

TITLE XI: BUSINESS REGULATIONS

Chapter

110. AMUSEMENTS

111. CABLE TV RATE REGULATION

112. VENDORS, SOLICITORS AND PEDDLERS

**113. Consumers Energy Company Electric
Franchise**

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CHAPTER 110: AMUSEMENTS

Section

General Entertainment

110.01 License required; fees

110.02 Violation

GENERAL ENTERTAINMENT

§ 110.01 LICENSE REQUIRED.

(A) No itinerant person, persons, company or companies shall exhibit in the village any circus, menagerie, sideshow, play, game or theatrical exhibition, or give any concert, vocal or instrumental, or exhibit any natural or artificial curiosity, or give any public entertainment of any kind, for which pay is demanded or received, without a license from the Village President, countersigned by the Village Clerk. For every license granted for any object or purpose herein specified there shall be collected from the person or persons, company or companies receiving the same fees as follows.

(1) For a circus or menagerie, or a combination thereof, a fee of \$15 per day.

(2) For exhibition of natural or artificial curiosities accompanying the circus or menagerie, or both, and exhibiting on the same day, a fee of \$3 for each day's exhibition.

(3) For a play or other theatrical exhibition, \$2 for each day.

(4) For any public entertainment or amusement not herein otherwise designated, and for which pay is demanded or received, \$2 for each day.

(B) This shall not apply to chautauquas and lecture courses; or entertainments given under the auspices of any church, school, social club or fraternal society or organization.

(Ord. 10, passed 3-9-27) Penalty, see § 10.99

§ 110.02 VIOLATION.

Every proprietor, agent, manager, person in charge, assistant or performer in any circus, show, menagerie or public exhibition, play, game, performance or concert who shall manage, engage in, assist or perform in any exhibition or entertainment, for which a license is required and shall not have been granted, shall be deemed guilty of a violation of this subchapter.

(Ord. 10, passed 3-9-27) Penalty, see § 10.99

CHAPTER 111: CABLE TV RATE REGULATION

Section

General Provisions

- 111.01 Purpose
- 111.02 Definition
- 111.03 Compliance with FCC rules
- 111.04 Rules and regulations
- 111.05 Authority of village
- 111.06 Failure to comply; remedies
- 111.07 Conflicting provisions

Establishment of Rates; Filing Procedures

- 111.20 Filing; additional information; burden of proof
- 111.21 Proprietary information
- 111.22 Public notice; initial review of rates
- 111.23 Tolling order
- 111.24 Public notice; hearing following tolling of 30-day deadline
- 111.25 Written response
- 111.26 Rate decisions and orders
- 111.27 Refunds; notice
- 111.28 Written decisions; public notice

GENERAL PROVISIONS

§ 111.01 PURPOSE.

The purpose of this chapter is to adopt regulations consistent with the Act and the FCC Rules with respect to basic cable service rate regulation, and to prescribe procedures to provide a reasonable opportunity for consideration of the views of interested parties in connection with basic cable service rate regulation by the village. This chapter shall be implemented and interpreted consistent with the Act and FCC Rules.

(Ord. 139, passed - -)

§ 111.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply, unless the context clearly indicates or requires a different meaning. All other words and phrases used in this chapter shall have the same meaning as defined in the Act and FCC Rules.

ACT. The Communications Act of 1934, as amended (and specifically as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. 102-385), and as may be amended from time to time.

ASSOCIATED EQUIPMENT. All equipment and services subject to regulation pursuant to 47 CFR 76.923.

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

FCC. The Federal Communications Commission.

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

INCREASE IN RATES. An increase in rates or a decrease in programming or customer services. (Ord. 139, passed - -)

§ 111.03 COMPLIANCE WITH FCC RULES.

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

(Ord. 139, passed - -)

§ 111.04 RULES AND REGULATIONS.

(A) *Rules and regulations.* In addition to rules promulgated pursuant to § 111.20, the Village Council may, by resolution or otherwise, adopt rules and regulations for basic cable service rate regulation proceedings (including, without limitation, the conduct of hearings), consistent with the Act and the FCC Rules.

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

(C) *Additional hearings.* In addition to the requirements of this chapter, the Village Council may hold additional public hearings upon such reasonable notice as the Village Council, in its sole discretion, shall prescribe.

(Ord. 139, passed - -)

§ 111.05 AUTHORITY OF VILLAGE.

The village shall possess all powers conferred by the Act, the FCC Rules, the cable operator's franchise, and all other applicable law. The powers exercised pursuant to the Act, the FCC rules, and this chapter shall be in addition to powers conferred by law or otherwise. The village may take any action not prohibited by the Act and the FCC Rules to protect the public interest in connection with basic cable service rate regulation.

(Ord. 139, passed - -)

§ 111.06 FAILURE TO COMPLY; REMEDIES.

The village may pursue any and all legal and equitable remedies against the cable operator (including, without limitation, all remedies provided under a cable operator's franchise with the village) for failure to comply with the Act, the FCC Rules, any orders or determinations of the village pursuant to this chapter, any requirements of this chapter or any rules or regulations promulgated hereunder. Subject to applicable law, failure to comply with the Act, the FCC Rules, any orders or determinations of the village pursuant to this chapter, any requirements of this chapter, or any rules and regulations promulgated hereunder, shall also be sufficient grounds for revocation or denial of renewal of a cable operator's franchise.

(Ord. 139, passed - -)

§ 111.07 CONFLICTING PROVISIONS.

In the event of any conflict between this chapter and the provision of any prior ordinance or any franchise, permit, consent agreement or other agreement with a cable operator, then the provisions of this chapter shall control.

(Ord. 139, passed - -)

ESTABLISHMENT OF RATES; FILING PROCEDURES

§ 111.20 FILING; ADDITIONAL INFORMATION; BURDEN OF PROOF.

(A) A cable operator shall submit its schedule of rates for the basic service tier and associated equipment or a proposed increase in rates in accordance with the Act and the FCC Rules. The cable

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

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

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

(Ord. 139, passed - -)

§ 111.21 PROPRIETARY INFORMATION.

(A) If this chapter, any rules or regulations adopted by the village pursuant to § 111.20(A), or any request for information pursuant to § 111.20(B) requires the production of proprietary information, the cable operator shall produce the information. However, at the time the allegedly proprietary information is submitted, a cable operator may request that specific, identified portions of its response be treated as confidential and withheld from public disclosure. The request must state the reason why the information should be treated as proprietary and the facts that support those reasons. The request for confidentiality will be granted if the village determines that the preponderance of the evidence shows that non-disclosure is consistent with the provision of the Freedom of Information Act, 5 USC 552. The village shall place in a public file for inspection any decision that results in information being withheld. If the cable operator requires confidentiality and the request is denied, the operator shall have two options.

(1) Where the cable operator is proposing a rate increase, it may withdraw the proposal, in which case the allegedly proprietary information will be returned to it, or

(2) The cable operator may seek review within five working days of the denial in any appropriate forum. Release of the information will be stayed pending review.

(B) Any interested party may file a request to inspect material withheld as proprietary with the village. The village shall weigh the policy considerations favoring non-disclosure against the reasons cited for permitting inspection in light of the facts of the particular case. It will then promptly notify the requesting entity and the cable operator that submitted the information as to the disposition of the

request. It may grant, deny or condition a request. The requesting party or the cable operator may seek review of the decision by filing an appeal with any appropriate forum. Disclosure will be stayed pending resolution of any appeal.

(C) The procedures set forth in this section shall be construed as analogous to and consistent with the rules of the FCC regarding requests for confidentiality including, without limitation, 47 CFR 0.459. (Ord. 139, passed - -)

§ 111.22 PUBLIC NOTICE: INITIAL REVIEW OF RATES.

Upon the filing of ten copies of the schedule of rates or the proposed increase in rates pursuant to § 111.20(A), the Village Clerk shall publish a public notice in a newspaper of general circulation in the village which shall state that the filing has been received by the Village Clerk and (except those parts which may be withheld as proprietary) is available for public inspection and copying, and that interested parties are encouraged to submit written comments on the filing to the Village Clerk not later than seven days after the public notice is published. The Village Clerk shall give notice to the cable operator of the date, time, and place of the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase. This notice shall be mailed by first-class mail at least three days before the meeting. In addition, if a written staff or consultant's report on the schedule of rates or the proposed increase is prepared for consideration of the Village Council, then the Village Clerk shall mail a copy of the report by first-class mail to the cable operator at least three days before the meeting at which the Village Council shall first consider the schedule of rates or the proposed increase.

(Ord. 139, passed - -)

§ 111.23 TOLLING ORDER.

After a cable operator has filed its existing schedule of rates or a proposed increase in these rates, the existing schedule of rates will remain in effect or the proposed increase in rates will become effective after 30 days from the date of filing under § 111.20(A) unless the Village Council (or other properly authorized body or official) tolls the 30-day deadline pursuant to 47 CFR 76.933 by issuing a brief written order, by resolution or otherwise, within 30 days of the date of filing. The Village Council may toll the 30-day deadline for an additional 90 days in cases not involving cost-of-service showings and for an additional 150 days in cases involving cost-of-service showings.

(Ord. 139, passed - -)

§ 111.24 PUBLIC NOTICE; HEARING FOLLOWING TOLLING OF 30-DAY DEADLINE.

If a written order has been issued pursuant to § 111.23 and 47 CFR 76.933 to toll the effective date of existing rates for the basic service tier and associated equipment or a proposed increase in these rates, the cable operator shall submit to the village any additional information required or requested pursuant to § 111.20. In addition, the Village Council shall hold a public hearing to consider the comments of interested parties within the additional 90-day or 150-day period, as the case may be. The Village Clerk

shall publish a public notice of the public hearing in a newspaper of general circulation within the village which shall state the following

(A) The date, time, and place at which the hearing shall be held.

(B) That interested parties may appear in person, by agent, or by letter at the hearing to submit comments on or objections to the existing rates or the proposed increase in rates.

(C) Copies of the schedule of rates or the proposed increase in rates and related information (except those parts which may be withheld as proprietary) are available for inspection or copying from the office of the Clerk. The public notice shall be published not less than 15 days before the hearing. In addition, the Village Clerk shall mail by first-class mail a copy of the public notice to the cable operator not less than 15 days before the hearing.

(Ord. 139, passed - -)

§ 111.25 WRITTEN RESPONSE.

Following the public hearing, the Village President shall cause a report to be prepared for the Village Council which shall (based on the filing of the cable operator, the comments or objections of interested parties, information requested from the cable operator and its response, staff or consultant's review, and other appropriate, information) include a recommendation for the decision of the Village Council pursuant to § 111.26. The Village Clerk shall mail a copy of the report to the cable operator by first-class mail not less than 20 days before the Village Council acts under § 111.26. The cable operator may file a written response to the report with the Village Clerk. If at least ten copies of the response are filed by the cable operator with the Village Clerk within ten days after the report is mailed to the cable operator, the Village Clark shall forward it to the Village Council.

(Ord. 139, passed - -)

§ 111.26 RATE DECISIONS AND ORDERS.

The Village Council shall issue a written order by resolution or otherwise, which in whole or in part, approves the existing rates for basic cable services and associated equipment or a proposed increase in the rates, denies the existing rates or proposed increase, orders a rate reduction, prescribes a reasonable rate, allows the existing rates or proposed increase to become effective subject to refund, or orders other appropriate relief, in accordance with the FCC Rules. If the Village Council issues an order allowing the existing rates or proposed increase to become effective subject to refund, it shall also direct the cable operator to maintain an accounting pursuant to 47 CFR 76.933. The order specified in this section shall be issued within 90 days of the tolling order under § 111.23 in all cases not involving a cost-of-service showing. The order shall be issued within 150 days after the tolling order under § 111.23 in all cases involving a cost-of-service showing.

(Ord. 139, passed - -)

§ 111.27 REFUNDS; NOTICE.

The Village Council may order a refund to subscribers as provided in 47 CFR 76.942. Before the Village Council orders any refund to subscribers, the Village Clerk shall give at least seven days written notice to the cable operator by first-class mail of the date, time, and place at which the Village Council shall consider issuing a refund order and shall provide an opportunity for the cable operator to comment. The cable operator may appear in person, by agent, or by letter at that time for the purpose of submitting comments to the Village Council.

(Ord. 139, passed - -)

§ 111.28 WRITTEN DECISIONS; PUBLIC NOTICE.

Any order of the Village Council pursuant to § 111.26 or 111.27 shall be in writing, shall be effective upon adoption by the Village Council, and shall be deemed released to the public upon adoption. The Clerk shall publish a public notice of any written order in a newspaper of general circulation within the village which shall summarize the written decision and state that copies of the text of the written decision are available for inspection or copying from the office of the Clerk. In addition, the Village Clerk shall mail a copy of the text of the written decision to the cable operator by first-class mail.

(Ord. 139, passed - -)

CHAPTER 112: VENDORS, SOLICITORS AND PEDDLERS

Section

- 112.01** Solicitation of private residences prohibited
- 112.02** Exceptions

§ 112.01 SOLICITATION OF PRIVATE RESIDENCES PROHIBITED.

The practice of going in or upon private residences in the village by solicitors, peddlers, hawkers, itinerant merchants or transient vendors of merchandise not having been required or invited to do so by the owner or owners, occupant or occupants of the private residences, for the purpose of soliciting orders for the sale of goods, wares and merchandise and/or disposing of and/or peddling or hawking the sales, is declared to be a nuisance and punishable as such nuisance as a misdemeanor.

(Ord. 111, passed 8-10-89) Penalty, see § 10.99

§ 112.02 EXCEPTIONS.

The provisions of this chapter shall not apply to the sale or soliciting of orders for the sale of milk, dairy products, vegetables, poultry, eggs and other farm and garden produce insofar as the sale of the commodities named herein is now authorized by law. Nor shall the provisions of this chapter apply to the sale or soliciting of orders for sale of goods, wares and merchandise by persons representing charitable organizations. A charitable organization is any organization as defined in Title 26, paragraph 170(c), United States Internal Revenue Code.

(Ord. 111, passed 8-10-89) Penalty, see § 10.99

Section 113

ORDINANCE NO. 204

CONSUMERS ENERGY COMPANY ELECTRIC FRANCHISE ORDINANCE

AN ORDINANCE, granting to CONSUMERS ENERGY COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the VILLAGE OF QUINCY, BRANCH COUNTY, MICHIGAN, for a period of thirty years.

THE VILLAGE OF QUINCY ORDAINS:

SECTION 1. GRANT, TERM. The VILLAGE OF QUINCY, BRANCH COUNTY, MICHIGAN, hereby grants the right, power and authority to the Consumers Energy Company, a Michigan corporation, its successors and assigns, hereinafter called the "Grantee," to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances for the purpose of transmitting, transforming and distributing electricity on, under, along and across the highways, streets, alleys, bridges, waterways, and other public places, and to do a local electric business in the VILLAGE OF QUINCY, BRANCH COUNTY, MICHIGAN, for a period of thirty years.

SECTION 2. CONSIDERATION. In consideration of the rights, power and authority hereby granted, said Grantee shall faithfully perform all things required by the terms hereof.

SECTION 3. CONDITIONS. No highway, street, alley, bridge, waterway or other public place used by said Grantee shall be obstructed longer than necessary during the work of construction or repair, and shall be restored to the same order and condition as when said work was commenced. All of Grantee's structures and equipment shall be so placed on either side of the highways as not to unnecessarily interfere with the use thereof for highway purposes. All of Grantee's wires carrying electricity shall be securely fastened so as not to endanger or injure persons or property in said highways. The Grantee shall have the right to trim trees if necessary in the conducting of such business, subject, however, to the supervision of the highway authorities.

SECTION 4. HOLD HARMLESS. Said Grantee shall at all times keep and save the Village free and harmless from all loss, costs and expense to which it may be subject by reason of the negligent construction and maintenance of the structures and equipment hereby authorized. In case any action is commenced against the Village on account of the permission herein given, said Grantee shall, upon notice, defend the Village and save it free and harmless from all loss, cost and damage arising out of such negligent construction and maintenance.

SECTION 5. EXTENSIONS. Said Grantee shall construct and extend its electric distribution system within said Village, and shall furnish electric service to applicants residing therein in accordance with applicable laws, rules and regulations.

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SECTION 6. FRANCHISE NOT EXCLUSIVE. The rights, power and authority herein granted, are not exclusive.

SECTION 7. RATES. Said Grantee shall be entitled to charge the inhabitants of said Village for electric furnished therein, the rates as approved by the Michigan Public Service Commission, to which Commission or its successors authority and jurisdiction to fix and regulate electric rates and rules regulating such service in said Village, are hereby granted for the term of this franchise. Such rates and rules shall be subject to review and change at any time upon petition therefor being made by either said Village, acting by its Village Council, or by said Grantee.

SECTION 8. REVOCATION. The franchise granted by this ordinance is subject to revocation upon sixty (60) days written notice by the party desiring such revocation.

SECTION 9. MICHIGAN PUBLIC SERVICE COMMISSION, JURISDICTION. Said Grantee shall, as to all other conditions and elements of service not herein fixed, be and remain subject to the reasonable rules and regulations of the Michigan Public Service Commission or its successors, applicable to electric service in said Village.

SECTION 10. REPEALER. This ordinance, when accepted and published as herein provided, shall repeal and supersede the provisions of an electric ordinance adopted by the Village on January 6, 1976 entitled:

AN ORDINANCE, granting to CONSUMERS POWER COMPANY, its successors and assigns, the right, power and authority to construct, maintain and commercially use electric lines consisting of towers, masts, poles, crossarms, guys, braces, feeders, transmission and distribution wires, transformers and other electrical appliances on, under, along and across the highways, streets, alleys, bridges and other public places, and to do a local electric business in the VILLAGE OF QUINCY, BRANCH COUNTY, MICHIGAN, for a period of thirty years.

and amendments, if any, to such ordinance whereby an electric franchise was granted to Consumers Energy Company.

SECTION 11. EFFECTIVE DATE. This ordinance shall take effect upon the day after the date of publication thereof; provided, however, it shall cease and be of no effect after thirty days from its adoption unless within said period the Grantee shall accept the same in writing filed with the Village Clerk. Upon acceptance and publication hereof, this ordinance shall constitute a contract between said Village and said Grantee.

We certify that the foregoing Franchise Ordinance was duly enacted by the Village Council of the VILLAGE OF QUINCY, BRANCH COUNTY, MICHIGAN, on the 21st day of February, 2006.

Karen Hargreave, Village President

Attest:

Diane Beckman
Diane Beckman, Village Clerk

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