. (b), above.

(d) To assure necessary or required investment in the system during the later years of the permit, and provided that all terms and provisions of this chapter are followed by the grantee throughout the term of this chapter, and as feasible, the Town shall make all reasonable efforts to assist the grantee in finding a buyer for its cable system upon expiration of this franchise in the case that this franchise is not extended or renewed for the current grantee.

(3) CONDITION REGARDING STREET USE.

(a) All transmission and distribution structures, lines and equipment erected by the grantee within the Town

shall be located so as not to interfere 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 streets, alleys or other public ways and places, and not to interfere with existing public utility installations. All installations shall be underground in those areas of the Town where the telephone service is underground at the time of installation. In areas where the telephone distribution facilities are aboveground at the time of installation, the grantee may install its facilities aboveground, but in such case, the grantee, to the maximum extent possible and subject to the approval of the telephone company, shall place its facilities on the poles of such telephone company. If, subsequently, such telephone facilities shall go underground, the facilities of the grantee shall likewise go underground simultaneously. The use by the grantee of any facilities or installations of a telephone or electric utility and the conditions of such use shall be determined by negotiations between the grantee and such utility.

(b) In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall, at its own expense and in the manner provided by the Town, replace and restore all pavement, sidewalk, driveway or other surface of any street or alley disturbed. Any damage to paving, sidewalk, driveway or any other damage to private property shall be repaired and such property shall be restored to the same condition as it was prior to the work done on such property by the grantee. All cost and expense thereof shall be paid by grantee and such property shall be restored and repaired by grantee immediately after the work on the private property is completed by grantee.

(c) If, at any time during the period of the franchise, the Town shall lawfully elect to alter or change the grade or location of any street, alley or other public way, the grantee shall, upon reasonable notice by the Town, remove, relay and relocate its poles, wires, cables and underground fixtures at its own expense, and in each instance comply with the requirements of the Town.

(d) The grantee shall not place poles, conduits, wires or other facilities above or below ground where the same will interfere with or endanger any gas, electric or telephone facilities, water hydrant or other utility, nor shall the grantee place poles, conduits, wires or other facilities above or below ground in a manner which results in public utility facility violating any applicable safety statute, ordinance or administrative regulation.

(e) The grantee shall, on request of any person holding a moving permit issued by the Town, temporarily move its wires or fixtures to permit the moving of buildings,

the expense of such temporary removal to be paid by the person requesting the same, and the grantee shall be given not less than 72 hours advance notice to arrange for such temporary changes.

(f) The grantee shall have the authority to trim any trees upon and overhanging the streets, alleys, sidewalks and public places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee, except that at the option of the Town, such trimming may be done by it or under its supervision and direction, at the expense and-liability of the grantee. Where wires and cables of grantee cross private property, or are located within an easement granted to the telephone or electric company on private property, grantee shall not enter upon such easement area or private property to install or repair lines, or trim trees or shrubbery therein, without the prior written consent of the owner of such property.

(4) REMOVAL OF EQUIPMENT. (a) Following the grantee's commencement of service through and over its CATV system, the grantee, upon request of the Town Board shall, following a public hearing held pursuant to §22.13(2)(b), promptly remove from the public streets where its properties are located all or any part of the facilities so located when one or more of the following enumerated conditions occur:

1. The grantee ceases to provide a substantial amount of the services required in this chapter for a continuous period of 6 months.
2. The grantee fails to construct the system as provided herein.
3. The franchise expires or is revoked pursuant to notice as provided herein.

(b) Provided that the grantee shall be entitled to receive notices in writing from the Town delivered to the local office of the grantee setting forth one or more of the occurrences hereinabove enumerated.

(5) JOINT USE BY TOWN AND UTILITIES.

(a) The grantee may be required by the Town to permit joint use of its property and appurtenances located in the streets, alleys or other public ways of the Town, by other utilities insofar as such joint use may be reasonably practicable and upon payment of reasonable rental therefore; provided that in the absence of agreement regarding such joint use, the Town Board shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefrom, which award shall be final.

(b) The Town shall have the right, during the term of this franchise, to install and maintain free of charge upon the property of the grantee its own equipment, including, but not limited to, a police alarm system, on

the condition that such equipment does not unreasonably interfere with the CA TV operations of the grantee.

22.05 INITIAL SYSTEM INSTALLATION SCHEDULE.

(1) The grantee shall, within 20 days after franchise is granted by the Town, make application to the Federal Communications Commission for a certificate of compliance for the establishment of a cable television system in the Town and, if necessary, for the utilization of a microwave facility to import permissible signals, and the grantee shall prosecute such application diligently and faithfully in order that necessary approvals can be obtained in the shortest possible time. The Town reserves the right to intervene in the application for a certificate of compliance, and the grantee shall pay all expenses incurred by the Town in connection with the submission and defense of an application for a certificate of compliance filed (with the FCC by the grantee.

(2) The grantee shall, within 20 days after the Town grants franchise, begin negotiations with utility companies for facility lease agreements.

(3) Prior to the commencement of construction and receipt of final approvals from the Federal Communications Commission for establishment of the system, the grantee shall conduct the necessary engineering studies so that the construction can commence immediately upon final approval of the Federal Communications Commission.

(4) The grantee shall, within 20 days after franchise is granted by the Town, begin preliminary engineering of the pole line route, electronic layouts, and negotiations for common carrier microwave contracts, and initiate engineering surveys for the receiving site and building locations of the grantee's CATV system.

(5) The grantee shall commence construction of the cable television system within 30 days after the execution of pole attachment agreements and receipt of final approval from the Federal Communications Commission to establish a cable television system and utilize a microwave facility to import permissible signals. The grantee shall notify the Town in writing as soon as all pole attachment agreements have been consummated and when final approval from the Federal Communications Commission to establish a cable television system provided in this chapter has been obtained.

(6) The grantee shall provide service to all residents of the Town requesting service within one year after the Town grants a franchise to the grantee.

(7) The grantee shall submit to the Town Board an installation plan for the entire Town, indicating the date on which the grantee expects the installation of the CATV system to be completed and available for service to

subscribers in the various areas of the Town.

(8) The grantee shall furnish the Town Board with construction progress reports every 30 days indicating in detail the area of construction of the CATV system.

(9) The requirements established in sub. (1) through (8) above are maximums and the grantee may, at any time, proceed at a rate speedier than required by subs. (1) through (8) above. The Town Board shall have the right to inspect all construction or installation work performed pursuant to the provisions of this chapter.

(10) The Town may, in its discretion, extend the time for grantee, acting in good faith, to perform any act required hereunder. The time for performance shall be extended or excused, as the case may be, for any period during which grantee demonstrates to the satisfaction of the Town Board that grantee is being subjected to delay or interruption due to any of the following circumstances if reasonably beyond its control:

- (a) Necessary utility rearrangements, pole change-outs, or obtainment of easement rights.
- (b) Governmental or regulatory restrictions.
- (c) Labor strikes.
- (d) Lockouts.
- (e) War.
- (f) National emergencies.
- (g) Fire.
- (h) Acts of God.

(11) If the grantee shall fail to complete the construction and installation of the cable television system as provided in sub. (6), above, the grantee shall pay to the Town \$500 for each day the time consumed in such installation and construction exceeds the time specified.

22.06 FINANCIAL CONSIDERATIONS. (1) FRANCHISE PAYMENTS. (a) The grantee shall pay to the Town for the use of the streets and other facilities of the Town in the operation of the CATV system, and for the municipal supervision thereof, a fee for 3% of the annual gross receipts of grantee derived from services in the Town. The grantee shall file with the Town Board within 30 days after the expiration of each half-year ending on January 1 and July 1, during the period this franchise shall be in force, a financial statement showing in detail the annual gross receipts of the grantee from the Town during the preceding semiannual period. It shall be the duty of the grantee to pay to the Town at the time of filing such statement the franchise fee prescribed. The grantee shall also file within 90 days following the conclusion of each fiscal year of the grantee an annual report prepared and audited by an independent Certified Public Accountant showing the yearly total gross receipts and payments to the Town and any further relevant financial information in regard to the company as may be

required by the Town.

(b) If this franchise should be terminated or forfeited prior to the end of the basic 15-year term, the grantee shall, within 30 days, submit to the Town Board a financial statement prepared as before required showing the gross receipts of the grantee for the time elapsed since the last period for which the grantee has paid to the Town the required percentage of gross annual receipts, and the grantee shall pay to the Town not later than 30 days following the termination of the franchise, a like percentage of such gross receipts.

(c) If any payment is not made on or before the applicable date fixed in pars. (a) and (b) hereof, interest on such payments shall apply from such date at the yearly rate of 12% plus cost of collection.

(d) Pursuant to §22.13(1)(c), the Town Board shall have the right to inspect the grantee's records showing the gross receipts from which its franchise payments are computed. The right of audit and recomputation of all amounts paid under this franchise shall be always accorded to the Town Board. No acceptance of any payment by the Town shall be construed as a release of or an accord or satisfaction of any claim the Town might have for further or additional sums payable under the terms of this chapter or for any other performance or obligation of the grantee hereunder. (e) Payments of compensation made by the grantee to the Town pursuant to the provisions of this chapter shall not be considered in the nature of a tax, but shall be in addition to any and all taxes which are now or hereafter required to be paid by law of the United States, the State or the Town.

(2) INSURANCE AND INDEMNITY. (a) At all times during the term of the franchise the grantee shall obtain, pay all premiums for and file with the Town Board at least 10 days before construction of the system commences, a certificate of insurance or other proof evidencing the payment of premiums for the following:

1. A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the Town, its officers, boards, committees, commission, agents or employees, from any and all claims by any person whatsoever, on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$2,000,000 for bodily injury or death of anyone or more persons in anyone occurrence. Such policies are to include personal injury coverage.
2. Property damage insurance indemnifying, defending and saving harmless the Town, its officers, boards, committees, commissions, agents and employees from and against all claims by any person

whatsoever for property damage occasioned by the operation of the grantee under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of \$5,000,000 for property damage in anyone occurrence.

(b) All of the foregoing insurance contracts shall be in a form satisfactory to the Town Attorney shall be accepted by the Town Board and shall be maintained by companies authorized to do business in Wisconsin acceptable to the Town Attorney. Such insurance contracts shall require 30 days' written notice of any cancellation to both the Town and the grantee.

(c) The grantee shall also, at its sole cost and expense, fully indemnify, defend and hold harmless the Town, its officers, boards, committees, commissions and employees against any and all claims, suits, actions, liability and judgments for damages including, but not limited to, expenses for reasonable legal fees and disbursements and liabilities assumed by the Town in connection therewith:

1. Arising out of any claim for invasions of the right of privacy, for defamation of any person, or for the violation of infringement of any copyright, trademark, trade name, service mark, or patent, or of any other right of any person, excluding claims arising out of or relating to Town programming.

2. Arising out of the grantee's failure to comply with the provisions of any federal or State Statute, or local ordinance or regulation, applicable to the grantee in its business hereunder.

(d) The foregoing indemnity is conditioned upon the following: The Town shall give the grantee prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing herein shall be deemed to prevent the Town from cooperating with the grantee and participating in the defense of any litigation by its own counsel at its sole cost and expense.

(3) **SURETY BOND.** (a) The grantee shall maintain, and by its acceptance of this franchise specifically agrees, that it will maintain throughout the terms of this franchise a faithful performance bond running to the Town, with a good and sufficient surety approval by the Town Attorney in the sum of \$50,000 conditioned that the grantee shall well and truly observe, fulfill and perform each term and condition of this franchise and of the grantee's proposal, and that in case of any breach, the Town shall be entitled to recover from the principal and sureties thereof the amount of all damages including all costs and attorney's fees incurred by the Town proximately resulting from the failure of the grantee to observe and perform any and all of the provisions of this franchise. After the grantee completes the installation of the CATV system and

grantee has provided service to all residents of the Town requesting such service, and the system is approved by the Town Board, grantee may make application to the Town Board for reduction of its bond to the sum of \$25,000 and, if the Town Board approves the installation of the system and is satisfied that all residents of the Town requesting service have been provided such service by grantee, the Town Board shall reduce the bond to \$25,000.

(b) No Recovery by the Town of any sum by reason of the bond required herein shall be any limitation upon the liability of the grantee to the Town, except that any sum received by the Town by reason of the bond required herein shall be deducted from any recovery which the Town might have against the grantee.

(4) **ACCEPTANCE OF THIS CHAPTER.** (a) This chapter and its terms and provisions shall be accepted by the grantee by written instrument executed and acknowledged by it as a deed is required to be and filed with the Town Clerk within 20 days after the passage of this chapter. Such written instrument shall state and express the acceptance of this chapter and its terms, conditions and provisions; the grantee shall agree in the instrument to abide by, observe and perform same, and declare that statements and recitals herein are correct and that it has made and does make this agreement, statements and admissions in this chapter recited to have been or to be made.

(b) This chapter shall take effect 20 days after its final passage and publication, provided such formal acceptance hereof of the terms and conditions by the grantee as herein provided in a form approved by the Town Attorney, and the acceptance fee of \$2,000 in the form of certified or cashier's check, shall both have been filed and deposited with the Town Clerk within such 20 days. The grantee shall also bear the publication costs for this chapter. If one or both of the above is not filed or deposited as required, this chapter shall not take effect but shall be void. The instrument of acceptance or an executed counterpart thereof shall be filed for record in the office of the Town Clerk at the grantee's expense within 30 days after the same is filed with the Town Clerk. The recorded copies of such acceptance shall be obtained and preserved by the Town Clerk.

(c) Such acceptance fee shall be utilized by the Town to cover the expenses, which it has incurred to date in choosing a cable franchise and formulating this chapter.

22.07 SERVICES TO BE PROVIDED. (1) **GENERAL REQUIREMENTS.** (a) The grantee shall install, maintain, and operate its system in accordance with the highest standards of the art of cable communications and in accordance with any code of conduct, which has been adopted by the National Cable Television Association.

(b) The grantee shall render efficient service in accordance with such rules and regulations as have been promulgated and will be promulgated by the FCC and other federal and State regulatory agencies.

(d) The grantee shall provide a uniform, strong signal, free from distortion and interference and shall not interrupt services unless necessary.

(e) The grantee shall provide cable television services which are identical to those services which were described in the grantee's proposal to the Town dated February 25, 1981; provided that the grantee shall not have to provide any proposed service which has been disapproved by the FCC for a certificate of compliance, and request that grantee be allowed to provide all of those services which were formally proposed to the Town.

(f) Except where specifically stated otherwise in this chapter, the grantee shall arrange to provide all feasible services requested by potential users of the services, including the Town Board. If no rate has been established for a particular service, a rate may be established pursuant to §22.09. If the Town Board finds that fairness and equity require that service be provided free of charge, the Town Board may require such service be free of charge.

(g) It shall be the right of all subscribers to receive all available services insofar as their financial and other obligations to the grantee are honored. If the grantee elects to overbuild, rebuild, modify or sell the system, or the Town revokes or fails to renew this permit, or elects to purchase the system, the grantee shall do everything in its power to insure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. In the event of purchase by the Town or a change of grantee, the current grantee shall cooperate with the Town or a representative appointed by the Town to operate the system, for a temporary period, in maintaining continuity of service to all subscribers.

(h) The grantee shall provide full cable television service to the Fire Department and shall provide full basic cable television services to the Town Clerk and Police Department without charge as requested by the Town.

(2) CHANNEL ALLOCATIONS. (a) OFF THE AIR PROGRAMMING.

1. The grantee shall have a channel capacity of at least 54 and carry the signals of the at least 48 channels.

2. The grantee shall carry the signals of other TV stations pursuant to the present and future regulations of the FCC.

(3) RADIO CHANNELS. (a) TOTAL NUMBER. The grantee shall carry at least 34 radio channels that may be received on conventional FM receivers, connected to the grantee's cable system.

(b) **LOCAL ORIGINATION.** The grantee shall devote at least one channel to local originated programming. The grantee shall also submit a plan, subject to the approval of the Town Board, stating the proposed number of channels which will be provided for additional services including channels to be devoted to locally originated programs. Such plan shall contain an estimate of the total number of broadcast hours per week per channel which the grantee proposes to devote to local programming, the types of local programs it proposes to originate and a provision that the grantee shall submit to the Town Board each year a proposed programming schedule for locally originated channels. The Town reserves the right to require reservation of one channel for Town government and the dissemination of public information through the Town Government.

(c) **PUBLIC ACCESS CHANNEL. 1.** Upon inauguration of the cable system's subscriber service, the grantee shall provide one operational channel on a nondiscriminatory basis. Production facilities on this channel shall be made available without cost for live studio presentations of 5 minutes or less. If such presentation exceeds 5 minutes, fees for the use of the public access channel shall be limited to production costs attributed solely to personnel and equipment utilized in live studio presentations. This channel shall also be made available on a first-come, nondiscriminatory basis, without fee, to the public for cable casting of programs prepared on videotape or film for presentation. The grantee shall provide, at no cost to the public access users, equipment and personnel for cable casting 1/2" and I" color video tape and 16 mm sound movie film.

2. Within 12 months after the date of final adoption of this chapter, the grantee shall complete a set of rules for the use of the public access channel, which shall be promptly forwarded to the Town Board. The rules shall be prepared, to the greatest extent possible, in cooperation with the Town Board. The rules shall, at a minimum, provide for:

a. Access on a first-come, first-served, nondiscriminatory basis for all residents of the Town.

b. Prohibition of advertising for commercial or political purposes, as defined by the FCC.

c. Prohibition of any presentation or lottery information, or obscene or indecent materials; provided that in such rules the definition of obscene or indecent material shall conform to any such definition contained in any ordinance of the Town which is currently in effect or which is subsequently passed by the Town Board.

d. Public inspection of the log of requests for access time, which shall be retained for the duration of this franchise.

e. Procedures by which individuals or groups who violate any rule may be prevented from further access to the channel.

f. Free use of such reasonable amounts of channel time, negotiated equipment, negotiated technical support as is provided for in this franchise.

(d) EDUCATIONAL SERVICES. The grantee shall provide the following services for the educational institutions in the Town:

1. Full cable television service shall be provided without charge for 15 years to all elementary and secondary schools, both public and private, within the limits of the Town. Grantee shall provide 2 channel converters per school and make additional converters available at cost.

2. Grantee shall make available without charge one cable television color channel and one PM radio channel for the origination of programs by the local public education system.

3. Grantee shall provide assistance as requested by the school system in the training of personnel, operation of equipment and production of programs.

(e) MUNICIPAL ACCESS CHANNEL. Upon inauguration of the cable system subscriber service, the grantee shall provide one operational channel for government use. This channel shall be provided without charge for a period of 15 yrs., at such time commencing at completion of the cable system basic trunk line.

(f) LEASED ACCESS CHANNEL. Such cable system shall provide at least one channel, which is reserved, for leasing purposes. When not in use, such channel is to be used as an additional public access, education, or government channel, if the demand for such an additional channel exists.

(g) ADDITIONAL CHANNEL. Whenever all public access channels or all government access channels are in use during weekdays (Monday through Friday) for 80% of the time during any consecutive 3 hr. period for 6 consecutive weeks, the grantee shall make an additional channel of like type available within 6 mos. The grantee may make a one-time charge for time and materials for this service. Such additional channel shall be operated on the same basis and in accordance with the same rules as all other access channels.

(4) PROGRAMMING FACILITIES. (a) The grantee shall provide a full color origination television studio within the Town. This studio shall be constructed to enable preparation of simultaneous live and taped or filmed programming in separate facilities within the studio, and at least one facility shall provide for audience participation.

(b) The grantee shall provide one full color mobile unit for local origination purposes.

(c) The grantee shall provide a studio with 2 color cameras for users of the public access channel.

(d) The grantee shall, upon request of the Town Board, provide the necessary equipment for transmitting a signal from the Town Hall.

(e) The grantee shall make its local origination studio and mobile unit facilities, including color cameras and other equipment, available for use by those persons and organizations utilizing the public access, educational and government channels on the grantee's cable system, subject to reasonable rules and regulations established by the Town Board pursuant to sub. (2) (b) of this section.

(f) The grantee shall provide all reasonable technical and programming assistance to all parties programming on the grantee's cable system.

(g) The grantee shall make all reasonable efforts to encourage the use of its nonbroadcast channels.

(5) EMERGENCY OR DISASTER. In the event of an emergency or disaster, the grantee shall, upon request of the Town Chairman or his duly authorized representative, make available its facilities to the Town at no charge for emergency use during the period of such emergency or disaster and shall provide such personnel as necessary to properly operate under the circumstances.

(6) CUSTOMER SERVICE. (a) The grantee shall maintain an office in a location convenient to the public which shall be open during all usual business hours, have a listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time.

(b) The grantee shall respond to all service calls and complaints and shall correct malfunctions in its equipment as promptly as possible. The grantee shall respond to requests for service within 48 hrs. after the reception of the requests.

(c) The grantee shall not engage in the business of selling, servicing, installing, or leasing television or radio receivers, converters, or antennae.

22.08 TECHNICAL CONFIGURATION AND CAPACITY.

(1) The cable system shall be engineered, install, maintained, operated and equipped so as to, at all times, meet the technical standards which are the current "state of the art" of the cable communications industry. The grantee shall also, at all times, meet the technical standards established by the FCC, including specifications for frequency levels, channel frequency response, terminal isolation (d system radiation and all other standards which the FCC may set.

(2) The cable system s all be engineered and equipped to

possess an initial capacity of 54 channels.

(3) The facilities used by the grantee, including a studio, mobile and local origination programming equipment, shall be capable of producing and distributing color TV signals, and when the signals the grantee distributes are received in color, they shall be distributed in color unless technically unfeasible.

(4) The grantee shall upgrade its facilities, equipment and service as subscribers' demands dictate so that its system is as advanced as the current state of technology, with filed proven equipment, will allow.

(5) The cable system shall be engineered and installed with the capacity for 2 way communications in accordance with the regulations of the Federal Communications Commission now in effect or, which may be promulgated.

(6) The cable system shall utilize a single trunk, providing a frequency range of 54 to 400 MHz.

(7) The grantee shall use microwave distribution systems where necessary to fulfill all of the representations made to the Town in the grantee's proposal.

(8) The converters used in the cable system shall be capable of delivering at least 54 television channels.

(9) At the option of any individual subscriber, the grantee shall install a switching device upon the subscriber's television receiver whereby the subscriber may disconnect his television receiver from the grantee's cable system in order to receive over-the-air television signals. The price of this device to the subscriber shall be the cost of the device to the grantee or less, at the option of the grantee, and the grantee shall not charge the subscriber any fee for the installation of the device. The grantee shall make all reasonable efforts to obtain the devices at the lowest possible cost to him.

(10) At the option of any individual subscriber, the grantee shall provide a device, which allows the individual subscriber to utilize a key to disconnect those channels providing additional services to the subscriber such as pay-TV channels. The price of such device shall be the cost of the device to the grantee or less, at the option of the grantee, and the grantee shall not charge the subscriber any fee for the installation of such device. The grantee shall make all reasonable efforts to obtain such devices at the lowest possible cost to him.

(11) The grantee shall provide for the standardization of cable television system facilities for the exchange of transmission of both live and recorded programs with other cable television facilities operating in adjacent territory to the Town. The grantee shall run appropriate trunk lines to the borders of the franchise area or provide other suitable methods to accomplish such purpose.

22.09 RATES. (1) RATE SCHEDULE. (a) REQUIREMENTS.

The rates charged to subscribers shall be fair and reasonable. Such rates shall also be nondiscriminatory.

(1) All fees in subpar. 1. above include charges for converters and no additional charge for converters shall be made.

(2) The grantee shall at no time whatsoever charge any fee for disconnecting any outlet in the residence of any subscriber.

(3) The grantee shall provide, without charge, one outlet to each municipally owned building, fire station, police station, library, public and parochial school, and institution of higher learning that is passed by its cable. If more than one outlet is required at any location, the grantee shall install it at the cost of time and materials only, and in no event, will there be a monthly service charge at such locations.

(4) Rates for all other services to be provided over the CATV system by the grantee shall be as set forth in the grantee's proposal.

(5) If the grantee desires to provide new services not set forth in the grantee's proposal, the rates for such services shall be approved pursuant to sub. (2) of this section.

(6) Nothing above shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers, nor shall this provision be interpreted to prohibit the establishment of a graduated scale of charges and classified rate scheduled to which any subscriber or programmer included within a particular classification shall be entitled; provided that such classified rate schedules are approved by the Town Board under sub. (2) of this section.

(7) Nothing above shall prohibit special rates for large institutions, motels, multiple family dwelling units, or any other type of dwelling or building; if such special rates are approved by the Town Board under sub. (2) of this section.

(8) The rates established in pars. (b) and (c) above shall not be subject to increase through the first 3 years following commencement of service.

(9) The grantee will construct the cable system and provide service throughout the franchise areas at the normal installation charges.

(11) Grantee shall provide a 12% senior citizen discount on its basic service. For purposes of this discount, a senior citizen is defined as the head of a household who is 62 years of age or older.

(2) RATE SUPERVISION.

(a) The grantee may decrease the rates to subscribers at any time. All rate increases shall not go into effect

until approved by the Town Board under pars. (b) and (c) below.

(b) The Town Board shall approve rates only after a public hearing has been held on the rate change in question. The public hearing shall be announced by written notice published in a newspaper of general circulation at least 10 days before the date of the hearing. At the public hearing, the grantee shall make such showing, as the Town Board requires to substantiate the necessity for the rate change in question.

(c) The Town Board shall either approve the rate change or fail to do the same with a resolution.

(d) The Town Board reserves the right to review and approve rates for new services. If fairness and equity require that a new service be provided free of charge, the Town Board may require that such service be provided free of charge.

(3) ADVANCE CHARGES. (a) The grantee may require subscribers to pay for each month of basic service and PM service in advance at the beginning of each month. No other advance payment or deposit of any kind shall be required by the grantee for basic subscriber service. No deposit or advance payment of any kind shall be charged for the provision of any converter without prior approval of the Town Board. Additional advance payments may be made available, as an option, by the grantee to subscribers. Nothing in this provision shall be construed to prohibit charges for initial installation and reconnection.

(b) The grantee may make available, or require advance charges or deposits, for various additional services, if the Town Board shall have authorized such charges or deposits under sub. (2) of this section.

(4) TERMINATION OF SERVICE. (a) If any subscriber fails to pay a properly due monthly subscriber fee, or any other properly due fee or charge, the grantee may disconnect the subscriber's service outlet. Such disconnection shall not be effected until 60 days after the due date of such delinquent fee or charge, or until 10 days after adequate written notice of the intent to disconnect has been delivered to the subscriber in question. After disconnection, upon payment of the delinquent fee or charge and the payment of a reconnection charge, the grantee shall promptly reinstate the subscriber's cable service.

(b) Upon termination of service to any subscriber, the grantee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his written request. The service will be disconnected at the poles if aboveground, or at the connection box if underground, so that such disconnection shall be outside rather than inside the home. For multiple

family dwellings, such disconnection shall be made in the basement or other appropriate service area outside the living area itself. Any such removal shall be at no cost to the subscriber.

(5) REFUNDS TO SUBSCRIBERS AND PROGRAMMERS.

(a) If the grantee fails to provide any material service requested by a subscriber or programmer, the grantee shall, after adequate notification and being afforded the opportunity to provide the service, promptly refund all deposits or advance charges paid for the services in question by the subscriber or programmer.

(b) If any subscriber terminates any monthly service during the first 12 months of service because of the failure of the grantee to render the service in accordance with the standards set forth in the franchise, the grantee shall refund to such subscriber multiplied by the fraction of the 12-months period for which the subscriber will not be receiving service. (c) The grantee shall make refunds to subscribers under the procedures of §22.09(5).

22.10 PROTECTION OF INDIVIDUAL RIGHTS.

(1) DISCRIMINATORY PRACTICES PROHIBITED. The grantee shall not deny service, access, or otherwise discriminate against subscribers, programmers or general citizens based on race, color, religion, national origin, creed or sex. Nothing in this provision shall be construed to prohibit the reduction or waiving of charges in conjunction with promotional campaigns for the purpose of attracting subscribers, nor shall this provision be interpreted to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any subscriber or programmer included within a particular classification shall be entitled.

(2) EMPLOYMENT PRACTICES OF THE GRANTEE. In the carrying out of the construction, maintenance, and operation of its CATV system, the grantee will not discriminate against any employee or applicant because of race, creed, color, religion, sex, or national origin. The grantee shall strictly adhere to the equal employment opportunity requirements of the FCC, as expressed in §§76.13(a)(8) and §76.311 of Ch. 1 of Title 47 of the Code of Federal Regulations. The grantee shall comply at all times with all other applicable federal, State, Town and County laws, and all executive administrative orders relating to nondiscrimination in employment. The grantee will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, sex, religion, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay, other forms of compensation and selection for training, including apprenticeship. The grantee shall post

in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. The grantee shall, in all solicitations or advertisements for employees placed by or on behalf of the grantee, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, sex, religion or national origin. The grantee will incorporate the foregoing requirements of this paragraph in all of its contracts for work relative to construction, maintenance and operation of the CATV system, other than contracts for standard commercial supplies or raw materials, and will require all of its contractors for such work to incorporate such requirements in all subcontracts for such work.

(3) CABLE MONITORING. Neither the grantee, nor any governmental bureau, department, unit, agency or entity, at the federal, State, County or local level, nor any other person or entity, shall monitor or arrange for the monitoring of any cable, tone, signal, input device or subscriber outlet or receiver for any purpose whatsoever.

(4) RIGHT OF PRIVACY. (a) The grantee shall not transmit any signal to or from any dwelling or any other building without the express authorization of the owner of such dwelling or other building; provided that where the owner has leased the dwelling or other building, or a portion thereof, express authorization shall be obtained from the lessee and not from the owner.

(b) Nothing in this section shall diminish any rights of residents of dwellings or other buildings protected by this chapter.

(5) RIGHTS OF RESIDENTS. (a) An owner or operator of an apartment building, condominium, nursing home, or any other rental facility may not interfere with or charge a fee for the installation of cable facilities for the use of a lessee of the property or premises, except that such owner or operator may require:

1. Installation to conform to reasonable conditions necessary to protect the safety, appearance, and functioning of the premises.
2. The grantee, occupant, or tenant to pay for the installation, operation, or removal of such facilities.
3. The grantee, occupant or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operating or removal of such facilities.

(b) The grantee shall not reimburse or offer to reimburse any person, or demand or receive reimbursement from the grantee for the placement, upon the premises of such person, of grantee's facilities necessary to connect such person's premises to the distribution lines of grantee to provide CATV service to the premises.

(c) A landlord may not discriminate for rent charged to tenants or occupants who receive cable services and to those who do not.

(d) The grantee may not take actions, which would diminish or interfere with the privilege of any tenant or other occupant of any such building to use or avail himself of master or individual antenna equipment.

(6) SALE OF SUBSCRIBER LISTS PROHIBITED. The grantee shall not sell, or otherwise make available, lists of the names and addresses of its subscribers or any list which identifies, by name, subscriber viewing habits to any person, agency or entity for any purpose whatsoever.

22.11 RIGHTS RESERVED TO THE TOWN. (1) The right is hereby reserved to the Town to adopt, in addition to the provisions contained herein, and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police powers; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

(4) Nothing in this chapter shall limit the right of the Town to acquire the cable system of the grantee through the exercise of eminent domain, condemnation proceedings or otherwise.

(5) Nothing contained in this chapter shall be construed to limit or in any way impair the powers and authorities of the Town, except as expressly stated in this chapter.

22.12 PROTECTIONS AFFORDED THE GRANTEE.

(1) TAMPERING WITH CABLE EQUIPMENT. A person who willfully or maliciously damages, or causes to be damaged, any wire, cable, conduit, apparatus or equipment of the grantee, or who commits any act with intent to cause damage to any wire, cable, conduit, apparatus or equipment: It of the grantee, or who taps, tampers with or connects any wire or device to a wire, cable, conduit or equipment of the grantee with intent to obtain a signal or impulse therefrom without authorization of the grantee, shall be subject to a forfeiture of not more than \$200 as determined by the court and shall be liable in a civil action for 3 times the actual amount of damages sustained thereby, but this section shall not prevent a public utility from removing, disconnecting or otherwise rendering inoperable any of grantee's apparatus or equipment attached or in any way connected to such public utility's facilities, if done for reasonable cause.

(2) LIABILITY OF THE GRANTEE IN LEGAL ACTION. The grantee or its agents shall not, in an action for slander or publishing a libel be held liable in damages for or on account of any defamatory matter uttered, telecast, cablecast or published over the facilities of the grantee by any person whose utterance, telecast, cablecast or publication is not, under the provisions of any law of the United States or any regulation, ruling or order of the Federal Communications Commission, subject to

censorship or control by the grantee.

22.13 SUPERVISION OF THE GRANTEE. (1) BOOKS AND RECORDS OF THE GRANTEE. (a) The grantee shall file with the Town Clerk accurate copies of maps and/or plats of the locations and character of all existing and proposed installations over, upon, or under the streets. These maps and plats shall conform to the requirements of the Town Engineers and be kept continuously up-to-date.

(b) The grantee shall continually keep on file with the Town Board a current list of its shareholders holding 5% or more of the outstanding stock and officers with their current addresses. These lists shall also be included in the annual report of the grantee required in §22.06(1)(a).

(c) All books and records of the grantee concerning its operations within the Town including, but not limited to, all income tax returns and financial records of the grantee, shall be made available for inspection and audit by the Town Board or its designate within 30 days after any request for such inspection or audit shall be made.

(e) The grantee shall keep and maintain all records required by the FCC. Copies of such records and all other rules and regulations, terms and conditions established by the grantee for the conduct of his business shall be filed with the Town Board and at the local office of the grantee.

(f) Copies of all petitions, applications and communications submitted by the grantee to the Federal Communications Commission, Securities and Exchange Commission or any other federal or State regulatory commission or agency having jurisdiction in respect to any matter affecting cable operation, shall also be submitted simultaneously to the Town by filing the same with the Town Clerk.

(f) The grantee shall maintain records of those subscriber complaints and requests for service, which it has received, the time of such reception and the time at which it responded to the subscriber complaints and requests for service. Every 2-mos. copies of such records shall be submitted to the Town Board. The grantee shall also keep a copy of such records at its local office.

(g) The grantee shall keep and maintain a complete record of all persons or groups requesting time on its access channels. Such record shall be made available for public inspection and a copy of such record shall be submitted to the cable review committee.

(h) All records required by this section shall be kept on file by the grantee for the duration of the franchise.

(2) REVOCATION OF THIS FRANCHISE. (a) In addition to all other rights and powers pertaining to the Town by virtue of this chapter or otherwise, the Town reserves the right to revoke, terminate and cancel the franchise, and all

rights and privileges of the grantee hereunder, if:

1. The grantee violates any material provision of this chapter, the grantee's proposal or any rule, order or determination of the Town made pursuant to this chapter, except where such violation, other than subpar. 2. below, is without fault or through excusable neglect.

2. The grantee becomes insolvent, unable, or unwilling to pay its debts or is adjudged a bankrupt.

3. A receiver or trustee has, at least 120 days beforehand, been appointed to take over and conduct the business of the grantee, whether in receivership, reorganization, bankruptcy or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days, or unless:

a. Within 120 days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this chapter and remedied all defaults thereunder.

b. Such receiver or trustee, within 120 days, shall have executed an agreement approved by the court having jurisdiction in the premises whereby such receiver or trustee assumes and agrees to be bound by each provision of this chapter.

4. There has been a change in the control of the grantee requiring the consent of the Town Board and such consent has been denied or not given.

5. The grantee attempts to evade any of the material provisions of this chapter or practices any fraud or deceit upon the Town.

6. The grantee fails to have service available to all of the residential structures in all areas of the Town.

7. The grantee intentionally violates or permits the violation of §22.10(3) (5).

8. The grantee intentionally violates or permits the violation of sub. (1) (c) of this section.

(b) Such revocation, termination, and cancellation shall occur only after the Town Board has conducted a public hearing. It, because of the public hearing, the Town Board approves and recommends revocation, termination, and cancellation, the Town Board may put such revocation, termination, and cancellation into effect by ordinance adopted after 30 days' notice to the grantee. Such revocation, termination, and cancellation shall in no way affect any of the Town's rights under this chapter or any provision of law. If such revocation, termination and cancellation depends upon a finding of fact, such finding of fact as made by the Town Board shall be conclusive; provided, however, that before the franchise may be revoked, terminated and canceled under this section, the grantee shall be provided with an opportunity to be heard before the Town Board.

(c) If the Town revokes, terminates and cancels this

permit, pursuant to appropriate provisions of this chapter, the Town shall have the right to purchase the grantee's cable system at a price not to exceed its then book value (that is, original cost of property less accumulated depreciation). The book value shall be determined by the Town in accordance with general accepted appraisal and accounting principles. Under no circumstances shall any valuation be made for "good will" or any right or privilege granted by this chapter. After purchasing the grantee's cable system, the Town shall have the right to sell such cable system to another operator, if the Town so chooses.

(d) Whenever this franchise shall set forth time for any act to be performed by or on behalf of the grantee, such time shall be deemed of the essence and any failure of the grantee to perform within time allotted shall be sufficient grounds for the Town to revoke this franchise.

(e) If grounds for the revocation of this franchise exist, the Town Board may pass a resolution imposing any penalty or sanction, not amounting to revocation, upon the grantee; provided that both the grantee and the Town Board agree upon such penalty or sanction not amounting to revocation. If no agreement is reached between the grantee and the Town Board, the Town Board shall decide whether to revoke the grantee's franchise.

(3) RESTRICTIONS AGAINST ASSIGNMENT. (a) This franchise shall not be assigned or transferred either in whole or in part, or leased, sublet or mortgaged in any manner, nor shall title thereto either legal or equitable, or any right, interest or property therein, pass to or vest in any person either by the act of the grantee or by operation of law without the express consent of the Town Board. The granting, giving, or waiving of anyone or more of such consents shall not render unnecessary any subsequent consent or consents.

(b) The grantee shall promptly notify the Town Board of any actual or proposed change in, transfer of or acquisition by any other party of control of the grantee. Within 60 days after receiving notice, the Town Board shall hold a public hearing on this matter and within 90 days shall make its decision. For the purpose of determining whether it will consent to such change, transfer or acquisition of control, the Town Board may inquire into the qualifications of the prospective controlling party and the grantee shall assist the Town Board in any such inquiry.

(c) Every change, transfer, or acquisition of control of the grantee, with respect to which the consent of the Town Board is required, pursuant to par. (a) above, shall make the franchise subject to revocation until the Town Board shall have consented thereto. If the Town Board denies consent and such change, and transfer or acquisition of control has been effected, the Town may revoke the permit unless control of the grantee is

restored to its status before the change or to a status acceptable to the Town Board.

(d) Upon the foreclosure or other judicial sale of all or a substantial part of the grantee's cable system, or upon the termination of any lease covering all or a substantial part of the system, the grantee shall notify the Town Board of such fact, and such notification shall be treated as a notification that a change in control of the grantee has taken place, and the provisions of pars. (a) (c) above shall apply.

(e) The consent or approval of the Town Board to any assignment, lease, transfer, sublease or mortgage of this franchise shall not constitute a waiver or release of the rights of the Town in and to the streets.

(g) Nothing in this section shall be deemed to prohibit a mortgage or pledge of the cable system equipment, or any part thereof, or a leasing by the grantee from another person of the cable system equipment or part thereof for financing purposes or otherwise. Any such mortgage, pledge, or lease shall be subject and subordinate to the rights of the Town under this contract or applicable law.

22.14 INTENDED SCOPE OF THIS CHAPTER. (1)

COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAW. (a) The grantee shall construct, operate, and maintain the CATV system subject to the supervision of all of the authorities of the Town who have jurisdiction in such matters and in strict compliance with all laws, ordinances and department rules and regulations.

(b) If at any time the powers of the Town Board, or any agency or official of the Town, are transferred by law to any other board, authority, agency or official, this board, authority, agency or official shall have the power, rights and duties previously vested under this chapter or by law in the Town Board or any agency or official of the Town.

(c) Notwithstanding any other provisions of this franchise, the grantee shall, at all times, comply with all laws and regulations of the State and federal government or any administrative agency thereof. However, if any State or federal law or regulation shall require the grantee to perform any service, or shall permit the grantee to perform any service, in conflict with the terms of this chapter or of any law or regulation of the Town, then as soon as possible following knowledge thereof the grantee shall notify the Town Board of conflict believed to exist between such regulation or law and the laws or regulations of the Town or this chapter. If the Town Board determines that a material provision of this chapter is affected by such subsequent action, the Town Board shall have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this chapter.

(2) **FAILURE OF TOWN TO ENFORCE THIS FRANCHISE NO WAIVER OF THE TERMS THEREOF.** The grantee shall not be excused from complying with any of the terms and conditions of this franchise by any failure of the Town upon anyone or more occasions to insist upon or seek compliance with any such terms or conditions.

(6) **CAPTIONS.** The captions to sections throughout this chapter are intended solely to facilitate reading and reference to the sections and provisions of this chapter. Such captions shall not affect the meaning or interpretation of this chapter.

22.15 LIMITATIONS OF THE GRANTEE'S RECOURSE.

(1) Except as expressly provided in this franchise, the grantee shall have no recourse whatsoever against the Town for any loss, cost or expense or damage arising out of the provisions or requirements of this chapter or because of the enforcement thereof by the Town.

(2) The grantee expressly acknowledges that, upon accepting this franchise, it did so relying upon its own investigation and understanding of the power and authority of the Town to grant this franchise. By the acceptance of this franchise, the grantee agrees that it will not at any time set up against the Town in any claim or proceeding any condition or term of this franchise as unreasonable, arbitrary or void or that the Town had no power or authority to make such terms or conditions of this franchise in their entirety.

(3) The grantee, by acceptance of this franchise, acknowledges that it has not been induced to enter into this franchise by any understanding or promise, or other statement, whether verbal or written, by or on behalf of the Town or by any other third person concerning any term or condition of this franchise not expressed herein.

(4) The grantee further acknowledges by acceptance of this franchise that it has carefully read the terms and conditions hereof, is willing to and accepts all reasonable risks of the meaning of such terms and conditions and agrees that in the event of any ambiguity therein or other dispute over the meaning thereof, the same shall be construed strictly against the grantee and in favor of the Town.

22.16 INCORPORATION OF THE GRANTEE'S PROPOSAL.

The grantee's proposal, as defined in this chapter, is hereby incorporated by reference into this chapter and shall be considered part of this chapter. All representations made by the grantee in the grantee's proposal shall be required to be performed or provided by the grantee and any failure by the grantee to perform any act or provide any service or equipment proposed in the grantee's proposal shall be a violation of this chapter.

22.20 PENALTY. Except as otherwise herein provided, any person who shall violate any rule, regulation, order or provision of this chapter, and upon conviction thereof, shall

be subject to a penalty as provided in §25.04 of this General Code.