

TITLE XI: BUSINESS REGULATIONS

Chapter

110. GENERAL LICENSING

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CHAPTER 110: GENERAL LICENSING

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§ 110.01 APPLICATION.

All licenses required by the provisions of this chapter shall be granted by the Village Clerk upon application. The application shall state the name of the person or company to be licensed, and the time for which the license is required. A nominal fee of \$5 for the license, payable to the Village Clerk, who shall then issue the license and keep a record of same. It is further understood that all laws and village ordinances shall be strictly adhered to, and that their place of business be maintained in a neat and orderly fashion by the licensees.

(Prior Code, Ch. 4, § 1)

§ 110.02 BUSINESS REQUIRING LICENSE.

- (A) Manufacturing;
- (B) Commercial garages;
- (C) Retail and wholesale outlets;
- (D) Hawkers and peddlers, other than nonprofit organizations, commercial salespersons selling to local business firms need no licenses;
- (E) Exhibitors, shows, circuses, theater performances, games of entertainment and the like, for which fees are charged;
- (F) Business and professional offices;
- (G) Printing firms or individuals;
- (H) Business whereby one's trade is offered for sale; barber shops, hair stylists, funeral homes and the like;
- (I) Pool (i.e., billiard halls, and card rooms);

(J) Farmers, nursery men, selling own product for charge;

(K) Auction fairs or other exhibitions for charitable donated benevolent or profitable purposes;

(L) Auction sales of household effects and farm implements of two-day duration or more;

(M) All businesses required to be licensed by any state or federal agency must present proof that they hold a valid and up-to-date license, and will be required to register with the Village Clerk on a yearly basis. This registration will have a charge to be set by the Village Council and reviewed on a regular basis, but will not be required to purchase a license; and

(N) Personal household sales commonly known as garage, basement, yard or similar type sales exceeding six days or two three-day periods in any one year. A license shall be required for any such sales which exceed that period or those periods, and shall be issued for a maximum period of ten consecutive days with no re-issuance during any one calendar year.

(Prior Code, Ch. 4, § 2)

§ 110.03 REVOCATION; APPEALS.

Any license issued under this chapter may be revoked by the Village Council for cause. The licensee may appeal for reinstatement by Council, provided a written request thereof is filed with the Village Clerk within five days after receipt of notice of revocation. Thereafter, the Council shall confirm the revocation or reinstate the license within five days after the hearing. The action of the Council after hearing shall be final. Any licensee whose license has been revoked shall not be eligible to apply for a new license for the same or similar business or purpose for a period of one year after revocation.

(Prior Code, Ch. 4, § 3)

§ 110.04 CAUSE.

The term *CAUSE*, as used in § 110.03 above, shall include the doing or omitting of any act or permitting any condition to exist in connection with the trade, profession, business or purpose or privilege for which a license is granted under this chapter which act, omission or condition is:

(A) Contrary to the health, morals, safety or welfare of the public;

(B) Unlawful or illegal;

(C) Unauthorized or beyond the scope of the license; and/or

(D) Forbidden by the provisions of this chapter or any other village ordinance, state statute or federal law.

(Prior Code, Ch. 4, § 4)

§ 110.05 POSTING OF LICENSE.

All licenses shall be posted on the licensee's premises in a readily seen area, or displayed in a prominent place on the display case, or automobile of a hawker, peddler, solicitor or salesperson.

(Prior Code, Ch. 4, § 5)

CHAPTER 111: CABLE TELEVISION

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§ 111.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385, being 47 U.S.C. §§ 521 *et seq.*), and as may be amended from time to time.

ASSOCIATED EQUIPMENT. All equipment and services subject to regulation pursuant to 47 C.F.R. § 76.923.

BASIC CABLE SERVICE. Basic service, as defined in the FCC rules, and any other cable television service which is subject to rate regulation by the village pursuant to the Act and the FCC rules.

FCC. The Federal Communications Commission.

FCC RULES. All rules of the FCC promulgated from time to time pursuant to the Act.

INCREASE IN RATES. An increase in rates or a decrease in programming or customer services. All other words and phrases used in this chapter shall have the same meaning as defined in the Act and FCC rules.

(Ord. 23, passed 9-7-1993)

§ 111.02 PURPOSE; INTERPRETATION.

(A) The purpose of this chapter is to:

(1) Adopt regulations consistent with the Act and the FCC rules with respect to basic cable service rate regulation; and

(2) Prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the village.

(B) This chapter shall be implemented and interpreted consistent with the Act and FCC rules.

(Ord. 23, passed 9-7-1993)

§ 111.03 RATE REGULATIONS PROMULGATED BY FCC.

In connection with the regulation of rates for basic cable service and associated equipment, the village shall follow all FCC rules.

(Ord. 23, passed 9-7-1993)

§ 111.04 FILING; ADDITIONAL INFORMATION; BURDEN OF PROOF.

(A) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in rates in accordance with the Act and the FCC rules. The cable operator shall include as part of its submission information as is necessary to show that its schedule of rates or its proposed increase in rates complies with the Act and the FCC rules. The cable operator shall file ten copies of the schedule or proposed increase with the Village Clerk. For purposes of this chapter, the filing of the cable operator shall be deemed to have been made when at least ten copies have been received by the Village Clerk. The Village Council may, by resolution or otherwise, adopt rules and regulations prescribing the information, data and calculations which must be included as part of the cable operator's filing of the schedule of rates or a proposed increase.

(B) In addition to information and data required by rules and regulations of the village pursuant to division (A) above, a cable operator shall provide all information requested by the Village President in connection with the village's review and regulation of existing rates for the basic service tier and associated equipment or a proposed increase in these rates. The Village President may establish deadlines for submission of the requested information and the cable operator shall comply with the deadlines.

(C) A cable operator has the burden of proving that its schedule of rates for the basic service tier and associated equipment or a proposed increase in the rates complies with the Act and the FCC rules including, without limitation, 47 U.S.C. § 543 and 47 C.F.R. §§ 76.922 and 76.923.

(Ord. 23, passed 9-7-1993)

§ 111.05 PROPRIETARY INFORMATION.

(A) If this chapter, any rules or regulations adopted by the village pursuant to § 111.04(A), or any request for information pursuant to § 111.04(B) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the village determines that the preponderance of the evidence shows that non-disclosure is consistent with the provisions of the Freedom of Information Act, 5 U.S.C. § 552. The village shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requests confidentiality and the request is denied: where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it; or the cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(B) Any interested party may file a request to inspect material withheld as proprietary with the village. The village shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(C) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 C.F.R. § 0.459.
(Ord. 23, passed 9-7-1993)

§ 111.06 PUBLIC NOTICE; INITIAL REVIEW OF RATES.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to § 111.04(A) above, the Village Clerk shall publish a public notice in a newspaper of general circulation in the village which shall state that: the filing has been received by the Village Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying; and interested parties are encouraged to submit written comments on the filing to the Village Clerk not later than seven days after the public notice is published. The Village Clerk shall give notice to the cable operator of the date, time and place of the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the Village Council, then the Village Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase.
(Ord. 23, passed 9-7-1993)

§ 111.07 TOLLING ORDER.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under § 111.04(A) above unless the Village Council (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 C.F.R. § 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The Village Council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings. (Ord. 23, passed 9-7-1993)

§ 111.08 PUBLIC NOTICE; HEARING ON BASIC CABLE SERVICE RATES FOLLOWING TOLLING OF 30-DAY DEADLINE.

(A) If a written order has been issued pursuant to § 111.07 above and 47 C.F.R. § 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the village any additional information required or requested pursuant to § 111.04 above.

(B) In addition, the Village Council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The Village Clerk shall publish a public notice of the public hearing in a newspaper of general circulation within the village which shall state: the date, time and place at which the hearing shall be held; interested parties may appear in person, by agent, or by letter at the hearing to submit comments on or objections to the existing rates or the proposed increase in rates; and copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Clerk.

(C) The public notice shall be published not less than 15 days before the hearing. In addition, the Village Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing. (Ord. 23, passed 9-7-1993)

§ 111.09 STAFF OR CONSULTANT REPORT; WRITTEN RESPONSE.

(A) Following the public hearing, the Village President shall cause a report to be prepared for the Village Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate information) include a recommendation for the decision of the Village Council pursuant to § 111.10 below.

(B) The Village Clerk shall mail a copy of the report to the cable operator by first class mail not less than 20 days before the Village Council acts under § 111.10 below. The cable operator may file a written response to the report with the Village Clerk. If at least ten copies of the response are filed by the cable operator with the Village Clerk within ten days after the report is mailed to the cable operator, the Village Clerk shall forward it to the Village Council. (Ord. 23, passed 9-7-1993)

§ 111.10 RATE DECISIONS AND ORDERS.

(A) The Village Council shall issue a written order, by resolution or otherwise, which in whole or

in part, approves the existing rates for basic cable service and associated equipment or a proposed increase in the rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC rules.

(B) If the Village Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 C.F.R. § 76.933. The order specified in this section shall be issued within 90 days of the tolling order under § 111.07 above in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under § 111.07 above in all cases involving a cost-of-service showing.

(Ord. 23, passed 9-7-1993)

§ 111.11 REFUNDS; NOTICE.

(A) The Village Council may order a refund to subscribers as provided in 47 C.F.R. § 76.942. Before the Village Council orders any refund to subscribers, the Village Clerk shall give at least seven-days' written notice to the cable operator by first-class mail of the date, time and place at which the Village Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment.

(B) The cable operator may appear in person, by agent or by letter at that time for the purpose of submitting comments to the Village Council.

(Ord. 23, passed 9-7-1993)

§ 111.12 WRITTEN DECISIONS; PUBLIC NOTICE.

Any order of the Village Council pursuant to §§ 111.10 or 111.11 above shall be in writing, shall be effective upon adoption by the Village Council, and shall be deemed released to the public upon adoption. The Clerk shall publish a public notice of any written order in a newspaper of general circulation within the village which shall: summarize the written decision; and state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the Village Clerk shall mail a copy of the text of the written decision to the cable operator by first class mail.

(Ord. 23, passed 9-7-1993)

§ 111.13 RULES AND REGULATIONS.

In addition to rules promulgated pursuant to § 111.04 above, the Village Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC rules.

(Ord. 23, passed 9-7-1993)

§ 111.14 FAILURE TO GIVE NOTICE.

The failure of the Village Clerk to give the notices or to mail copies of reports as required by this chapter shall not invalidate the decisions or proceedings of the Village Council.

(Ord. 23, passed 9-7-1993)

§ 111.15 ADDITIONAL HEARINGS.

In addition to the requirements of this chapter, the Village Council may hold additional public hearings upon reasonable notice as the Village Council, in its sole discretion, shall prescribe.
(Ord. 23, passed 9-7-1993)

§ 111.16 ADDITIONAL POWERS.

(A) The village shall possess all powers conferred by the Act, the FCC rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC rules and this chapter shall be in addition to powers conferred by law or otherwise.

(B) The village may take any action not prohibited by the Act and the FCC rules to protect the public interest in connection with basic cable service rate regulation.
(Ord. 23, passed 9-7-1993)

§ 111.17 FAILURE TO COMPLY; REMEDIES.

(A) The village may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the village) for failure to comply with the Act, the FCC rules, any orders or determinations of the village pursuant to this chapter, any requirements of this chapter or any rules or regulations promulgated hereunder.

(B) Subject to applicable law, failure to comply with the Act, the FCC rules, any orders or determinations of the village pursuant to this chapter, any requirements of this chapter, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.
(Ord. 23, passed 9-7-1993)

§ 111.18 CONFLICTING PROVISIONS.

In the event of any conflict between this chapter and the provisions of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this chapter shall control.
(Ord. 23, passed 9-7-1993)

CHAPTER 112: TELECOMMUNICATION PROVIDERS

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§ 112.01 PURPOSE.

The purposes of this chapter are to regulate access to and ongoing use of public rights-of-way by telecommunications providers for their telecommunications facilities while protecting the public health, safety and welfare and exercising reasonable control of the public rights-of-way in compliance with the Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002) (the "Act"), being M.C.L.A. §§ 484.3101 *et seq.*, and other applicable law, and to ensure that the village qualifies for distributions under the Act by modifying the fees charged to providers and complying with the Act.
(Ord. 35, passed 4-15-2003)

§ 112.02 CONFLICT.

Nothing in this chapter shall be construed in a manner so as to conflict with the Act, or other applicable law.
(Ord. 35, passed 4-15-2003)

§ 112.03 DEFINITIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Act (Public Act 48 of 2002), being M.C.L.A. §§ 484.3101 *et seq.*, as amended from time to time.

PERMIT. A non-exclusive permit issued pursuant to the Act and this chapter to a telecommunications provider to use the public rights-of-way in the village for its telecommunications facilities.

STREET ADMINISTRATOR. The Street Administrator duly appointed by resolution of the Village Council in accordance with the provisions of Public Act 51, being M.C.L.A. § 247.651 through 247.675, or his or her designee.

VILLAGE. The Village of Grass Lake, Michigan.

VILLAGE COUNCIL. The Village Council of the Village of Grass Lake, or its designee. This section does not authorize delegation of any decision or function that is required by law to be made by the **VILLAGE COUNCIL**.

(B) All other terms used in this chapter shall have the same meaning as defined or as provided in the Act, including, without limitation, the following.

AUTHORITY. The Metropolitan Extension Telecommunications Rights-of-Way Oversight Authority created pursuant to § 3 of the Act, being M.C.L.A. § 484.3103.

MPSC. The Michigan Public Service Commission in the Department of Consumer and Industry Services, and shall have the same meaning as the term “Commission” in the Act.

PERSON. An individual, corporation, partnership, association, governmental entity or any other legal entity.

PUBLIC RIGHT-OF-WAY. The area on, below or above a public roadway, highway, street, alley, easement or waterway. **PUBLIC RIGHT-OF-WAY** does not include a federal, state or private right-of-way.

TELECOMMUNICATION FACILITIES or **FACILITIES.** The equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. **TELECOMMUNICATION FACILITIES** or **FACILITIES** do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in § 332(d) of part I of title HI of the communications act of 1934, chapter 652, 48 Stat. 1064, 47 U.S.C.

332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, and service provided by any wireless, two-way communication device.

TELECOMMUNICATIONS PROVIDER, PROVIDER and **TELECOMMUNICATIONS SERVICES**. Those terms as defined in § 102 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2102. Telecommunication provider does not include a person or an affiliate of that person when providing a federally licensed commercial mobile radio service as defined in § 332(d) of part I of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. § 332 and further defined as commercial mobile radio service in 47 C.F.R. § 20.3, or service provided by any wireless, two-way communication device. For the purpose of the Act and this chapter only, a **PROVIDER** also includes all of the following: a cable television operator that provides a telecommunications service.
(Ord. 35, passed 4-15-2003)

§ 112.04 PERMIT REQUIRED.

(A) *Permit required.* Except as otherwise provided in the Act, a telecommunications provider using or seeking to use public rights-of-way in the village for its telecommunications facilities shall apply for and obtain a permit pursuant to this chapter.

(B) *Application.* Telecommunications providers shall apply for a permit on an application form approved by the MPSC in accordance with § 6(1) of the Act, being M.C.L.A. § 484.3106(1). A telecommunications provider shall file one copy of the application with the Village Clerk, one copy with the Village Street Administrator, and one copy with the Village Attorney. Upon receipt, the Village Clerk shall make two copies of the application and distribute a copy to the Village Building Inspector, Village Council and the Village Department of Public Works. Applications shall be complete and include all information required by the Act, including without limitation a route map showing the location of the provider's existing and proposed facilities in accordance with § 6(5) of the Act, being M.C.L.A. § 484.3106(5).

(C) *Confidential information.* If a telecommunications provider claims that any portion of the route maps submitted by it as part of its application contain trade secret, proprietary or confidential information, which is exempt from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, pursuant to § 6(5) of the Act, being M.C.L.A. § 484.3106(5), the telecommunications provider shall prominently so indicate on the face of each map.

(D) *Application fee.* Except as otherwise provided by the Act, the application shall be accompanied by a one time non-refundable application fee in the amount of \$500.

(E) *Additional information.* The Street Administrator may request an applicant to submit additional information which the Street Administrator deems reasonably necessary or relevant. The applicant shall comply with all the requests in compliance with reasonable deadlines for the additional information established by the Street Administrator. If the village and the applicant cannot agree on the requirement of additional information requested by the village, the village or the applicant shall notify the MPSC as provided in § 6(2) of the Act, being M.C.L.A. § 484.3106(2).

(F) *Previously issued permits.* Pursuant to § 5(1) of the Act, authorizations or permits previously issued by the village under § 251 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2251 and authorizations or permits issued by the village to telecommunications providers prior to the 1995 enactment of § 251 of the State Telecommunications Act but after 1985 shall satisfy the permit requirements of this chapter.

(G) *Existing providers.* Pursuant to § 5(3) of the Act, being M.C.L.A. § 484.3105(3), within 180 days from November 1, 2002, the effective date of the Act, a telecommunications provider with facilities located in a public right-of-way in the village as of that date, that has not previously obtained authorization or a permit under § 251 of the Michigan Telecommunications Act, Public Act 179 of 1991, being M.C.L.A. § 484.2251, shall submit to the village an application for a permit in accordance with the requirements of this chapter. Pursuant to § 5(3) of the Act, a telecommunications provider submitting an application under this subsection is not required to pay the \$500 application fee required under division (D) above. A provider under this subsection shall be given up to an additional 180 days to submit the permit application if allowed by the Authority, as provided in § 5(4) of the Act, being M.C.L.A. § 484.3105(4).

(Ord. 35, passed 4-15-2003)

§ 112.05 ISSUANCE OF PERMIT.

(A) *Approval or denial.* The authority to approve or deny an application for a permit is hereby delegated to the Street Administrator. Pursuant to § 15(3) of the Act, being M.C.L.A. § 484.3115(3), the Street Administrator shall approve or deny an application for a permit within 45 days from the date a telecommunications provider files an application for a permit under § 4(b) of this chapter for access to a public right-of-way within the village. Pursuant to § 6(6) of the Act, being M.C.L.A. § 484.3106(6), the Street Administrator shall notify the MPSC when he or she has granted or denied a permit, including information regarding the date on which the application was filed and the date on which permit was granted or denied. The Street Administrator shall not unreasonably deny an application for a permit.

(B) *Form of permit.* If an application for permit is approved, the Street Administrator shall issue the permit in the form approved by the MPSC, with or without additional or different permit terms, in accordance with §§ 6(1), 6(2) and 15 of the Act, being M.C.L.A. §§ 484.3106(1), 484.3106(2) and 484.3115.

(C) *Conditions.* Pursuant to § 15(4) of the Act, being M.C.L.A. § 484.3115(4), the Street Administrator may impose conditions on the issuance of a permit, which conditions shall be limited to the telecommunications provider's access and usage of the public right-of-way.

(D) *Bond requirement.* Pursuant to § 15(3) of the Act, being M.C.L.A. § 484.3115(3), and without limitation on division (C) above, the Street Administrator may require that a bond be posted by the telecommunications provider as a condition of the permit. If a bond is required, it shall not exceed the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunications provider's access and use.

(Ord. 35, passed 4-15-2003)

§ 112.06 CONSTRUCTION/ENGINEERING PERMIT.

A telecommunications provider shall not commence construction upon, over, across or under the public rights-of-way in the village without first obtaining a construction or engineering permit as required under §§ 150.01 through 150.07, as amended, for construction within the public rights-of-way. No fee shall be charged for such a construction or engineering permit.

(Ord. 35, passed 4-15-2003)

§ 112.07 CONDUIT OR UTILITY POLES.

Pursuant to § 4(3) of the Act, being M.C.L.A. § 484.3104(3), obtaining a permit or paying the fees required under the Act or under this chapter does not give a telecommunications provider a right to use conduit or utility poles.
(Ord. 35, passed 4-15-2003)

§ 112.08 ROUTE MAPS.

(A) Pursuant to § 6(7) of the Act, being M.C.L.A. § 484.3106(7), a telecommunications provider shall, within 90 days after the substantial completion of construction of new telecommunications facilities in the village, submit route maps showing the location of the telecommunications facilities to both the MPSC and to the village.

(B) The route maps should be in [paper or electronic] format unless and until the MPSC determines otherwise, in accordance with § 6(8) of the Act, being M.C.L.A. § 484.3106(8).
(Ord. 35, passed 4-15-2003)

§ 112.09 REPAIR OF DAMAGE.

Pursuant to § 15(5) of the Act, being M.C.L.A. § 484.3115(5), a telecommunications provider undertaking an excavation or construction or installing telecommunications facilities within a public right-of-way or temporarily obstructing a public right-of-way in the village, as authorized by a permit, shall promptly repair all damage done to the street surface and all installations under, over, below or within the public right-of-way and shall promptly restore the public right-of-way to its preexisting condition.
(Ord. 35, passed 4-15-2003)

§ 112.10 ESTABLISHMENT AND PAYMENT OF MAINTENANCE FEE.

In addition to the non-refundable application fee paid to the village set forth in § 112.04(D) above, a telecommunications provider with telecommunications facilities in the village's public rights-of-way shall pay an annual maintenance fee to the Authority pursuant to § 8 of the Act, being M.C.L.A. § 484.3108.
(Ord. 35, passed 4-15-2003)

§ 112.11 MODIFICATION OF EXISTING FEES.

(A) In compliance with the requirements of § 13(1) of the Act, being M.C.L.A. § 484.3113(1), the village hereby modifies, to the extent necessary, any fees charged to telecommunications providers after November 1, 2002, the effective date of the Act, relating to access and usage of the public rights-of-way, to an amount not exceeding the amounts of fees and charges required under the Act, which shall be paid to the Authority.

(B) In compliance with the requirements of § 13(4) of the Act, being M.C.L.A. § 484.3113(4), the village also hereby approves modification of the fees of providers with telecommunication facilities in public rights-of-way within the village's boundaries, so that those providers pay only those fees required under § 8 of the Act, being M.C.L.A. § 484.3108.

(C) The village shall provide each telecommunications provider affected by the fee with a copy of this chapter, in compliance with the requirement of § 13(4) of the Act.

(D) To the extent any fees are charged telecommunications providers in excess of the amounts permitted under the Act, or which are otherwise inconsistent with the Act, the imposition is hereby declared to be contrary to the village's policy and intent, and upon application by a provider or discovery by the village, shall be promptly refunded as having been charged in error.
(Ord. 35, passed 4-15-2003)

§ 112.12 SAVINGS CLAUSE.

Pursuant to § 13(5) of the Act, being M.C.L.A. § 484.3113(5), if § 8 of the Act, being M.C.L.A. § 484.3108, is found to be invalid or unconstitutional, the modification of fees under § 112.11 above shall be void from the date the modification was made.
(Ord. 35, passed 4-15-2003)

§ 112.13 USE OF FUNDS.

Pursuant to § 10(4) of the Act, being M.C.L.A. § 484.3110(4), all amounts received by the village from the Authority shall be used by the village solely for rights-of-way related purposes. In conformance with that requirement, all funds received by the village from the Authority shall be deposited into the Major Street Fund and/or the Local Street Fund maintained by the village under Public Act 51 of 1951, being M.C.L.A. § 247.651 through 247.675.
(Ord. 35, passed 4-15-2003)

§ 112.14 ANNUAL REPORT.

Pursuant to § 10(5) of the Act, being M.C.L.A. § 484.3110(5), the Street Administrator shall file an annual report with the Authority on the use and disposition of funds annually distributed by the Authority.
(Ord. 35, passed 4-15-2003)

§ 112.15 CABLE TELEVISION OPERATORS.

Pursuant to § 13(6) of the Act, being M.C.L.A. § 484.3113(6), the village shall not hold a cable television operator in default or seek any remedy for its failure to satisfy an obligation, if any, to pay after November 1, 2002, the effective date of this Act, a franchise fee or similar fee on that portion of gross revenues from charges the cable operator received for cable modem services provided through broadband internet transport access services.
(Ord. 35, passed 4-15-2003)

§ 112.16 EXISTING RIGHTS.

Pursuant to § 4(2) of the Act, being M.C.L.A. § 484.3104(2), except as expressly provided herein with respect to fees, this chapter shall not affect any existing rights that a telecommunications provider or the village may have under a permit issued by the village or under a contract between the village and a telecommunications provider related to the use of the public rights-of-way.

(Ord. 35, passed 4-15-2003)

§ 112.17 COMPLIANCE.

The village hereby declares that its policy and intent in adopting this chapter is to fully comply with the requirements of the Act, and the provisions hereof should be construed in a manner so as to achieve that purpose. The village shall comply in all respects with the requirements of the Act, including but not limited to the following:

(A) Exempting certain route maps from the Freedom of Information Act, Public Act 442 of 1976, being M.C.L.A. §§ 15.231 to 15.246, as provided in § 112.04(C) above;

(B) Allowing certain previously issued permits to satisfy the permit requirements hereof, in accordance with § 112.04(F) above;

(C) Allowing existing providers additional time in which to submit an application for a permit, and excusing the providers from the \$500 application fee, in accordance with § 112.04(G) above;

(D) Approving or denying an application for a permit within 45 days from the date a telecommunications provider files an application for a permit for access to and usage of a public right-of-way within the village, in accordance with § 112.05(A) above;

(E) Notifying the MPSC when the village has granted or denied a permit, in accordance with § 112.05(A) above;

(F) Not unreasonably denying an application for a permit, in accordance with § 112.05(A) above;

(G) Issuing a permit in the form approved by the MPSC, with or without additional or different permit terms, as provided in § 112.05(B) above;

(H) Limiting the conditions imposed on the issuance of a permit to the telecommunications provider's access and usage of the public right-of-way, in accordance with § 112.05(C) above;

(I) Not requiring a bond of a telecommunications provider which exceeds the reasonable cost to ensure that the public right-of-way is returned to its original condition during and after the telecommunication provider's access and use, in accordance with § 112.05(D) above;

(J) Not charging any telecommunications providers any additional fees for construction or engineering permits, in accordance with § 112.06 above;

(K) Providing each telecommunications provider affected by the village's right-of-way fees with a copy of this chapter, in accordance with § 112.11 above;

(L) Submitting an annual report to the Authority, in accordance with § 112.14 above; and

(M) Not holding a cable television operator in default for a failure to pay certain franchise fees, in accordance with § 112.15 above.

(Ord. 35, passed 4-15-2003)

§ 112.18 RESERVATION OF POLICE POWERS.

Pursuant to § 15(2) of the Act, being M.C.L.A. § 484.3115(2), this chapter shall not limit the village's right to review and approve a telecommunication provider's access to and ongoing use of a public right-of-way or limit the village's authority to ensure and protect the health, safety and welfare of the public.
(Ord. 35, passed 4-15-2003)

§ 112.99 PENALTY.

(A) The village may pursue any and all legal and equitable remedies against any person or entity who is in violation of any provision of this chapter or the terms and conditions of a permit.

(B) By way of example, and not by way of limitation, any person, or entity, found to be in violation of the provisions of this chapter shall, upon conviction, be subject to punishment by a fine in an amount not to exceed \$500, or by imprisonment not to exceed 90 days, or both the fine and imprisonment, in the discretion of the court having jurisdiction. Each day that a violation shall continue shall constitute a separate offense.
(Ord. 35, passed 4-15-2003)