

ORDINANCE NO. 2003-5

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AMENDING THE CODE OF THE TOWN OF SOUTHWEST RANCHES, FLORIDA AND ENACTING CHAPTER ____ ENTITLED "CABLE TELEVISION" PROVIDING FOR THE TERMS AND CONDITIONS FOR THE OPERATION OF CABLE SYSTEMS AND OTHER SYSTEMS AND THE APPLICATION, PROCEDURES AND REQUIREMENTS RELATING TO THE GRANT OF FRANCHISES FOR THE CONSTRUCTION, INSTALLATION, OPERATION, AND MAINTENANCE OF CABLE SYSTEMS AND THE GRANT OF LICENSES FOR PASS THROUGH SERVICE SYSTEMS, AND EQUIPMENT AND FACILITIES IN, ON, ACROSS, ABOVE OR THAT IN ANY MANNER WHATSOEVER USE THE TOWN'S PUBLIC RIGHTS OF WAY AND TO ENSURE THAT THE USE OF THE TOWN'S PUBLIC RIGHTS OF WAY IS IN THE PUBLIC INTEREST AND IN CONFORMANCE WITH APPLICABLE LAW; PROVIDING FOR CONFLICTS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

Sec. 1. Intent and purpose.

It is the intent of the Town to promote the public health, safety, and general welfare by providing for the control of cable television systems in the Town; to adopt and administer regulations consistent with the Federal Communications Commission ("FCC") guidelines and regulations in accordance with the provisions of the Cable Act; to provide for the payment of fees and other valuable consideration by franchisees and licensees to the Town for the privilege of using public rights-of-way for constructing and operating a cable television system, subject to applicable federal and state law; to promote widespread availability of cable services to Town residents; and to establish minimum standards for the regulation and performance of cable television systems in the Town for all cable television franchises issued, extended, or renewed after the effective date of this Ordinance [January 16, 2003]. In regulating cable television as allowed by federal law, the Town shall be governed by and shall comply with all controlling FCC regulations and Federal statutes.

Sec. 2. Name and scope.

This ordinance shall be known as the Town of Southwest Ranches Cable Television Ordinance. It shall be applicable to all cable television franchises issued, extended, or renewed on or after the date this ordinance was passed [January 16, 2003]. Notwithstanding any provision of this ordinance, a cable television franchise issued pursuant to this ordinance shall only grant a franchisee the limited authority to

offer cable services and shall not grant a franchisee the authority to provide telecommunications services.

Sec. 3. Definitions.

1. Any word or term defined in the Cable Act or FCC regulations but not defined below shall have the meaning set forth in the Cable Act or the applicable FCC regulations.

1.1. *Basic service* means the basic cable service tier which shall, at a minimum, include all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system); any public, educational, and governmental programming required by the franchise to be carried on the basic tier; and any additional video programming signals and service added to the basic tier by the cable operator.

1.2. *Cable Act* means the Communications Act of 1934, 47 U.S.C. § 521 et. seq., as that Act has and may hereafter be amended.

1.3. *Cable home wiring* shall have the meaning set forth in 47 CFR 76.800 et seq. as may be amended from time to time.

1.4. *Cable programming service* means and includes any video programming provided over a cable system, regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than:

1.4.1. Video programming carried on the basic services tier as defined in this section;

1.4.2. Video programming offered on a pay-per-channel or pay-per-program basis; or

1.4.3. A combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined services:

1.4.3.1. Consist of commonly identified video programming; and

1.4.3.2. Are not bundled with any regulated tier of service.

1.5. *Cable service* means the one-way transmission to subscribers of video programming or other programming services, and the subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

1.6. *Cable system, cable television system, and CATV system* are synonymous terms and mean any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community; but such terms do not include any of the following:

1.6.1. A facility that serves only to retransmit the television signal of one (1) or more television broadcast stations.

1.6.2. A facility that serves subscribers without using any public rights-of-way.

1.6.3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on-demand services.

1.6.4. Any facilities of any electric utility used solely for operating its electric utility systems.

1.6.5. An open video system that complies with Section 653 of the Telecommunications Act of 1996.

1.7. *Channel or cable channel* means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the Federal Communications Commission.

1.8. *Council* means the Town Council of the Town of Southwest Ranches, or its representative.

1.9. *Town* means the Town of Southwest Ranches, Florida, also referred to as "franchising and/or licensing authority."

1.10. *Town Manager* means the Town Manager or his or her designee, as appointed by the Town Council.

1.11. *Distribution system* includes all means of transmission of all signals.

1.12. *Drop* means the individual connection or cable from the distribution system to each individual household or connection.

1.13. *Federal Communications (FCC)* means the Federal Communications Commission, or any successor agency.

1.14. *Franchise* means the authority granted to the applicant for permission to install and operate a CATV system for the provision of cable services in the Town.

1.15. *Franchise area* means that portion of the area of the Town assigned by the Town Council wherein a franchisee is authorized to provide cable service.

1.16. *Franchise Authority* means any governmental entity empowered by federal, state, or local law to grant a franchise.

1.17. *Franchisee* means the corporation, partnership, association, person, joint stock company, trust, governmental entity, individual, or other entity granted a franchise by the Town Council.

1.18. *Interconnect* means the electronic connection of two (2) or more different cable systems for the purpose of sharing programs or other signals.

1.19. *License* shall mean a cable television license required of any cable operator who desires to occupy any portion of the public right-of-way for the sole purpose of providing cable television services to persons or areas outside of the Town.

1.20. *Minimum Standards* shall mean the minimum construction standards applicable to Public Rights-of-Way as established and published by Broward County and as amended from time to time.

1.21. *Normal business hours* means those hours during which most similar businesses in the community are open to serve subscribers. In all cases, "normal business hours" must include some evening hours at least one (1) night per week, and weekend hours.

1.22. *Normal operating conditions* means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

1.23. *Public rights-of-way or rights-of-way* shall have the meaning given to "Public rights-of-way" in the Minimum Standards.

1.24. *Service Interruption* means the loss of picture or sound on two (2) or more cable channels.

1.25. *Service tier* means a package of two or more cable channels or services for which a separate charge is made by a franchisee.

1.26. *Shall* and *will* are mandatory, not merely directive; and *may* is permissive.

1.27. *Small system* means a cable television system that serves one thousand (1,000) or fewer subscribers, except for the purposes of rate regulation. The service area of a small system shall be determined by the number of subscribers served in the Town by a system's principal headend, including any other headends or microwave receive sites that are technically integrated to the system's principal headend.

1.28. *State* shall mean State of Florida.

1.29. *Subscriber* means any person in the Town lawfully receiving any cable service provided by the cable operator.

1.30. *Sunshine State One-Call of Florida, Inc.* means a not-for-profit corporation which shall administer the provisions of the Underground Facility Damage Prevention and Safety Act, Chapter 556, Florida Statutes.

1.31. *System Facilities* means the physical plant, equipment, poles, wires, cables, amplifiers, appliances, attachments, and other equipment constructed, operated, and maintained by a franchisee or licensee for the purpose of producing, receiving, amplifying, and distributing radio, television, and electronic signals to and from subscribers for the provision of cable service.

1.32. *Weighted pro rata share* of all Town subscribers means the percentage of the individual franchisee's subscribers relative to all subscribers in the Town. Where a system offers bulk rates to multiple-outlet subscribers, such as an apartment house or motel operators, each bulk-rate contract is viewed as a number of

subscriptions to be calculated by dividing the total annual charge for the bulk-rate contract by the system's basic annual subscription rate for an individual household. For example, if a cable television system charges an apartment house operator one thousand dollars (\$1,000.00) a year for a bulk-rate contract and charges individual households a basic rate of fifty dollars (\$50.00) per year, the bulk-rate contract is counted as twenty (20) subscriptions (i.e., $1,000/50=20$).

Sec. 4. Franchising provisions; franchise required.

1. The Town shall have the authority to grant a franchise to install, construct, erect, and maintain and operate in, along, above, under, over, through, across and upon any public right-of-way or street, now laid out or dedicated and all extensions thereof and additions thereto, such system facilities as may be necessary to construct a cable system to provide cable services.

2. Any person desiring to install and/or operate any cable system in the Town shall apply to the Council for a franchise pursuant to this ordinance. Any franchise granted by the Town shall be for the limited privilege of installing and maintaining a cable system and providing cable service in the franchise area. For that limited purpose and subject to all existing permitting processes, the franchise may be granted.

3. It shall be a violation of this ordinance to commence or engage in the construction, operation or maintenance of a cable system in the Town without first having obtained a cable franchise awarded by the Council. From the effective date of this ordinance [insert date], it shall be unlawful for any person to construct, install, or maintain within any public street in the Town, or within any other public property of the Town, or within any privately owned area within the Town which has not yet become a public street, but is designated or delineated as a proposed public street on any tentative subdivision map approved by the Town, any equipment or facilities for distributing any television or radio signals through a CATV system unless a franchise has been first obtained and unless such franchise is in full force and effect.

Sec. 5. Franchise application procedure: Information required.

1. All applications to construct, operate, or maintain any CATV system in the Town or to traverse any portion of those areas for the transmitting or conveying of cable service outside of an applicant's proposed franchise area shall be filed with the Town Manager, or such office of the Town as the Town Manager may designate. An application for the grant of an initial franchise may be filed pursuant to a request for proposals issued by the Town or on an unsolicited basis. To be acceptable for filing, an original and two (2) copies of the application must be submitted and shall be accompanied by the application filing fee.

2. Each application for an initial franchise shall set forth the following:

2.1. The name, address and telephone number of the applicant.

2.2. A detailed statement of the corporate or other business organization of the applicant, including but not limited to the following:

2.2.1. The names, business addresses, and state of residence of all general partners and corporate officers of the applicant.

2.2.2. The names, business addresses, and state of residence of all persons owning or controlling five (5) percent or more of the stock, partnership shares, or assets of the applicant and the respective ownership share of each such person.

2.2.3. The names and addresses of any parent corporation, parent entity, or holding company that owns or, by ownership of other entities, controls the applicant.

2.2.4. The names and addresses of any business entities owned or controlled by the applicant including, but not limited to, SMATV or CATV operations.

2.2.5. A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the five (5) fiscal years immediately preceding the date of the application, or a letter or other acceptable evidence in writing from a responsible lending institution or funding source, addressed to both the applicant and the Town, setting forth a clear statement of its intent to provide the capital required to construct and operate the proposed cable system. If the corporate or business entity organization of the applicant has not been in existence for a full five (5) years, the applicant shall submit a certified financial statement for the period of its existence sufficient to demonstrate financial stability.

2.2.6. A detailed description of all previous experience of the applicant in providing CATV services or related or similar services which includes a statement identifying, by place and date, all other cable television franchises or franchises awarded to the applicant, its parent or subsidiary; the status of the franchises with respect to completion; the total cost of completion of such systems; and the amount of applicant's and its parent's or subsidiary's resources committed to such systems.

2.2.7. An indication of whether the applicant, or any person controlling the applicant, or any officer or major stockholder of the applicant, has had a cable franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, felony, or any crime involving moral turpitude; and, if so, identification of any such person and a full explanation of the circumstances.

2.3. A detailed financial plan describing for the first five (5) years of the franchise, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and statement of sources and uses of funds and schedule of all capital additions.

2.4. A detailed description of the proposed plan of operation of the applicant, which shall include, but not be limited to, the following:

2.4.1. A detailed map indicating all areas proposed to be served, a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, a description of the construction of the proposed system, and the projected total cost for construction of the system.

2.4.2. For informational purposes, a statement or schedule setting forth all proposed initial classifications of rates and charges to be made against subscribers and all rates and charges for each classification, including installation

charges, service charges, or other charges. The purchase price, terms, and nature of any optional or required equipment, device, or other thing to be offered for sale to any subscriber shall be described and explained in detail.

2.4.3. A detailed statement describing the physical facility proposed, including channel capacity, technical design, the actual equipment, and the operational and technical standards proposed by the applicant.

2.4.4. A description of the services to be provided initially, including the broad categories of programming and all broadcast and non-broadcast signals to be carried and all non-cable services to be delivered over the cable system, and if services will be offered by tiers, à la carte services, and identification of the signals and/or services to be included on each tier.

2.4.5. A description of how the proposed system will reasonably meet the future cable-related needs and interests of the community, including how the proposed system will meet the needs described in any recent community needs assessment conducted by or for the Town.

2.4.6. Any other information as requested in order for the Town to comply with state or federal law.

2.5. A copy of the form of any agreement, understanding, or other instrument proposed to be entered into between the applicant and any subscriber.

2.6. A copy of any notice on, or about, or pertinent to, the provision of cable services to be provided to subscribers.

2.7. A copy of any agreement covering the franchise area, if existing, between the applicant and any public utility providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits.

2.8. Copies of all reports filed with the FCC within the last twelve (12) months by the applicant or its parent relating to CATV operations, including but not limited to the most current FCC Form 325.

2.9. Any other reasonable information which could materially affect the granting of the franchise and which is requested by the Town.

Sec. 6. Cable television license required.

1. A cable television license shall be required of any cable operator who desires to occupy any portion of the public right-of-way of the Town for the purpose of providing cable television services to persons or areas outside the Town's jurisdiction.

2. Each application for a cable television license shall set forth the following:

2.1. The name, address and telephone number of the applicant and a list of all affiliates of the applicant.

2.2. A detailed description of the transmission medium that will be used by the licensee.

2.3. Preliminary engineering plans, specifications and a network map of the facilities to be located within the Town, all in sufficient detail to identify the following:

2.4. The location and route requested for applicant's proposed cable facilities.

2.5. The location of all overhead and underground public utility, telecommunications, cable, water, sewer drainage, and other facilities in the public right-of-way along the proposed route.

2.6. The location(s), if any, for interconnection with the cable facilities of other cable operators.

2.7. The specific improvements, facilities and obstructions, if any, that applicant proposes to temporarily or permanently remove or relocate.

3. If applicant is proposing to install overhead facilities, evidence must be provided in the application that surplus space is available for locating its cable facilities on existing poles along the proposed route.

4. If applicant is proposing to install in existing ducts or conduits within the public right-of-way, information must be provided in the application in sufficient detail to identify the following:

4.8. The excess capacity currently available in such ducts or conduits before installation of applicant's cable facilities.

4.9. The excess capacity, if any, that will exist in such ducts or conduits after installation of applicant's cable facilities.

5. A preliminary construction schedule and completion date.

6. Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.

7. Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the cable facilities described in the application.

8. Payment of all fees required pursuant to this ordinance.

9. Such other information as may be required by the Town Manager or designee to determine whether the applicant's proposal or request is reasonable.

10. No license granted hereunder shall be effective until the applicant and Town have executed a written agreement setting forth the terms and conditions of the license.

11. Any license granted under this ordinance shall be a nonexclusive grant and shall convey no right, title, or interest in the public right-of-way, but shall be deemed a license only to use and occupy the public right-of-way for the sole purpose of delivery of cable services.

12. A cable television license granted hereunder shall be a limited grant for specific public right-of-way and defined portions thereof.

13. Unless otherwise specified in a license agreement, a cable television license granted hereunder shall be in effect for a term of five (5) years.

Sec. 7. Franchise and License application fee.

1. Each application submitted for a franchise or license under the provisions of this ordinance shall be accompanied by the required nonrefundable application fee to offset the reasonable cost of processing and evaluating the application.

2. Application fees shall be the following amounts:

For an initial franchise or license	\$2,500.00
For renewal of a franchise or license	\$1,500.00
For transfer of a franchise or license	\$1,500.00
For modification of a franchise	\$500.00
For expansion of a franchise	\$500.00

3. Where the Town's out-of-pocket costs in considering the franchise or license application exceed the amount of the application filing fee, such costs shall be paid by the applicant. Within thirty (30) calendar days of the date of the resolution approving the application, the Town Manager must notify the approved applicant of the amount of any such costs and its method of calculation. If the costs are not paid within sixty (60) calendar days of the date of the Town Council resolution approving the application, any franchise or license approved by the resolution will be null and void. Payment under protest of the costs shall be a prerequisite to contesting the amount of the fee pursuant to section 80 below. To the extent any such costs are applicable to more than one (1) franchised or licensed operator, the cost shall be allocated on a weighted pro rata share of all Town subscribers.

Sec. 8. Notice and comment period for initial and expansion franchise.

If the Town Manager finds that an application is incomplete, the application shall be returned to the applicant with a letter describing why the application is being returned. The applicant may then reapply for a franchise upon correcting all deficiencies. Upon receipt of a completed application, the Town Manager shall publish notice within a ninety-day period requesting written comments from the public or any interested person. The notice shall name the applicant, describe the proposed franchise area, name any existing franchisee authorized to serve the area, establish a closing date for receiving comments, and provide the address where all such written comments should be sent. All such written comments shall be submitted at least thirty (30) days before the public hearing required by section 9 below.

Sec. 9. Public hearing for initial and expansion franchise.

1. The Town Manager shall prepare a report to the Town Council regarding the award of a franchise to the applicant, which report shall consider and respond to any comments received and shall contain the Town Manager's recommendations concerning the application. The Town Manager shall schedule a public hearing before the Town Council to consider the franchise application and the Town Manager's report. Notification of any cable television franchise hearing must be published one (1) time

each for two (2) consecutive weeks in a paper of general circulation in the Town. The notice shall name the applicant, describe the proposed franchise area, and set a time and date certain, at least fourteen (14) days from the date of the first publication of the notice, for the public hearing. The public hearing may be continued from time to time and from place to place as determined to be necessary by the Town Council. The Town shall make a final determination on the application within six (6) months of the date a completed application was received unless it is determined that the applicant has caused the delay.

2. The Town Council shall consider all factors required by state or federal law, including, among other factors, the applicant's character, technical, legal, and financial qualifications to construct and operate the facilities proposed; the nature of the proposed system; the economic impact on private property within the proposed franchise area; whether the proposal will meet reasonably anticipated community needs and serve the public interest; and all other factors as the Town may determine to be relevant. The Town Council shall approve, disapprove or take any other action it finds to be in the public interest. The Town Council may, by resolution, assign a franchise area to a franchisee.

3. The Town Council may review all matters related to this ordinance no less than every three (3) years to allow for modifications.

Sec. 10. Term of franchise.

No franchise, including a renewal franchise, shall be issued for a term longer than fifteen (15) years. A franchisee holding a current franchise under any previous ordinance may file for a renewal of its franchise pursuant to the terms of this ordinance which shall require adequate notice to the public and opportunity to comment and may have its franchise renewed for additional periods of no longer than fifteen (15) years.

Sec. 11. Acceptance of franchise or license.

Within thirty (30) calendar days after the resolution awarding a franchise or license, the applicant shall file with the Town Manager a written acceptance of the franchise or license, together with the insurance policies and bonding documents required by sections 23 through 25 herein, and its written agreement to be bound by and to comply with all requirements pursuant to the provisions of this ordinance and the franchise or license. All statements and declarations contained in the application shall be incorporated in the franchise or license. Such acceptance and agreement shall be in a form and contain content satisfactory to and approved by the Town Attorney.

Sec. 12. Franchise and license are non-exclusive and restricted.

1. Any franchise or license granted under this ordinance shall be nonexclusive, and issuance will not expressly or implicitly preclude the issuance of other franchises or

licenses to operate cable systems within the Town or affect the Town's rights to authorize use of public rights-of-way to other persons as it determines appropriate.

2. The franchises or licenses granted pursuant to this ordinance shall confer only such privileges or exemptions specifically provided in this ordinance or mandated by federal or state law.

3. Any privilege claimed under the franchise or license in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property.

Sec. 13. Franchise or license modification.

1. Each application for modification of a franchise or license shall set forth all the following information. To be acceptable for filing, an original and two (2) copies of the application must be submitted and be accompanied by the required application fee.

1.1. The specific modification requested.

1.2. The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the impact on the applicant if the modification is not approved.

1.3. A statement whether the modification is sought pursuant to federal or state law, and, if so, a demonstration that the requested modification meets the legal standards of that law.

1.4. Any other information that the Town deems necessary to make a determination.

2. No application fee shall be required where the modification is required to bring the franchise or license into conformity with the law of the Town or a superior sovereign.

3. The Town will approve or deny requested modifications in a public proceeding within one hundred twenty (120) days of receiving the application.

4. If the modification request is denied, a franchisee can seek to have the modifications approved by a state or federal district court.

Sec. 14. Expansion of franchise area.

1. Except for pass-through facilities to connect noncontiguous portions of a franchisee's franchise area, no facilities or equipment may be installed outside of a franchisee's franchise area within other portions of the Town, and a franchisee shall not offer or provide service to persons outside of the franchise area. Franchisees may apply for an expansion of their franchise areas within other portions of the Town by filing an original and two (2) copies of an application accompanied by the required application fee.

2. The Town Manager shall investigate all applications for installation of cable systems to determine whether the application meets the following standards:

2.1. The requested installation is an orderly, logical progressive expansion or extension of a franchisee's existing system;

2.2. The requested installation is an expansion or extension into areas contiguous to those areas containing the applicant's existing distribution system;

2.3. The number of residential units passed by active distribution cable with the immediate capability of providing service when divided by the number of residential units, as determined from the records of the electric utility providing service in the area within a franchisee's previously approved areas, yields a percentage in excess of eighty (80);

2.4. The franchisee has adequate financial and managerial resources to complete the requested installation in a logical, orderly and prompt fashion;

2.5. The franchisee is in full compliance with all provisions of this ordinance and any approved rules and regulations;

2.6. The expansion will meet reasonably anticipated community needs and serve the public interest; and

2.7. All other factors as the Town may determine to be relevant.

3. Should the Town Manager determine that the requested expansion is within the public interest and that the application meets the requirements set forth in § 14(2) above, the Town Manager shall, within ten (10) days after receipt of the application, provide notice of the application to the cable franchisee or franchisees operating within the Town. Such affected franchisee may, within twenty (20) days after the date shown on the face of the notice provide written comments regarding the requested expansion. The Town Manager shall consider and respond to any such comments received in a timely manner.

4. The Town Manager may approve franchise area expansions which do not meet the criteria specified in Section 14(2) above for good cause shown.

5. Applications for expansion of a franchise area shall be approved or disapproved by the Town Manager, whether in whole or in part, in writing not later than one hundred twenty (120) days after receipt of an application. The Town Manager shall notify a franchisee, and each franchisee in the affected area of his or her decision.

Sec. 15. Franchise renewal.

The Town shall grant or deny renewals pursuant to applicable federal, state, and local law in effect at the time of the renewal.

Sec. 16. Sales, transfers and ownership restrictions.

1. No transfer of a franchise or license shall occur without prior approval of the Town, which approval shall not be unreasonably withheld.

2. Any transfer of a franchise or license shall be subject to and contain the information required by the application requirements of Section 5 above, if found necessary. Unless otherwise agreed to between the Town and the transfer applicant, final action on the request shall be taken at a public hearing within one hundred twenty (120) days of receipt of a completed and accepted application by Town.

3. Transfer of a franchise or license shall mean:

3.1. Assignment, sale or transfer of more than thirty (30) percent of the stock, partnership shares or assets of a franchisee to a person other than a franchisee or licensee;

3.2. Assignment, sale or transfer of more than forty (40) percent of the ownership of any parent corporation, parent entity or holding company that owns or, by ownership of other entities, controls a franchisee or licensee; or

3.3. The transfer of any interest that results in the change of effective control of a franchisee or licensee.

4. This section does not apply to any restructure, recapitalization, or refinancing which does not change the effective control of a franchisee or licensee; however, a franchisee or licensee shall give thirty (30) days prior notice to the Town Manager of any such restructure, recapitalization, or refinancing.

5. In making a determination on whether to grant an application to transfer a franchise or license, the Town Council will consider the legal, financial, technical and character qualifications of the transferee to operate the system.

6. The Town may prohibit ownership or control of a cable system by an entity which already owns or controls an existing system in the jurisdiction or in circumstances where the Town determines that the acquisition of such a system would eliminate or reduce competition in the delivery of cable services.

7. Approval by the Town of a transfer of a franchise or license does not constitute a waiver or release of any of the rights of the Town or obligations of a franchisee under this ordinance.

Sec. 17. Authority of the Town manager.

1. The Town Manager shall have the responsibility for overseeing the day-to-day administration of this ordinance, the franchises, and the licenses granted hereunder. The Town Manager shall be empowered to take all administrative actions on behalf of the Town, including adopting forms for application and reporting and other administrative procedures as are necessary, except for those actions specified in this ordinance which are reserved to the Town Council.

2. The Town Manager shall exercise jurisdiction and have the power and authority to regulate and supervise each franchise and license to the maximum extent allowed by applicable law.

Sec. 18. Fees and public property charge.

1. Each franchisee shall pay fees in accordance with applicable federal, state, and local law.

2. Subject to applicable federal and state law, no acceptance of payment shall be construed as a release or as an accord and satisfaction of any claim the Town may have for additional payment and/or in-kind considerations under this ordinance.

3. Nothing in this section shall limit a franchisee's liability to pay local taxes, fees, charges, or assessments to the Town and other taxing and governmental authorities.

4. All amounts which are not paid when due shall bear interest at the legal rate, as defined in the Florida Statutes, until paid.

Sec. 19. License fee and public property charge.

1. Each licensee shall pay to the Town a quarterly license fee based on the following charges:

1.1. The license fee costs are based on the licensee's portion of the Town's annual overall maintenance, administrative, and care costs of the public right-of-way. The initial per-foot charges for a licensee will be established by Town resolution. The charges will be calculated monthly and paid quarterly by multiplying the previous year's license fee by the percentage change from the previous year in the National Consumer Price Index ("Index") published by the United States Department of Labor. In the event such Index ceases to be published, the Town may select another measure of general price changes. By September 1 following the enactment of this ordinance and each September 1 thereafter, the Town shall notify each licensee of the revised license fee to be effective on the following October 1. Every license shall reflect the schedule of current charges specified herein and the annual adjustment thereto.

1.2. The license charges shall apply to all cable facilities using the Town's public right-of-way, whether owned or leased by the licensee.

1.3. Whenever a license is executed on a date other than October 1, the initial monthly fee shall be prorated for the remainder of the year ending September 30 and shall be payable upon approval of the license agreement by the Town.

1.4. The license fee shall be calculated based on the actual usage of the public right-of-way for the placement of system facilities identified in the license agreement as verified by as-built maps which shall be submitted to the Town and Town inspection. The license fee calculation is based on the following:

1.4.1. The cost per foot is applied per run of cable or conduit either owned, leased, or controlled by any provider.

1.4.2. All measurements will be taken to the nearest foot.

1.4.3. The licensee will be charged for all cable and conduit in place at the time the license is issued. Where an existing license is amended to include additional usage of the public right-of-way, the licensee shall be charged additional fees pursuant to this ordinance.

1.4.4. Accrual of the license fee shall begin on the effective date of the issuance of the license. The licensee shall not be exempt from any property, sales or use tax, or any other tax not directly related to the license from other fees or taxes assessed generally upon businesses, or from fees and charges that are uniform and generally applicable to contractors performing similar work, except as may be specifically provided herein.

1.4.5. The licensee may place aerial cable only in locations approved in advance by the Town. All license fees listed in this section shall apply at the same rate for aerial cable.

1.4.6. The license fee payment to the Town shall be paid in quarterly installments, based on the calendar year, and delivered to the Town not more than thirty (30) days following the close of the quarter for which payment is due. Initial and final payments shall be prorated for any portion of the quarter at the beginning or end of the term of the license. In the event an error by the licensee results in an overpayment of a license fee, Town may, at its sole option, credit the overpayment to the next payment due or spread the credit over a period equal to the period during which the error was undiscovered.

1.4.7. Each payment shall be accompanied by a summary form provided by the Town, with a cover letter on company letterhead which contains a statement by an officer of the licensee certifying that the information and computation of the payment amount shown on the summary form are true and accurate.

Sec. 20. Rights reserved to the Town.

1. The right is hereby reserved to the Town Council to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional rules and regulations as it shall find necessary in the exercise of its police power; provided that such regulations shall be reasonable and shall not be in conflict with federal or state law. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been filed with the clerk of the Town Council.

2. The Town shall have the right to install, maintain, and operate antennae, amplifiers, coaxial cable, wire, fiber-optic cable fixtures and other appurtenances and equipment necessary for a Town communications system upon or within the system facilities of a franchisee or licensee on the condition that such installations do not interfere with the property or operations of a franchisee or licensee and at no cost to the Town except to reimburse a franchisee or licensee for any additional costs incurred as a result of any such construction by the Town and payment of a reasonable rental fee.

Sec. 21. Liability in case of emergency.

If, at any time in case of fire, police action, disaster, or other emergency, it shall appear necessary in the reasonable judgment of the Town to cut, move or otherwise interfere with any of a franchisee or licensee, the Town shall not be liable for any injury or damage to such property and equipment. If state or federal emergency funds are available, the Town will reimburse a franchisee or licensee to the extent possible.

Sec. 22. Indemnification.

1. By operation of this ordinance and as a condition precedent to use of the Town's right-of-way and the effectiveness of any franchise or license, a franchisee or licensee shall:

1.1. Release the Town, its officers, agents, and employees from and against any and all liability and responsibility in or arising out of a franchisee's or licensee's use of the public right-of-way for construction and operation of a cable television system. No franchisee or licensee shall sue the Town or seek any monetary damages or such other relief from the Town in connection with the above-mentioned matters.

1.2. Indemnify, hold harmless, and at the Town Attorney's option, defend or pay for an attorney selected by the Town Attorney to defend the Town, its officers, agents, and employees, against any and all claims, losses, liabilities, and expenditures of any kind, including attorneys fees, court costs, and expenses, accruing or resulting from any and all claims, demands, or causes of action of any nature whatsoever resulting from injuries or damage sustained by any person or property by virtue of a franchisee's or licensee's use of the public right-of-way for construction and operation of a cable television system.

1.3. Upon demand of the Town, at a franchisee or licensee's sole cost and expense, appear in and defend any and all suits, actions, or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the Town, its officers, agents or employees, and arising out of or pertaining to any conduct, policy, or practice which is within the scope of the indemnity provided in this section.

2. A franchisee's obligations under this section "Indemnification" shall not extend to any claims caused by the gross negligence of the Town, its officers, agents, or employees, or to claims arising from a franchisee's provision of any access channel pursuant to the section "Public, non-commercial, educational, and government access channels and support" below to the extent such claims relate to programming and content on such access channels over which franchisee has no editorial control.

3. The covenants and representations relating to this indemnification section shall survive the expiration or termination of any franchise or license with the Town and shall continue in full force and effect as to a franchisee's or licensee's responsibility to indemnify Town, its officers, agents, and employees in connection with the above-mentioned matters.

Sec. 23. Insurance; policy limits.

1. By operation of this ordinance and as a condition precedent to the use of the Town's right-of-way and the effectiveness of its franchise or license, a franchisee or licensee shall:

1.1. Within thirty (30) days after the effective date of the franchise or license, and prior to any operations under the franchise or license, provide proof of the required insurance to the Town. Any insurance policies that are required herein shall be issued by companies authorized and qualified to do business in Florida and that have a minimum rating of "A-" in Best's Rating Guide. A franchisee or licensee shall maintain said insurance throughout the term of the franchise or license and said insurance shall

include, at a minimum, the following types of insurance coverage in amounts not less than shown:

1.1.1. Workers' compensation: Coverage shall apply for all employees for statutory limits in compliance with the applicable state and federal laws. The policy must include Employers' Liability with a minimum limit of One Hundred Thousand Dollars (\$100,000.00) for each accident.

1.1.2. Comprehensive general liability: Minimum limits of One Million Dollars (\$1,000,000.00) per occurrence shall apply with combined single limit of no less than Two Million Dollars (\$2,000,000.00) for bodily injury liability and property damage liability. This coverage shall include premises and/or operations, independent contractors, and subcontractors and/or completed operations, broad form property damage, explosion, collapse, and underground coverage, and a contractual liability endorsement.

1.1.3. Business auto policy: Minimum limits of Five Hundred Thousand Dollars (\$500,000.00) per occurrence shall apply with combined single limit for bodily injury liability and property damage liability. This shall include owned, non-owned, and hired vehicles.

1.1.4. The insurance certificate obtained by a franchisee or licensee in compliance with this section shall be filed and maintained with the Town Manager during the term of the franchise or license. The certificate of insurance will provide thirty (30) days' prior written notice to the Town of change, cancellation, and/or nonrenewal.

1.1.5. Upon thirty (30) days' notice, insurance requirements may be changed and increased from time to time at the discretion of the Town Council to reflect changing liability exposure and limits.

2. Nothing herein or in any franchise agreement is intended as a limitation of liability of or to excuse the performance of a franchisee or licensee.

Sec. 24. Insurance policy provisions.

1. *Resident Company and Agent:* All insurance policies, letters of credit and bonds as are required of a franchisee or licensee in this ordinance shall be written by a company or companies authorized and qualified to do business in the State of Florida, and have a minimum rating of "A-" in Best's Rating Guide.

2. *Certificates and Renewals:* Certificates and renewals of all coverage required shall be promptly filed by a franchisee or licensee with the Town Manager. Renewal certificates shall be filed with the Town no less than thirty (30) days prior to the policy expiration date.

3. *Additional Insured:* The Town and the Town Council shall be included as additional insureds on the Comprehensive General Liability.

4. *Premium Payment:* Companies issuing the insurance policies shall have no recourse against the Town for payment of any premiums or assessments, and same shall be the sole responsibility of a franchisee or licensee.

5. Neither the provisions of this section, nor the acceptance of any bonds by the Town pursuant to this ordinance, nor any damages received by the Town pursuant to this ordinance, shall be construed to excuse performance by a franchisee or licensee of its obligations or limit the liability of a franchisee or licensee for damages to the full amount of the bonds or otherwise.

Sec. 25. Bonding requirements; system completion bond.

1. New franchisees and licensees shall, as required by the Town Manager and within thirty (30) days prior to beginning any construction, post with the Town either a system completion bond or an irrevocable letter of credit issued by a Florida bank or a federally insured lending institution in an amount equal to one hundred (100) percent of the projected cost of required construction and installation of the system. The bond or letter of credit will be returned at the end of six (6) years to a franchisee or licensee or at such prior time as the system has been completed and approved with respect to the Minimum Standards; provided, a franchisee or licensee has in good faith complied with all terms and conditions of the franchise or license and all provisions of this ordinance as well as the rules and regulations herein required and permitted.

2. If a franchisee or licensee submits a cable system construction or reconstruction map and schedule which provides for required construction of the system in progressive stages to provide service to specified and definitive sections of the area, a franchisee or licensee may submit a system completion bond or irrevocable letter of credit equal only to one hundred percent (100%) of the projected cost of construction and installation of each specified and definitive section of the system in lieu of the bond or letter of credit required by subsection 25(1) above; provided, however, that a franchisee or licensee must complete construction of the specified section to which the bond applies prior to the initiation of construction of a subsequent section. The Town shall release the system completion bond sixty (60) days after the Town receives notice from a franchisee or licensee that it has completed construction if there are no outstanding notices to cure or violations for deficiencies found during any construction within the Town's rights-of-way.

3. If a franchisee or licensee fails to perform its construction obligations, a franchisee or licensee shall forfeit that portion of the system completion bond needed to complete the remaining required construction.

4. The system completion bond will not be in lieu of any other guarantee or indemnification required by this ordinance and shall be in addition to the performance and payment bond or irrevocable letter of credit required in Section 26 below.

5. This section shall not apply to any construction which results in less than five (5) miles of system facilities for any given project.

Sec. 26. Permanent performance and payment bond.

1. The franchisee and the licensee shall, within thirty (30) days of the effective date of an initial franchise or license granted under this ordinance or within thirty (30)

days of the granting of the transfer or a renewal of a franchise or license existing prior to this ordinance, furnish to the Town a performance and payment bond or an irrevocable letter of credit issued by a Florida bank or a federally insured lending institution in the amount of One Hundred Thousand Dollars (\$100,000.00). The performance and payment bond or letter of credit shall be used to guarantee the compliance with performance requirements and payment of all sums which may become due to the Town under this ordinance. The performance and payment bond or letter of credit shall be maintained in the full amount specified herein throughout the term of the franchise or license and for one (1) year after the franchise or license expires or is terminated, without reduction or allowances for any amounts which are withdrawn or paid pursuant to this ordinance.

Sec. 27. FCC petition.

A franchisee or licensee shall, except for existing franchises and licenses, within sixty (60) days after the issuance of a franchise or license under this ordinance, apply to the FCC for all permits, certifications, registrations, franchises or licenses as may be required for the operation of the cable system. Failure of the franchise or licensee to obtain the necessary permits, certifications, registrations, franchises or licenses within one (1) year of the issuance of a franchise or license under this ordinance shall cause the franchise or license to become null and void, unless a franchisee or licensee petitions the Town Council for an extension of time for good cause shown.

Sec. 28. Compliance with applicable laws and ordinances.

1. A franchisee or licensee shall at all times be subject to all lawful exercise of the police power by the Town and to such reasonable regulation by the Town as the Town shall hereafter provide. The franchisee and the licensee shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business. Specific and exact compliance with all zoning, building regulations, and permits shall be adhered to by a franchisee and the licensee.

2. Except as may be specifically provided for in this ordinance, the failure of the Town or a franchisee or a licensee, upon more than one (1) occasion, to exercise a right or to require compliance or performance under this ordinance shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance in the future.

Sec. 29. Rights to use easements and streets not warranted.

It is understood that there may from time to time be within the Town various easements and streets which the Town does not have the unqualified right to authorize a franchisee or licensee to use; therefore, in granting a franchise or license, the Town does not warrant or represent as to any particular easement, street, or portion of a right-of-way that it has the right to authorize a franchisee or licensee to install or

maintain portions of its system therein; and in each case the burden and responsibility for making such determination in advance of the installation shall be upon a franchisee and/or licensee.

Sec. 30. Unlawful to interfere with access to easements.

1. *Conduct Prohibited:*

1.1. No property owner shall deny any owner, occupant, tenant, or lessee its legal right to have cable T.V. service provided by a franchisee.

1.2. No property owner shall discriminate in rental charges or otherwise discriminate against any owner, occupant, tenant, or lessee on account of the purchase of cable services from a franchisee by that owner, occupant, tenant, or lessee.

2. *Responsibilities:* In installing, maintaining, operating, or removing its system facilities in, upon, on or from any easements dedicated for compatible uses, a franchisee and the licensee shall ensure all the following:

2.1. That the safety, functioning, and appearance of the premises and the convenience and safety of other persons not be adversely affected by the installation, construction, or removal of system facilities necessary for a cable system.

2.2. That the cost of the installation, construction, operation, or removal of such system facilities be borne by a franchisee or licensee.

2.3. That the owner be justly compensated by a franchisee or the licensee for any damages caused by the installation, construction, operation, or removal of system facilities by a franchisee or licensee.

2.4. Nothing herein shall be construed to prohibit or prevent any property owner from constructing, installing, or continuing to maintain and operate an independent television receiving system subject to the other provisions of this ordinance; however, the construction, installation, maintenance, and operation of such receiving system shall not prevent a franchisee or licensee from constructing, installing, maintaining, and operating its cable system.

2.5. This section is not intended to, and nothing herein shall be construed to, preclude appropriate payments, arrangements, or agreements for the use by cable operators of other utilities' facilities and equipment, including pole attachment agreements.

Sec. 31. Other agreements, permit and easement requirements.

The Town shall not be required to assume any responsibility for the securing of any rights-of-way, easements, or other rights which may be required by a franchisee or licensee for the installation of a CATV system; nor shall the Town be responsible for securing any permits or agreements with other persons or utilities.

Sec. 32. No property rights conveyed.

Nothing in this ordinance or in the franchise or license shall grant to a franchisee or licensee any property in the Town-owned property or public rights-of-way, nor shall the Town be compelled to maintain any of its property or public rights-of-way any longer than, or in any other fashion than in the Town's judgment, its own business or needs may require. In addition, no franchisee or licensee shall be entitled to any compensation for damages from the Town as a result of having to remove or relocate its system facilities from such Town property or public rights-of-way in the event the Town determines that a necessity exists for such removal or relocation.

Sec. 33. Construction map and schedule.

A franchisee or licensee shall submit a plan and schedule for all major construction or reconstruction projects. In the case of all required construction or reconstruction, the plan and schedule shall be incorporated by reference and made a part of the franchise or license. The plan shall include cable system design details, equipment specifications, and design performance criteria. The plan shall also include a map of the entire franchise or license area and shall clearly delineate the areas within the franchise area where the cable system will be initially available to subscribers, including a schedule of construction for each year that construction or reconstruction is proposed. Construction or reconstruction plans and maps shall be submitted to the Town at least sixty (60) days prior to the start of construction or reconstruction. Within thirty (30) days of completion of construction or restructuring, a franchisee or licensee shall submit as-built plans to the Town.

Sec. 34. Prior approval by the Town.

1. A franchisee or licensee must comply at all times with all policies, procedures and directives of the Town. Except for individual service drops outside the public right-of-way, a franchisee or licensee shall not erect any pole, run any line, nor shall any construction on public right-of-way related to the delivery of cable services be commenced without the prior approval of the Town Manager. Prior to the issuance of such approval and permit, a franchisee or licensee shall submit to the Town Manager the following:

1.1. Copies of strand maps of the system in digital format acceptable to the Town, prepared utilizing CAD/GIS or other automated system capable of exporting a file compatible with CAD/GIS showing plant routing and utility company poles to which the system facilities are to be attached; and

1.2. Copies of all pole attachment agreements made by a franchisee or licensee with BellSouth or Florida Power and Light Company or any other utility or company to which an attachment is to be made if applicable to the cable system. A franchisee or licensee may furnish a statement of where in the Town the attachments are located if the applicable agreement has been previously filed with Town.

2. As a prerequisite to the issuance of a permit, a performance and maintenance bond as required by the Minimum Standards shall be provided for any and all work

performed in the public right-of-way to ensure proper restoration and maintenance of the public right-of-way and to provide a one (1) year warranty maintenance period.

Sec. 35. Town's right to inspect.

The Town shall have and maintain the right to inspect the installation, construction, operation and maintenance of a cable system to ensure compliance with the terms and conditions of this ordinance and any franchise or license upon five (5) days advanced, written notice.

Sec. 36. Joint or common use of poles.

Rather than installing new poles or other wire-holding structures, a franchisee or the licensee shall enter into agreements for the joint or common use of poles or other wire-holding structures where poles or other wire-holding structures already exist for the use in serving the Town, or the Town's resident, or the public convenience. No location of any pole or wire-holding structure shall be a vested interest, and such pole or structure shall be removed or modified by the a franchisee or licensee at its own expense whenever the Town determines it to be necessary in conjunction with a Town project.

Sec. 37. Location/relocation of facilities.

1. A franchisee's or licensee's system may be installed above ground in areas where existing power or telephone facilities are above ground, and shall be installed under ground in areas where existing power and telephone facilities are installed under ground. If both power and telephone facilities are installed above ground, a franchisee or licensee shall install its facilities under ground at the request of a resident or property owner when the resident or property owner agrees to pay the additional cost of such installation.

2. A franchisee or licensee shall not place any fixtures or equipment where the same will interfere with any existing gas, electric, cable television, telephone, sewer, drainage or water lines, fixtures or equipment. A franchisee or licensee shall locate its system facilities and equipment in such a manner as not to interfere unnecessarily with the usual travel on streets; with the installation or operation of gas, electric, cable television, telephone, water, drainage, or sewer lines equipment; or with the rights or reasonable convenience of owners of property which abuts any street.

3. A franchisee or licensee shall relocate any above ground portion of its systems under ground in any easement or right-of-way area where existing power and telephone facilities are hereafter so relocated. Any such relocation shall be at the expense of a franchisee or licensee, and such relocation shall be accomplished concurrently with relocation of any such power and telephone facilities.

4. A franchisee or licensee shall have the authority to trim trees upon or overhanging streets, alleys, sidewalks and public ways and places of the Town so as to

prevent the branches of such trees from coming in contact with the wires and cables of a franchisee or licensee in a manner approved by and acceptable to the Town. At the option of the Town, such trimming may be done by the Town or under its supervision and direction at the expense of a franchisee or the licensee, if prior notification has been given to a franchisee or licensee and a franchisee or licensee thereafter failed to respond.

5. A franchisee or licensee shall promptly and at its own expense, protect, support, temporarily disconnect, remove, modify or relocate any part of its systems when required by the Town by reason of traffic conditions, public safety, road construction, change of street grade, installation of sewers, drains, water pipes, power lines, signal devices, tracks, any other type of Town improvement projects or to accommodate the abandonment of any street.

6. A franchisee or licensee shall, on the request of any person holding a building or moving permit issued by the Town, temporarily raise or lower its wires to permit the moving or building. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same, and a franchisee or licensee shall have the authority to require such payment in advance. A franchisee or licensee shall receive not less than ninety-six (96) hours advance notice to arrange for such temporary wire changes.

7. With regard to underground construction, all drop cables shall be buried at a sufficient depth so that no portion of the drop is exposed or visible to view and so that it is installed in accordance with the applicable industry standards.

Sec. 38. Work in the right-of-way.

1. All materials, installations, and construction in any right-of-way or easement under the Town's jurisdiction shall be in accordance with the Minimum Standards.

2. A franchisee or licensee must obtain any required permits before causing any damage or disturbance to public rights-of-way, easements or thoroughfares as a result of its construction or operations and must restore to its former condition such property in a manner approved by the Town. If such restoration is not satisfactorily performed within a reasonable time, the Town, after prior notice to a franchisee or licensee, may cause the repairs to be made at the expense of the a franchisee or licensee. All additional or reoccurring repairs required as a result of the unsatisfactory work may also be made at the expense of a franchisee or licensee.

3. A franchisee or licensee granted permission to install and operate cable television systems in the Town shall provide at least seven (7) days' prior notice to the residents of an area that construction crews will be installing or providing planned maintenance to the cable in the area by mail or through the placement of notices on the front doorknobs of the residents in the area, with such notices providing the name and telephone number a franchisee or licensee.

4. All vehicles utilized by a franchisee or licensee in the construction of the cable system shall be clearly marked providing the name and telephone number of a franchisee or licensee, and, if applicable, an occupational license. All personnel

employed by a franchisee or licensee in the construction of the system shall possess identification providing the employee's name and name and telephone number of a franchisee or licensee.

5. A franchisee or licensee must use Sunshine State One-Call of Florida, Inc., prior to any excavation and give notification of planned excavation or demolition activities. Only certified contractors may be utilized for the construction.

6. All new pedestals, amplifiers and power supplies installed or worked on by a franchisee or licensee shall be marked with the name of a franchisee or licensee. A franchisee or licensee will make all reasonable efforts to ensure that all existing pedestals, amplifiers and power supplies shall be marked during the normal course of business.

7. All underground crossings of paved roadways shall be made by the bore-and-jack method, if possible.

8. A franchisee or licensee installing and operating a cable television system in the Town rights-of-way, except in the event of an emergency, shall provide at least seven (7) days (or such shorter period as the Town may approve) prior notice to the residents of the affected area, as determined by the Town, when construction crews will be performing construction or maintenance that will block a travel lane used by residents of the affected right-of-way for more than two (2) hours. Such notification shall be by mail or through the placement of notices on the front doorknobs of the residences in the affected areas, with such notices providing the name and telephone number of a franchisee or licensee.

Sec. 39. Safety of the public.

1. A franchisee's or licensee's work performance, equipment, and job sites shall be in compliance with all applicable Town, state and federal requirements and shall conform to the provisions of the Minimum Standards. All work while in progress shall be properly protected at all times with suitable barricades, flags, lights, flares, or other devices as are required by the United States Department of Transportation's Manual of Uniform Traffic Control Devices (MUTCD), as amended from time to time, and any other applicable requirements, to protect the public.

2. A franchisee or licensee shall at all times employ due care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. All structures and all lines, equipment and connections in, over, under and upon the streets of the Town wherever situated or located shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

3. A franchisee or licensee shall comply with all safety practices required by applicable federal, state and local law and acceptable industry standards and practices during the construction, operation, maintenance, and repair of the cable system.

Sec. 40. General standards; signal standards.

1. All cable system technical operations and signal quality shall conform to applicable federal law and FCC rules, regulation and standards governing such including, but not limited to, Section 624 of the Cable Act and Subpart K of the FCC Rules and Regulations.

2. All new construction, rebuilds and upgrades shall be designed and spaced to have a capacity of no less than seven hundred fifty (750) megahertz.

3. All television signals transmitted on a cable system must include any closed circuit captioning information for the hearing impaired that are available to a franchisee.

Sec. 41. Technical standards.

1. CATV systems shall be installed and maintained in accordance with the FCC Technical Standards and Specifications, all federal, state and local regulations, and regulations and industry standards as reflected in the Recommended Practices for Measurements on Cable Television Systems, published by the National Cable Television Association.

2. Any tower and antenna structure used in the cable system shall comply with all construction, marking and lighting requirements of federal, state and local laws and accepted industry standards.

3. All construction, installation and maintenance shall comply with the National Electrical Safety Code, the National Electrical Code, the Bell System Code of Pole Line Construction, South Florida Building Code, and any other federal, state, and local regulations.

4. Cable systems shall be maintained in such a manner as to prevent signal leakage from their facilities in excess of the limits specified in applicable rules and regulations of the FCC.

5. Underground construction in streets shall be in accordance with industry standards and of such quality as to assure continuity of service without the necessity of frequent street or pavement cutting and shall contain a self-sealing device to ensure all such cables against leakage.

6. All underground cables and wires shall be installed, where possible, parallel with electric and telephone lines, and shall be carried in approved steel or plastic conduit.

Sec. 42. Inspection and performance tests.

1. The Town shall have the right to make such inspections as it shall find necessary to ensure compliance with terms of a franchise and other pertinent provisions of law. The Town shall have the right to require a franchisee to provide and keep accurate calibrated test equipment immediately available for use in the Town for the testing of all service and operational standards required by this ordinance and by FCC regulations.

2. The operator of each cable television system shall conduct complete performance tests of that system at least twice each calendar year (at intervals not to

exceed seven (7) months), unless otherwise indicated by FCC regulations, and shall maintain the resulting test data on file at the operator's local business office for at least five (5) years. The test data shall be made available for inspection by the FCC or the local franchiser, upon request. The performance tests shall be directed at determining the extent to which the system complies with all the technical standards as set forth by the FCC regulations.

3. Successful completion of the performance tests required by subsection 42(2) does not relieve the system of the obligation to comply with all pertinent technical standards at all subscriber terminals. Additional tests, repeat tests, or tests involving specified subscriber terminals may be required by the FCC or the local franchiser to secure compliance with the technical standards.

4. The franchisee shall advise the Town when proof of performance tests are scheduled so that the Town may have an observer present. The franchisee shall maintain test points as required by federal law and shall allow the Town to have access to those test points upon reasonable notice and at intervals not more frequently than would be prohibited by federal law.

Sec. 43. Service requirements; equipment for the hearing impaired.

1. *Closed Captioning:* The requirements for closed captioning are as follows:

1.1. The operator of each cable system shall not take any action to remove or alter closed captioning data contained on line 21 of the vertical blanking interval; and

1.2. The operator of each cable television system shall deliver intact closed captioning data contained on line 21 of the vertical blanking interval, as it arrives at the head end or from another origination source, to subscriber terminals and (when so delivered to the cable system) in a format that can be recovered and displayed by decoders meeting section 15.119 of the FCC Rules.

1.3. The franchisee shall comply with all rules and regulations concerning closed captioning, as may be amended from time to time.

1.4. The franchisee shall make available to its subscribers information of where to purchase equipment capable of decoding closed circuit captioning information for the hearing impaired.

Sec. 44. Standby power.

The franchisee shall maintain equipment capable of providing standby power for head end, transmission and trunk amplifiers for the minimums required by law or as generally accepted in the industry, not to be less than a minimum of one (1) hour.

Sec. 45. Notice of change in services.

The franchisee shall, to the extent possible, send written notice to the Town Manager and all subscribers at least thirty (30) days prior to rearranging, replacing,

removing or retiring services. To the extent prior notice is not possible, a franchisee will provide notice of such a change within a reasonable amount of time.

Sec. 46. Lock-out devices.

The franchisee shall make available, to any residential subscriber so requesting, a "parental guidance" or "lock-out" device which shall permit the subscriber, at his or her option, to eliminate the audio and visual aspects from any channel reception.

Sec. 47. Commercial leased access and program access.

The franchisee shall comply with all lawful and applicable federal, state, and local laws related to commercial leased access and program access as such laws may be amended from time to time.

Sec. 48. Emergency override facilities.

Franchisee shall install and operate all necessary EAS equipment to receive, decode, and encode digital emergency information, and to transmit the required information across all cable channels, as required by federal law. In the case of any emergency or disaster, as determined by the Town, franchisees shall, upon request of the Town, make the override capacity available to the Town without charge for use during emergency or disaster periods. When this requirement is requested, based upon the Town's police powers, this requirement cannot be included by the operator as an external cost to be passed on to the consumer.

Sec. 49. INET.

1. An entity granted a franchise under this ordinance shall make a proposal to the Town for the installation, operation and maintenance of or provide funding for an Institutional Network ("INET"). The INET shall, at minimum, take into consideration the interconnection of all government and other public buildings and schools, or other buildings as designated by the Town, with minimum technical facilities as shall be specified subject to negotiation between the Town and a franchisee.

2. Where an INET already exists in the Town, or if the Town determines that it does not have the need for an INET, a franchisee shall provide the Town with a capital grant in an amount which represents the cost of an INET, or, at the Town's sole option, alternative facilities, equipment and support, in satisfaction of franchisee's obligation to provide the Town with an INET pursuant to this section.

3. Unless otherwise set forth in a franchise agreement, a franchisee shall not "pass through" to subscribers the costs related to an INET as external costs (47 CFR 76.922(f)) or other costs nor shall such costs be considered as fees or taxes.

Sec. 50. Service to public buildings.

1. Within a reasonable amount of time, but at least within ninety (90) days following the request, a franchisee shall be required to provide basic and expanded basic services, with converter or other necessary equipment to the first outlet within each Town building, without installation or monthly charge provided that such buildings are passed by and within five hundred (500) feet of a franchisee's existing distribution system and are owned by the Town or occupied by a governmental entity for predominantly educational or governmental use. Such services shall be provided by means of a single drop extending to the facility. Such single drop may be internally extended by the governmental entity without cost to, or responsibility of a franchisee, subject to the condition that all such internal distribution shall meet all FCC requirements relative to signal leakage. At the request of the Town, a franchisee shall extend its distribution system or install the additional service outlets in such facilities and shall charge only its time and material costs for such installations and monthly service charges for additional outlets as applicable.

2. A franchisee shall provide basic and expanded basic services to all public schools and other elementary, secondary and college level institution within the Town at no charge for the installation or monthly charges, and franchisee may not include this expense as an external cost to be passed on to subscribers. A franchisee shall provide each cable-connected school materials for teachers that explain the educational applications of franchisee's services and programming.

3. A franchisee shall provide basic service and service tiers to all social service facilities at no charge for the installation or monthly charges and operator may not include this expense as an external cost to be passed on to the consumer. Such service facilities shall include, but not be limited to, the Public Safety Building and the Equestrian Park. A franchisee shall provide all social service facility personnel with materials that explain related applications of franchisee's services and programming.

4. Where basic and expanded basic services already are provided to the buildings set forth in subsections 50(1)-(3) above, a subsequent franchisee shall provide the Town with a capital grant in an amount which represents what it would cost to fulfill the obligations of subsections 50(1)-(3) above. Such capital cost shall not be passed through subscribers.

Sec. 51. Public, non-commercial, educational, and government access channels and support.

1. Unless otherwise provided in a franchise agreement, a franchisee shall provide and maintain at least one (1) specially designated non-commercial, educational and government access channel for use by the Town. The availability to individual Town agencies of the government access channel or channels for Town-produced programs shall be determined on a first-come, non-discriminatory basis. Meetings of the Town Council shall be given priority over other Town-produced programs on the government access channel or channels, unless otherwise specifically authorized by prior written approval of the Town Manager. Unless otherwise provided in a franchise agreement, all

Town Council meetings shall be cablecast in "real-time" by a franchisee throughout the Town.

2. Public Service Announcements, a Town-produced live or taped programs including, but not limited to, meetings of the Town Council and any non-commercial, educational, and government programming, will take precedence over franchisee's programming when a request is made to air these items by the Town Manager. Such programming shall include an unlimited number of Town-produced programs per month, with cablecasting of each program at least twice weekly, during viewing hours of 8:00 a.m. to 10:00 p.m., on Monday through Sunday. Town-produced programs which are comprised of meetings of the Town Council shall also be cablecast live in their entirety and shall be re-cablecast at least five (5) times before the next Town meeting. On or prior to the effective date of a franchise or license, a franchisee or licensee shall provide written notification to Town staff of the required recording format and appropriate lead time needed to cablecast Town-produced programming. Proof of such airing of a Town-produced program may be required, and shall be provided by a franchisee or licensee, upon request by the Town Manager subject to federal preemption. The terms of this subsection may be altered in a franchise agreement.

3. At those time segments during which no signals are required to be transmitted over the specially designated non-commercial, educational, and government access channels, a franchisee may utilize such channel for any purpose consistent with the provisions of this ordinance.

4. A franchisee will endeavor to provide that the signal of each channel required in the basic service tier shall be received at designated places on the subscriber's channel or channels selector as prescribed by the Town Manager.

5. A franchisee shall designate a specific cable channel location as determined by the Town Administrator for the use of the non-commercial educational government access channel by January 1, 2004, or earlier if possible. If a franchisee's or licensee's cable programming service offers at least one hundred (100) analog or digital channels and if the Town Administrator or his or her designee so directs a franchisee in writing, a franchisee shall provide and maintain, without charge, a second specially designated government access channel for the Town's use and programming.

6. A franchisee shall provide such equipment, facilities and technical support as the Town Council may determine is useful for the production and cable casting of programming on the educational and government access channel.

Sec. 52. Interconnection of cable systems.

1. A franchisee shall interconnect with any or all other cable systems in Broward County, upon the directive of the Town Manager, in order to cablecast County Commission meetings and other programming for the access channels.

Sec. 53. Records and reporting requirements; access to records.

1. Subject to applicable federal and state law, the Town shall have access, at all reasonable hours, to books, records, maps, plans, contracts, engineering, accounting, financial, statistical, subscriber and service records relating to the property and operation of a franchisee's or licensee's system and to such other records as are required by the Town to perform its regulatory responsibilities under this ordinance. Such records shall be made available upon five (5) days advanced written notice at a franchisee's or licensee's local Town office for a period of not less than five (5) years. If a franchisee or licensee shall fail to obtain books or records not kept in the local office, and if the Town shall determine that an examination of such records is necessary or appropriate to the performance of any of the Town's duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by a franchisee or licensee.

2. Subject to applicable federal and state law, the Town shall have the right to inspect such records as it deems appropriate for the proper administration of this ordinance. The Town has the right to collect additional information including proprietary information to make a rate determination in those cases where cable operators have submitted notice of proposed rate increases. The cable operator must request confidentiality with respect to specific proprietary portions of the records and make a showing, by a preponderance of the evidence, that nondisclosure is consistent with the provisions of the Freedom of Information Act.

Sec. 54. Quarterly reports.

1. Subject to applicable federal and state law, a franchisee shall submit reports to the Town quarterly on forms provided by the Town. The quarterly reports shall be submitted according to the following schedule: January-March reports due April 25; April-June reports due July 25; July-September reports due October 25; and October-December reports due January 25 of each year.

2. The report shall include, but not be limited to:

2.1. A current listing of the cable television channels which that system delivers to its subscribers.

2.2. Number of homes passed and number of cable plant miles.

3. Revenue information including, but not limited to, number of subscribers for each attributable to the operations of a franchisee in the Town as provided to the State of Florida in accordance with applicable federal and state law.

4. A copy of audit reports relating to all audits conducted by, or on behalf of, the State of Florida relating to the cable operator's cable operation in the Town.

5. A report on the status of the cable operator's upgrades, which will include the number of homes completed and the overall percentage of completion, a schedule of each upgrade as available and percentage of completion against the schedule, notice of completion bonds posted per this ordinance and percent of completion as to each bond, copies of reports provided to the State of Florida, if any, regarding gross revenues from operations in the Town, and a report on the status of the development of the system

and construction activities. This report shall be certified by a corporate officer and a State of Florida licensed engineer.

Sec. 55. Annual reports.

1. In addition to the above, a franchisee shall file the following information with the quarterly report due March 31 of each year:

1.1. A summary of the previous year's activities in the development of the system, including, but not limited to, services begun or dropped, the previous year's construction activities, and a summary of any policy changes taking effect during the year.

1.2. A current copy of the subscriber service agreement, a current list of all rates, charges and available services, a current channel list, a copy of all a franchisee's published rules and regulations applicable to subscribers and users of the cable system, and a summary of a franchisee's hours of operation.

1.3. A summary of subscriber or consumer complaints, identifying complaints by number and category, and their disposition. Where complaints involve recurrent system problems, the nature of each problem and what steps have been taken to correct it shall be identified.

1.4. Copies of as-built maps or maps in a digital format acceptable to Town if prepared utilizing CAD/GIS or other automated system capable of exporting a file compatible with CAD/GIS, depicting the location of all trunks, separately identifying those areas where there was construction in the year of the report.

1.5. For information purposes only, a listing of a franchisee's closings or holidays for the current year.

1.6. Subject to applicable federal and state law, within three (3) months of the close of its fiscal year, a franchisee shall file an annual report to the Town that includes the following information:

1.6.1. A list of all persons owning or controlling five (5) percent or more of the stock, partnership shares or assets of a franchisee, and a list of any parent corporation, parent entity or holding company that owns, or by ownership of other entities, controls the franchise.

1.6.2. If a franchisee is a corporation, a list of officers and members of the Town Council and officers and Town Council members of any parent corporation; and where a parent corporation's stock is publicly traded, two (2) copies of its annual report.

1.6.3. Two (2) copies each of an audited financial statement for the franchise company, including at least the following statements and schedules: balance sheet, income statement, statement of change in retained earnings/ownership equity, statement of cash flow, notes to the financial statements, report of revenues and expenditures within the franchise area, and such other information as the Town may require in support of the above. All of the above financial information shall be audited by an independent certified public accountant and prepared in accordance with Generally Accepted Auditing Standards (GAS). A small system as defined in this

ordinance shall be exempt from the audit financial statement requirement of this paragraph.

1.6.4. A copy of any and all audit reports relating to all audits conducted by, or on behalf of, the State of Florida relating to franchisee's cable operations in the Town.

Sec. 56. Audit.

The Town shall have the right and authority to inspect and audit in accordance with applicable federal and state law a franchisee's or licensee's books and records, upon reasonable notice under the franchise or license, and the right of audit and recomputation of any and all amounts payable by a franchisee under this ordinance. All costs associated with any such audit shall be borne by a franchisee or licensee. Upon reasonable notice, such records necessary to perform said audit and recomputation shall be made available to the Town at a franchisee's office in the Town or shall be made available to the Town by a franchisee or licensee at the Town Manager's office.

Sec. 57. Additional reports.

1. A franchisee shall notify the Town upon any purchase of a SMATV system located within the Town.

2. Upon request and notice, a franchisee will provide the following reports:

2.1. Telephone reports, indicating the number of calls received, number of calls abandoned, number of calls receiving a busy signal, where technologically possible, average duration of each call handled by a customer service representative, average length of time each caller waits before speaking directly to a customer service representative and number of customer service representatives staff to handle telephone calls.

2.2. The number of total standard installations performed; the number of standard installations performed within seven (7) days; number of service interruptions reported; number of service interruptions responded to within twenty-four (24) hours; number of other service problems reported; number of other service problems responded to within thirty-six (36) hours; summary of types of service complaints received, and all other information necessary to monitor a franchisee's compliance with the consumer standards of this ordinance.

2.3. Copies of all petitions, applications and communications submitted by a franchisee to the FCC or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable operations authorized pursuant to a franchise granted under this ordinance shall also be submitted simultaneously to the Town Manager.

2.4. A franchisee shall prepare and furnish to the Town, at times and in the form prescribed by the Town, such additional reports with respect to its operation, in the discretion of the Town Manager, which are reasonably necessary for the administration of this ordinance.

Sec. 58. Consumer protection provisions; office and telephone availability.

1. A franchisee shall maintain an office within the Town that is adequately staffed and open to the public during all normal business hours. Alternatively, at a franchisee's request, and upon the Town's approval which will not be unreasonably withheld, a franchisee shall maintain an office conveniently located for the residents of the Town but not within the corporate limits of the Town. The office shall be opened when a franchisee commences construction. A franchisee shall operate and maintain said office(s) so as to provide all subscribers including, but not limited to, those subscribers who may be elderly, handicapped, or otherwise impaired, with a subscriber-friendly environment. The office must offer subscriber services, including bill payment. The office must be open for transactions Monday through Friday during normal business hours. Additionally, based on community needs, a franchisee will schedule supplemental hours on weekdays and/or weekends during which the office will be open as needed.

2. A franchisee shall advise subscribers through answering service or answering machine, voice mail messages, bill messages, or through its cable system of the hours or dates when its office(s) will not be open for business. Such notice shall be provided during the seven (7) day period prior to the date the office(s) will be closed. During such closed periods, a franchisee shall provide subscribers with its emergency and after-hours contact numbers through the use of voice messages and by posting written notification in a conspicuous and visible location at its office(s).

3. Each franchisee shall maintain a local, toll-free, or collect call telephone access line and the ability to provide Telecommunications Devices for the Deaf or Tone Dialing for the Deaf/Teletype (TDD/TTY) or such other telephone service for communicating with persons with hearing impairments, which will be available twenty-four (24) hours, seven (7) days a week.

4. Knowledgeable, trained franchise representatives will be available to respond to subscriber telephone inquiries during normal business hours. A franchisee shall have representatives or staff available who can communicate in languages that represent the make up or demographics of the residents in its franchise areas in order to facilitate communications with its subscribers. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained franchise representative on the next business day. Additionally, based on community needs, franchisee will staff telephones for supplemental hours on weekdays and/or weekends.

5. Under normal operating conditions, telephone answer time by a subscriber service representative, including wait time, shall not exceed thirty (30) seconds from when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. Franchisees that utilize automated answering and distributing equipment will limit the number of routine rings to four (4) or fewer.

Franchisees not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems. In no event shall total answer time exceed three (3) minutes before a human being answers and begins to resolve the subscriber's inquiries or complaints. Percent of abandoned telephone calls out of total calls received shall not exceed ten percent (10%), average. These standards shall be met no less than ninety percent (90%) of the time, measured on a quarterly basis.

6. Under normal operating conditions, the subscriber will receive a busy signal less than three percent (3%) of the total time.

7. Franchisees shall comply with all applicable FCC rules and regulations governing consumer protection, office and telephone availability.

Sec. 59. Installations, outages and service calls.

1. Under normal operating conditions, each of the following five (5) standards will be met no less than ninety-five (95) percent of the time as measured on a quarterly basis:

1.1. Standard installations will be performed within seven (7) business days after an order has been placed, unless a later date for installation is requested by subscriber; provided, a franchisee has been able to obtain any necessary easements or other consents necessary to complete the installations. "Standard" installations are up to one hundred twenty-five (125) feet from the existing distribution system. If the subscriber requests a nonstandard residential installation, or a franchisee determines that a nonstandard residential installation is required, a franchisee shall provide the subscriber in advance with a total installation cost estimate and an estimated date of completion.

1.2. Excluding those situations beyond the control of a franchisee, a franchisee will respond to service interruptions promptly and in no event later than twenty-four (24) hours. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

1.3. The appointment window alternatives made available for installations, service calls, and other installation activities will be (a) a specific time, or (b) at maximum a four-hour time block during normal business hours. Additionally, based on community needs, franchisees may schedule service calls and other installation activities outside of normal business hours for the convenience of the subscriber.

1.4. A franchisee may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment.

1.5. If at any time a cable operator representative is running late for an appointment with a subscriber and will not be able to keep the appointment as scheduled, the subscriber will be contacted and the appointment rescheduled, as necessary, at a time which is convenient for the subscriber.

1.6. A franchisee shall not miss two (2) consecutive service or installation appointments scheduled with a particular subscriber unless rescheduled one (1) day in advance. Subscribers who have experienced two (2) missed consecutive

installation appointments, service appointments, or repair appointments due to the sole cause of a franchisee shall receive installation free of charge from franchisee unless those appointments were rescheduled one day in advance. If the installation was to have been provided to subscriber free of charge or if the appointment was for service or repair, a franchisee shall include a credit on such subscriber's subsequent monthly billing for not less than Twenty Dollars (\$20.00).

1.7. New developments contiguous to a franchisee's distribution system shall be wired for cable service within a reasonable amount of time, but at least within one hundred twenty (120) days after the development has reached seventy-five (75) percent occupancy, so long as the construction meets the density requirements of this ordinance; provided, a franchisee has been able to obtain any necessary easements or other consents necessary to complete the installation. The Town Manager may waive the requirements of this subsection for good cause shown in his discretion where a new development is already served by another multi-channel video provider.

1.8. A franchisee shall intentionally interrupt service only for good cause for the shortest time possible including, but not limited to, interruption for system upgrade, maintenance and repair. Wherever possible, routine maintenance requiring service interruptions shall occur at times that affect the fewest number of subscribers, preferably between the hours of 12:00 midnight and 6:00 a.m. Wherever possible, a franchisee shall post notices on appropriate system channels to advise subscribers in advance of planned construction or maintenance that will cause or is likely to cause service interruptions. Planned interruptions not requiring more than four (4) hours of interrupted service and occurring between the hours of 12:00 midnight and 6:00 a.m. shall not require such notice to subscribers. A written log shall be maintained for all service interruptions.

1.9. In the event of a service interruption to any subscriber for twenty-four (24) or more hours which interruption is within the control of a franchisee, a franchisee shall provide a credit or rebate to affected subscribers, upon the subscriber's written or verbal request, equal to the pro rata share of the monthly fees for each twenty-four-hour period during which the subscriber is without service. In the event that total service to any subscriber is interrupted for two (2) or more hours but less than twenty-four (24) hours, a franchisee shall provide a credit or rebate to affected subscribers, equal to one-third of the monthly bill, upon request by an affected subscriber. For purposes of computing the time of interrupted total service, the time shall begin when a complaint for interrupted total service is received by the franchisee or when a franchisee has actual or constructive notice of the interruption, whichever occurs first. Nothing in this subsection limits a franchisee from applying a rebate policy more liberal than the requirements.

1.10. In all situations where cable service is disrupted to two hundred (200) or more subscribers for a time period greater than twenty-four (24) hours, a franchisee shall notify the Town Manager during normal business hours and shall provide pro rata refunds or credits to subscribers upon request.

1.11. Each franchisee's, its contractors', and subcontractors' field employees must carry identification indicating their employment with a franchisee, its

contractors or subcontractors, and all field vehicles must have a franchisee's, its contractor's or subcontractor's identification visible.

1.12. A franchisee shall disconnect any subscriber who makes such a voluntary request to a franchisee. No period of notice prior to voluntary termination of service may be required of subscribers by any franchisee. No charge may be imposed by any franchisee for such voluntary disconnection, or for any cable services delivered after the requested disconnect date. A subscriber shall be asked to disconnect the equipment of a franchisee and return it to the business office or make it available for a franchisee to recover subscriber's equipment. Upon termination of service to any subscriber, a franchisee shall promptly remove all portions of its system, facilities and equipment from the subscriber's premises upon subscriber's request. Where removal is impractical, such as with buried cable or internal wiring, facilities and equipment may be abandoned rather than removed.

1.13. Any security deposit or other funds due a subscriber that disconnects or downgrades service shall be returned to the subscriber no later than either the next billing cycle, or thirty (30) days, whichever is earlier from the requested date of disconnection or downgrade. In the event the subscriber fails to return a franchisee's equipment, fails to clear any outstanding account balance or does not permit a franchisee to recover its equipment, in such case the amounts owed shall be paid to subscriber no later than thirty (30) days or the next billing cycle after the date the equipment was recovered by a franchisee and the account was cleared, whichever is earlier.

1.14. Franchisees shall comply with all applicable FCC rules and regulations governing installation, outages, and service calls.

Sec. 60. Cable home wiring.

A franchisee shall comply with all federal, state, and local laws, including, but not limited to, 47 CFR 76.800, and all applicable industry standards concerning cable home wiring and home run wiring as amended from time to time.

Sec. 61. Communications, bills, refunds, and credits.

1. *Communication*: The franchisee will provide written information in each of the following areas at the time of installation of service, and at least annually to all subscribers, and at any time upon request:

- 1.1. Products and services offered;
- 1.2. Prices and service options for programming services and conditions of subscription to programming and other services;
- 1.3. Instruction on how to use the cable service;
- 1.4. Installation and service maintenance policies;
- 1.5. Channel positions of programming carried on the system;

1.6. Franchisee's procedures for the receipt and resolution of subscribers' complaints, a franchisee's address and telephone number to which complaints may be reported, and the hours of operation;

1.7. Availability of the "lock-out" device required by this ordinance;

1.8. Availability of an input selector, or A/B switch, and identification of those local broadcast stations not carried on its system;

1.9. Franchisee's information, collection and disclosure policies for the protection of a subscriber's privacy rights; and

1.10. Address of the Town's office designated to handle cable television complaints and inquiries.

2. Franchisee shall provide, prior to a billing statement, written notice to subscribers of change of ownership of franchisee or a change in business name or billing name that directly affects subscribers. Such notice shall not be provided on a billing statement.

3. The franchisee will provide prompt written notification to the Town and to each affected subscriber of any material change in any of the above.

4. *Bills:*

4.1. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic services tier, à la carte service, and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

4.2. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.

4.3. The billing statement must include a notice to the subscriber that payment can be remitted in person at an office of a franchisee and inform the subscriber of the addresses where payment can be made.

4.4. Franchisee shall provide in bold conspicuous print on all correspondences, including billing statements, a telephone number where subscribers can reach a franchisee's available representatives.

4.5. All cable operators must provide the following information to subscribers on monthly bills:

4.5.1. The name and mailing address of the relevant franchising authority; and

4.5.2. The FCC community unit identifier number for the cable system.

5. *Refunds:*

5.6. Refund checks will be issued promptly, but no later than either:

5.6.1. The subscriber's next billing cycle following resolution of the request or thirty (30) days from the request, whichever is earlier, or

5.6.2. The return of the equipment supplied by the cable operator if service is terminated.

5.7. Credits: Credits for services will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

5.8. All customers and the Town will receive written notification a minimum of thirty (30) days in advance of any change in rates, programming services or channel positions, provided the change is within the control of a franchisee.

5.9. Franchisee shall investigate, attempt to contact the subscriber, and respond to each telephone call, facsimile, or written complaint or request made or referred by the Town prior to 5:00 p.m. the next business day. The franchisee shall, within seven (7) days after receiving written request from the Town, send a written report to the Town with respect to any particular consumer complaint. The report to the Town shall provide a full explanation of the investigation, findings and corrective steps taken by a franchisee.

6. Franchisee shall comply with all FCC rules and regulations concerning communications, bills, refunds, and credits.

Sec. 62. Late charges.

If a subscriber shall fail to pay any bill for cable services, additional fees, or other charges, after same becomes due and payable, then a franchisee may assess an administrative charge on any balance not received within ten (10) calendar days after the due date. Such administrative charge shall not exceed the average actual fixed and variable costs of a franchisee to administer a delinquent account and, subject to applicable law, a late charge of not more than five dollars (\$5.00) shall be presumed to comply with this subsection. If a subscriber disputes a bill in writing within thirty (30) days after the billing date and the billing dispute is subsequently resolved in favor of the subscriber, a franchisee shall waive or refund any late fee or interest paid or payable by the subscriber for the disputed bill. Franchisee shall comply with all applicable laws governing late fees for cable services.

Sec. 63. Resolution of complaints.

1. Cable system operators shall establish a process for resolving complaints from subscribers about the quality of the television signal delivered. These records shall be maintained for at least a one-year period. Aggregate data based upon these complaints shall be made available for inspection by the FCC and franchising authorities, upon request. Subscribers shall be advised, at least once each calendar year, of the procedures for resolution of complaints by the cable system operator, including the address of the responsible officer of the local franchising authority.

2. Prior to being referred to the FCC, complaints from subscribers about the quality of the television signal delivered must be referred to the local franchising authority and the cable system operator.

Sec. 64. Privacy/use of data.

A franchisee shall comply with all federal and state laws regarding collecting, storing and disseminating of individual subscriber information, and shall operate the

system in a manner that protects against invasions of any person's privacy and protects the privacy of data services and data signals distributed over the system.

Sec. 65. Rates.

1. The franchisee must give thirty (30) days' prior written notice to the Town Manager and all affected subscribers of any pricing changes or additional charges, excluding temporary marketing and sales discounts or offers. The notice to subscribers shall include the name and address of the Town's office designated to handle cable television inquiries. The franchisee may reduce the price at any time without notification. A subscriber may obtain changes in service tiers at no additional charge if requested within the thirty (30) day period after notice of retiering or rate increases.

2. If a franchisee establishes a higher charge than actual cost for changes effected solely by coded entry on a computer terminal or by other similarly simple methods, a franchisee must notify all subscribers in writing that they may be subject to such a charge for changing service tiers more than the specified number of times in any twelve (12) month period, except as provided for in subsection 65(1).

Sec. 66. Discontinuing or denying service.

1. A franchisee may discontinue service to a subscriber who fails to pay installation fees or monthly service charges when due. Before disconnecting service, a franchisee must send the subscriber at least seven (7) days' prior written notice that service will be disconnected if payment is not received.

2. A franchisee may deny service to any subscriber where such subscriber has previously been a subscriber of a franchisee and a franchisee previously terminated the subscriber's service due to nonpayment.

Sec. 67. Discriminatory practices prohibited.

1. A franchisee must not deny, delay, or otherwise impose undue hardship for the delivery of service or discriminate against subscribers or users on the basis of age, race, creed, religion, color, gender, sexual orientation, physical or mental disability, national origin, marital status, or political affiliation, and must not deny cable service to any potential subscribers because of the income of the residents of the area in which the subscribers reside. A franchisee may provide for discounts for senior citizens, the economically disadvantaged, or disabled that are applied in a uniform and consistent manner. A franchisee may also offer bulk discounts to multiple dwelling buildings and planned unit developments to the extent such discounts are permissible by law.

2. A franchisee must not refuse to employ, nor discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, religion, color, gender, sexual orientation, physical or mental disability, national origin, marital status, or political affiliation.

3. A franchisee must comply at all times with the equal employment opportunity provisions and reporting requirements contained in federal law. A copy of a franchisee's annual report required by the FCC shall be submitted simultaneously to the Town.

Sec. 68. Theft, vandalism, tampering; violation.

1. It is unlawful and a violation of this ordinance to:

1.1. Willfully obtain or attempt to obtain cable services or cable-related services from another by means of artifice, trick, deception, or device without payment to the operator for such services of all lawful compensation due for each type of services unlawfully obtained.

1.2. Willfully assist any other person in obtaining or attempting to obtain any cable service or cable-related services without payment to the cable operator of such services of all lawful compensation due for each type of services unlawfully obtained.

1.3. Willfully tamper or otherwise interfere with or connect to by any means, whether mechanical, electrical, acoustical, or other, any cable, wires, or other devices used for the distribution of cable services or cable-related services without actual authority from the operator of such services.

1.4. Willfully sell, rent, or lend, or promote or advertise for sale, rental or use, any device or any plan to any person with the knowledge that the person intends to use such device or plan to commit any of the acts set forth in subsections 68(1) - (1.1), (1.2), and (1.3) above, whether or not such device or plan actually has the ability to facilitate the commission of any acts set forth in subsections (1.1), (1.2), and (1.3) above.

1.5. Willfully sell, rent, or lend, or promote or advertise for sale, rental, or use, without authority from the operator of such cable services or cable-related services, any device which is electronically capable of decoding cable system signals which have been encoded by a cable operator of any person under contract with such operator.

Sec. 69. Prima facie evidence.

1. The presence on property, in the actual possession of a person, of any device or alteration which affects the diversion or use of cable services or cable-related services without such services being reported for payment to, and specifically authorized by, the cable operator shall be prima facie evidence of a violation of this section; however, this presumption shall not apply unless:

1.1. The presence of such a device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for such service;

1.2. The person charged has received the direct benefit of the reduction of the cost of such services; and

1.3. The recipient of such services has received the benefit of such services for at least one (1) full billing cycle.

Sec. 70. Confiscation.

Any law enforcement agency having jurisdiction shall have the authority to confiscate for the purpose of preserving evidence any and all such instruments, apparatus, equipment, devices, instructions, and plans described in section 68, including any materials, tools, machinery, or equipment used to manufacture or produce such instruments, apparatus, equipment devices, instructions, and plans, and, upon conviction for violation of the provisions of this section, such instruments, apparatus, equipment, devices, instructions, and plans, together with all such materials, tools, machinery, and equipment used to manufacture or produce same, shall be destroyed or otherwise disposed of by order of the court.

Sec. 71. Punishment; civil damages; remedies nonexclusive.

1. Any person who willfully violates this ordinance for the purpose of theft of cable services shall be subject to a fine not to exceed one thousand dollars (\$1,000.00) or imprisonment for up to six (6) months, or both, for each violation.

2. Whoever is found in a civil action to have violated the provisions of this section shall be liable in actual and punitive damages to a franchisee involved or may be subject to injunction, or both, and, upon judgment in favor of a franchisee, such franchisee shall also be entitled to recover all costs of such action, including all appellate proceedings, together with reasonable attorney's fees.

3. The provisions set forth herein are in addition to any remedies or sanctions of any other local, state, or federal law.

Sec. 72. Performance evaluation.

1. The Town may conduct periodic performance evaluations of a franchisee. A franchisee shall cooperate with these evaluations. If the Town implements a survey of cable subscribers in connection with a performance evaluation, the Town may require:

1.1. A franchisee to distribute the Town's questionnaire to its subscribers at the Town's expense; or

1.2. Provide address labels to be used by the Town to send questionnaire. The Town pledges its obligation to preserve subscribers' privacy rights and will not retain subscriber information without the consent of the subscriber.

2. At the conclusion of the evaluation, the Town Manager shall issue a report to the Town Council of the results of any performance evaluation, together with, if necessary, any recommendations for methods to improve a franchisee's performance under the franchise or this ordinance.

Sec. 73. Enforcement; settlement authority, notice and cure provisions.

1. Provisions of this ordinance listed will be enforced pursuant to the Town code. The Manager is hereby authorized to resolve by settlement any notice of violation of this ordinance issued. In deciding to settle a dispute over an alleged violation, the Town Manager shall consider:

- 1.1. The probability of success in proving the violation;
- 1.2. The nature and seriousness of the violation;
- 1.3. The franchisee's past history concerning similar violations;
- 1.4. Mitigating factors; and
- 1.5. The franchisee's success in resolving this dispute with affected subscribers.

2. Prior to issuing a notice of violation pursuant to the Town code, the Town Manager will provide a franchisee with notice and opportunity to cure. The notice shall state the code section alleged to be violated, factual basis of the violation, the amount of the civil penalty as set forth in the Town code, and the time period allowed to cure the violation without incurring a civil penalty. If the violation has not been cured to the satisfaction of the Town Manager, within the time period stated in the notice, penalty(ies) will be imposed in accordance with the Town code. This notice and cure provision will apply only to subsections 73(2.7.1), (2.7.2), and (2.7.3) listed below:

2.6. A franchisee shall have a notice and opportunity to cure time period of no less than seven (7) days for violations of the following:

2.6.1. Burying drop cable

2.7. A franchisee shall have a notice and opportunity to cure time period of no less than thirty (30) days for violations of the following:

2.7.1. Operating without a franchise or license

2.7.2. Facilities or service outside franchise area

2.7.3. Obtain approval of franchise or license transfer

2.7.4. Maintain franchise or license

2.7.5. Maintaining insurance

2.7.6. Maintaining performance bond

2.7.7. Submission of construction plan

2.7.8. Identify vehicles and field personnel

2.7.9. Equipment for the hearing impaired

2.7.10. Service to public buildings

2.7.11. Capital support for educational and government access

channels

2.7.12. Precedence to Town public service announcement and

programming

2.7.13. Broadcast Town Commission meetings

2.7.14. Record and reporting

2.7.15. Maintaining an office

2.7.16. Maintaining twenty-four-hour telephone system

2.7.17. Meet telephone answer time for subscribers

2.7.18. Installation, outages and service call requirements

- 2.7.19. Maintaining office hours
- 2.7.20. Maintaining service call requirements
- 2.7.21. Notify Town Manager of rate increase
- 2.7.22. Notify Town Manager of channel change

2.8. A franchisee shall have a notice and opportunity to cure time period of no less than sixty (60) days for violations of the following:

- 2.8.1. Construction and time limitations
- 2.8.2. Standby power
- 2.8.3. Provide emergency override facilities
- 2.8.4. Providing educational and government access channels
- 2.8.5. Designate government access cable channel upon request

2.9. If the violation of this ordinance continues fifteen (15) days after imposing the first violation penalty or, after curing the violation, occurs again within a one (1) year period of the first violation, a repeat violation penalty will be imposed.

Sec. 74. Further remedies.

1. If the Town determines that a franchisee fails to conform to the required telephone standards in Section 58 for one (1) quarter:

1.1. The Town Manager may require a franchisee to provide the Town with a communication traffic study within thirty (30) days of notice. The study will be conducted on all subscriber service trunk lines and must include information on the efficiency of the communication system measured from the telephone company's central office, as well as other performance information available from a franchisee's communication equipment. The study must provide information that confirms that a franchisee's communications system is properly trunked and staffed to meet the requirements of this ordinance using generally accepted telephonic engineering standards.

1.2. Based upon the findings of the traffic study that additional personnel are needed and other relevant considerations, the Town Manager may give a franchisee up to sixty (60) days to implement a corrective or appropriate plan. The Town Manager may require a franchisee to staff a minimum specified number of subscriber service representatives to handle telephone calls. The minimum number shall be one (1) such subscriber service representative for each one hundred (100) calls received daily. For purposes of this calculation, the number of calls shall be the median number of calls received on a daily basis for the one (1) quarter during which the standards were not met. If, following a Town order for minimum staffing requirements, a franchisee's performance meets the required telephone standards for any one (1) quarter, the Town will rescind its minimum staffing order; provided, a franchisee continues to conform to the required telephone standards.

1.3. If traffic study findings indicate an insufficient number of incoming trunks to the telephone system, the Town Manager may require a franchisee to order sufficient trunks to handle the telephone calls.

1.4. If the traffic study findings indicate that there is inadequate service to handle current subscribers' needs, and that there is a need for improvement in the number of personnel or incoming communication trunking lines, franchisee shall pay all costs incurred in the preparation of the traffic study.

1.5. In addition to or instead of any other remedy, the Town may seek legal or equitable relief from any court of competent jurisdiction.

1.6. Failure of the Town to enforce any requirements of a franchise or this ordinance shall not constitute a waiver of the Town's right to enforce subsequent violations of the same type or to seek appropriate enforcement remedies.

2. The Town reserves the right to conduct an independent audit to determine the efficiency of a franchisee's communication system, if the Town determines based on continued subscribers' complaints that the communications system is not meeting the needs of the subscribers. The cost of such independent audit shall be borne solely by a franchisee.

Sec. 75. Termination; right of termination.

1. The Town reserves the right to suspend, terminate and cancel a franchise and all rights and privileges of a franchisee after following the process pursuant to the following section for just and reasonable cause and/or in the event that any one (1) of the following occurs:

1.1. A franchisee, after thirty (30) days' notice of a violation sent by certified mail by the Town, continues to violate any material provision of this ordinance or any rule pursuant to this ordinance, except if such violation by franchisee is without fault or through excusable negligence.

1.2. A franchisee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt.

1.3. A franchisee practices any fraud or deceit upon the Town in connection with its responsibilities under its franchise.

1.4. A franchisee fails to commence any required construction within one (1) year from the effective date of its franchise.

Sec. 76. Procedures for termination.

1. A franchise may be terminated in accordance with the following procedures:

1.1. The Town Manager shall notify a franchisee in writing of the exact nature of the alleged violation constituting a ground for termination and give a franchisee sixty (60) days, or such other greater amount of time as the Town Manager may specify, to correct such violation or to present facts and argument in refutation of the alleged violation.

1.2. If within the designated time a franchisee does not remedy and/or put an end to the alleged violation, or if corrective action is not being actively and expeditiously pursued, the Town Council, after a public hearing, may direct the termination of the franchise if it determines that such action is warranted.

1.3. Prior to the public hearing, the Council may order an administrative hearing. The Town Manager shall initiate an administrative proceeding by issuing a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Town Manager may appoint a presiding officer for the hearing. Upon completion of the hearing, the presiding officer shall issue a recommended decision. Parties to the hearing and the public shall have thirty (30) calendar days to comment on the recommended decision after its issuance. Within thirty (30) days after the receipt of comments, the Town Manager may submit recommendations to the Town Council on whether to terminate the franchise.

1.4. Following the public hearing, the Council shall determine whether or not to revoke the franchise based on any recommended decision, the evidence and argument presented at the hearing, any recommendations of the Town Manager, and other evidence of record. The Council's determination shall be reflected in a written opinion setting forth the reasons for its decision.

1.5. Any franchise may, at the option of the Town following a public hearing before the Town Council, be revoked one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of a franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceedings, unless within that one hundred twenty-day period:

1.5.1. Such assignment, receivership or trusteeship has been vacated; or

1.5.2. Such assignee, receiver or trustee has fully complied with the terms and conditions of this ordinance and the franchise hereunder and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the franchise.

1.6. In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a franchisee, the Town may revoke the franchise, following a public hearing before the Town Council, by serving notice upon a franchisee and the successful bidder at the sale, in which event the franchise and all rights and privileges of the franchise will be revoked ninety (90) calendar days after serving such notice, unless:

1.6.1. The Town has approved the transfer of the franchise to the successful bidder; and

1.6.2. The successful bidder has covenanted and agreed with the Town to assume and be bound by the terms and conditions of the franchise.

1.7. In the event of any termination of the franchise, whether by expiration, revocation or otherwise, the Town may acquire ownership of the cable system at an equitable price. Further, in the event of any termination of the franchise, whether by expiration, revocation, or otherwise, the cable operator agrees to cooperate with the Town or third parties or to take other reasonable steps to maintain continuity in the distribution of services to subscribers over the system for a period of up to six (6) months.

Sec. 77. Removal required.

To the extent that it is determined to be in the interest of the health, safety, and welfare of the public, a franchisee or licensee shall, upon notice, promptly remove from the streets or public places all portions of the system facilities.

Sec. 78. Restoration required.

1. In the event of removal as referenced in section 77 above, a franchisee and the licensee shall promptly and reasonably restore the street or other area from which such property was removed to the condition existing prior to the disruption of the right-of-way or other area and in accordance with the Minimum Standards.

2. If a franchisee or licensee fails to properly and promptly restore the area, the Town, at its election, may restore the area and cause forfeiture of the permanent performance bond in order to reimburse the Town for any costs and expenses it incurs for restoring the area.

Sec. 79. Continuity of service.

1. It is the right of all subscribers to receive all available services from a franchisee as long as their obligations to a franchisee are satisfied. It is a violation of this ordinance for a franchisee to terminate service or fail to provide service to its system for more than forty-eight (48) consecutive hours. This section does not apply to acts of God or acts of war.

2. In the event of a termination or transfer of a franchise for whatever reason, a franchisee must do everything in its power to ensure that all Town subscribers receive continuous uninterrupted service regardless of the circumstance. If necessary, to ensure continuity of service, a franchisee must cooperate with the Town to operate the system for a temporary period not to exceed six (6) months. Revenues accrued during that period of time shall be received by the operator.

Sec. 80. Appeal procedures.

1. All civil penalties enforced pursuant to the provisions of the Town code may be appealed as provided in the Town Code.

2. All decisions of the Town Manager may be appealed within thirty (30) days by filing a written notice of appeal with the clerk of the Council and providing copies to the Town Manager and the Town Attorney. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, and a brief summary of the relief which is sought and be accompanied by a nonrefundable fee of one hundred dollars (\$100.00) to cover the cost of processing. The Council shall conduct a public hearing, at which time it may affirm, modify or reverse the decision of the Town Manager. The Town Manager shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the Council. Nothing

contained herein shall preclude the Council from seeking additional information prior to rendering a final decision. The decision of the Council shall be in writing, and a copy of the decision shall be forwarded to the Town Manager and the appealing party.

3. Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the Council may appeal an adverse decision to a court of competent jurisdiction in Broward County, Florida. The party making the appeal shall be required to pay to the clerk of the Town Council the sum of one hundred dollars (\$100.00) to defray the costs of preparing the record on appeal.

4. The FCC shall be the sole forum for appeals of decisions by the Council on rates for the basic service tier and associated equipment.

Sec. 81. Force majeure.

In the event a franchisee's performance of any of the terms and conditions or obligations required by this ordinance is prevented by a cause or event not within a franchisee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; however, such inability to perform shall not relieve a franchisee from its general obligations to provide pro rata credits or rebates for interruptions in service. For the purpose of this section, causes or events not within the control of a franchisee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of a franchisee to perform or failure of a franchisee to obtain any necessary permits or franchises from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of a franchisee, or the failure of a franchisee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable communications system where a franchisee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

Sec. 82. Town's right of intervention.

The Town hereby reserves to itself and a franchisee or licensee acknowledges the Town's right to intervene in any suit, action or proceeding involving a franchise or license granted hereunder or any provision of this ordinance.

Sec. 83. Reservation of rights.

1. The Town hereby reserves the right to amend this ordinance as it shall find necessary in the lawful exercise of its police powers.

2. And additional regulations adopted by the Town shall be incorporated into this ordinance and complied with by all franchisees and licensees within thirty (30) calendar days of the date of adoption of such additional regulations unless imposition of such

regulations could be otherwise prohibited by applicable law or the regulations provides for a longer time to comply.

3. The Town reserves the right to exercise the power of eminent domain to acquire the property of a franchisee or licensee in accordance with applicable law.

4. The Town shall at all times have the right, upon reasonable notice and during normal business hours to examine records and to inspect facilities of a licensee to the extent needed to monitor a franchisee or compliance of a franchisee or licensee with and performance under this ordinance and the applicable franchise or license.

Sec. 84. Conflict.

All sections or parts of sections of the Town Code and all resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

Sec. 85. Severability.

If any section, part of section, paragraph, clause, phrase, or word of this ordinance is declared invalid, the remaining provisions of this ordinance shall not be affected.

Sec. 86. Inclusion in Code.

It is the intention of the Town Council that the provisions of this Ordinance shall become and be made a part of the Town of Southwest Ranches Code; and that the sections of this Ordinance may be renumbered or relettered and the word "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions.

PASSED ON FIRST READING by the Town Council of the Town of Southwest ranches, Florida, this 12th day of December, 2002.

PASSED ON SECOND READING by the Town Council of the Town of Southwest Ranches, Florida, this 16th day of January, 2003.

By: _____
Mecca Fink, Mayor

ATTEST:

Arielle Haze Tyner, Town Clerk

Approved as to Form and Correctness:

Gary A. Poliakoff, J.D., Town Attorney

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