

VILLAGE OF AUGUSTA, MICHIGAN
CABLE TV FRANCHISE ORDINANCE

ORDINANCE NO. 118

An Ordinance granting to TAB INCORPORATED the right to erect, maintain and operate for the purpose of transmission by cable and distribution of television, FM and other electro-magnetic impulses for sale to the inhabitants of the Village of Augusta, Michigan and for other purposes and for the regulation of same.

THE VILLAGE OF AUGUSTA,
KALAMAZOO COUNTY, MICHIGAN,

ORDAINS:

- I. GRANT OF FRANCHISE: For and in consideration of the mutual covenants and promises hereinafter set forth, the Village of Augusta, Michigan does hereby grant to TAB INCORPORATED the right to construct, operate and maintain a community antenna television system, hereinafter sometimes called CATV, in the Village of Augusta, Michigan for the purpose of receiving, amplifying and distributing television and radio signals for the use of the citizens and residents of the Village of Augusta for the term and on the conditions as follows:
2. USE OF ROADS: The right hereby granted shall authorize and permit TAB INCORPORATED to engage in the business of operating and providing a CATV system in the Village of Augusta, Michigan and for the purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public street, alley or highway such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system. Any poles or towers used or erected by TAB INCORPORATED shall be so erected and used as not to interfere with the traffic over the streets and alleys of the Village of Augusta, Michigan. Any street, sidewalk, alley or public highway disturbed or damaged in the construction or maintenance of said CATV system shall be promptly repaired by TAB INCORPORATED at its expense and to the satisfaction

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of the Village of Augusta, Michigan.

3. CAPACITY: TAB INCORPORATED shall survey, map, construct, install and operate a complete CATV system with a 32-channel capacity, 12 channels of which shall be activated upon completion of the system and 19 channels to be for future use and development.

4. EMERGENCY SERVICE: As a part of said CATV system, TAB INCORPORATED will provide an all channels alerting system so as to provide emergency audio announcements on all channels simultaneously.

5. PUBLIC CHANNEL: TAB INCORPORATED, commencing with the activation of service, shall maintain and operate CATV studio facilities for the Village of Augusta, and shall provide for the Village of Augusta and its inhabitants without cost, a television camera and other equipment and the use of one channel of said system as a local channel. It is understood and agreed that programs originated by the Village of Augusta at the studio shall be without cost; however, the Village of Augusta shall reimburse TAB INCORPORATED for any costs and expenses of programs originated from other than the studio which utilize personnel of TAB INCORPORATED. TAB INCORPORATED further agrees to train persons designated by the Village of Augusta in the operation of television camera and equipment so that the Village of Augusta and its inhabitants may develop the capability of originating and presenting programs over the system.

6. PUBLIC SCHOOL CHANNELS: TAB INCORPORATED further agrees to provide one channel on said system for the use of the Village of Augusta, Public School Systems. Programs originated by said school system from the studio shall be without costs, however, TAB INCORPORATED shall be reimbursed for costs and expenses for programs originated from other than the studio and which utilize the personnel and equipment of TAB INCORPORATED. TAB INCORPORATED further agrees to train persons designated by the school system in the operation of television cameras and equipment so that the school district can develop the capability of presenting programs with its own personnel.

7. TIME FOR COMMENCEMENT: TAB INCORPORATED shall, within 90 days after the date of this franchise, commence the necessary engineering and

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other surveys preparatory to construction of CATV system. Physical construction of the CATV system shall be commenced within three months after the date of the FCC Certification of Compliance, and said CATV system shall be in operation within 12 months after the commencement of such construction. Said system shall be extended upon demand to service additional customers within the Village of Augusta.

8. VILLAGE OF AUGUSTA BUILDINGS AND SCHOOLS: TAB INCORPORATED shall provide without limitation or charge and without monthly fee, one connection to any building and to all public, private and parochial schools and colleges passed by the cable.

9. UNDERGROUND INSTALLATION: All lines, wires or cables installed as a part of said CATV system shall be installed underground in those areas where electric lines or telephone lines are located in underground installations, and TAB INCORPORATED further agrees that as electric or telephone lines are placed underground in the future its lines shall also be placed underground in such areas.

10. RATES: The maximum rates which TAB INCORPORATED may charge subscribers for the use of said CATV system shall be as follows:

	<u>RATE</u>	<u>NOT TO EXCEED</u>
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Monthly Service Charge (1 outlet)		\$ 6.25
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Monthly Service Charge (1 outlet) More than 12 channels		7.25
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Monthly Service Charge, each additional outlet		1.75
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Installation Charge (1 set)		20.00
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Frequency Modulation (FM) Outlet and Monthly Service Charge		1.75
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TAB INCORPORATED shall have the right to waive part or all of any installation charge set forth above. The rate schedule set forth above shall not be increased without the prior approval of the Village of Augusta, which shall be preceded by appropriate public proceedings affording due process to interested parties.

11. INSPECTION AND SUPERVISION FEES: TAB INCORPORATED agrees that in consideration for the rights and privileges herein granted it shall pay

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to the Village of Augusta on a semi-annual basis the sum of One Dollar (\$1.00) for each installation made within the Village of Augusta during the preceding six month period as in an inspection and supervision fee. Said payment shall be made as of July 1st and January 1st of each calendar year during the term of this franchise. In addition to said inspection and supervision fee, TAB INCORPORATED shall pay to the Village of Augusta the sum of One Dollar (\$1.00) for each year for each customer for whom service is being provided in that year. Said sum shall be due and payable to the Village of Augusta on an annual basis not later than January 10th of each year for the preceding calendar year. TAB INCORPORATED shall file with the Village of Augusta annually an audited statement of the number of installations made within the Village of Augusta during the preceding twelve-month period, and also a list of the number of customers served during the preceding year, said audited statement to be furnished to the Village of Augusta within sixty (60) days after the close of the fiscal year of CABLE TV.

12. REVOCABLE, NON-EXCLUSIVE FRANCHISE: It is further understood and agreed that this franchise may be revoked at any time for non-compliance by the Village of Augusta. It is understood and agreed that this is a non-exclusive franchise.

13. NON-ASSIGNABILITY: This franchise shall be deemed a privilege to be held in personal trust by TAB INCORPORATED and said franchise shall not be sold, transferred, leased, assigned or any way disposed of by TAB INCORPORATED without the prior consent of the Village of Augusta.

14. INDEMNIFICATION AND INSURANCE: TAB INCORPORATED shall hold the Village of Augusta harmless from all claims for damages arising out of the construction, maintenance and operation of said CATV system in the Village of Augusta. TAB INCORPORATED shall at all times during the existence of this grant and franchise maintain in force and furnish and file with the Village of Augusta a general comprehensive liability insurance policy for the protection of the Village of Augusta with a company authorized to do business in the STATE OF MICHIGAN protecting the Village of Augusta against the liability for loss or damages for personal injury, death and property damage occasioned by the operation of TAB INCORPORATED under this franchise

agreement with minimum liability limits of One Hundred Thousand Dollars (\$1000,000.00) for a personal injury or death of any one person, Three Hundred Thousand Dollars (\$3000,000.00) for personal injury or death of two or more persons in any one occurrence and Twenty-Five Thousand Dollars (\$25,000.00) for damage to property resulting from one occurrence.

15. PATENT INFRINGEMENTS: TAB INCORPORATED further agrees to indemnify and save the Village of Augusta harmless from any and all claims for damages and litigation whatsoever arising out of legal actions by third persons or corporations for infringement of trademark, patents and/or copyright infringements arising from the operation of the system herein franchised.

16. LIMITATIONS ON ACTIVITIES: TAB INCORPORATED agrees that it will not engage in the sale or repair of home receiving television or radio receivers, nor will it engage in what is commonly known as "pay television" excepting as "pay television" under FCC Rules and Regulations.

17. ADDITIONAL TRANSMISSION: TAB INCORPORATED will carry on its CATV system the signal of any authorized and operating Kalamazoo County, Michigan television broadcast station and shall carry the full-time broadcast of any properly-licensed FM (frequency modulation) radio station, either commercial or educational, now existing or subsequently licensed with transmitter facilities situated within Kalamazoo County. TAB INCORPORATED shall carry the signals of such station without any material degradation in quality, except within the limitations imposed by the technical state of the art.

18. REPAIR FACILITIES: TAB INCORPORATED further agrees to keep and maintain such a proper and adequate inventory of maintenance and repair parts for the CATV system as will assure the continuity of service of the system and TAB INCORPORATED further agrees to have maintenance and repair crews available to answer emergency calls. TAB INCORPORATED shall maintain all parts of the system in good condition. TAB INCORPORATED will endeavor to respond to all service calls within 24 hours and correct as promptly as possible. For this purpose, TAB INCORPORATED will maintain a local office with a competent staff of employees sufficient to provide adequate and prompt service to the subscribers. Except where there exists an emergency situation necessitating a more expedient procedure, TAB INCORPORATED may interrupt

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service for the purpose of repair or upgrading of the system only during periods of minimum use and only after 24 hours minimum notice to its subscribers.

19. INTERFERENCE: TAB INCORPORATED further promises and agree that the installation and maintenance of the CATV system shall be such that no interference in excess of the standards defined and permitted by the Federal Communications Commission will be caused to existing properly operating communication systems or direct off-the-air television signals.

20. GOVERNING LAW: TAB INCORPORATED further agrees that it will install and operate said CATV system in compliance with all requirements of federal, state and local laws and ordinances and also the appropriate rules and regulations of any agency or commission having jurisdiction over such operations. Any modification of the provisions of Section 76.31 of the Commission's rules resulting from an amendment of the Federal Communications Commission shall be incorporated into the franchise within one year of adoption of the modification or at the time of franchise renewal, whichever come first.

21. ENGINEERING PLANS: TAB INCORPORATED shall submit to the Village of Augusta, prior to commencing construction of the CATV system, the engineering plans for said construction as well as diagrams of equipment which will be exposed and routes to be taken by the service. The Village of Augusta shall, at its next regular meeting after receipt of the engineering plan, review the engineering, construction, design and routing and shall either approve or disapprove the same, taking into consideration obstruction of view, danger to or interference with motor vehicles and pedestrians, interference with or obstruction of existing facilities and any other factors which would endanger the public welfare, health and safety. The Village of Augusta shall notify TAB INCORPORATED of its determinations and TAB INCORPORATED SHALL not commence or continue any construction or operation until the same has been approved by the Village of Augusta.

22. DEFAULT REMEDIES: If TAB INCORPORATED shall fail to abide by all the terms and conditions of this agreement herein to the contrary notwithstanding, the Village of Augusta shall have and enjoy every

right and remedy for the enforcement of this contract, for damages or otherwise as may be provided by law and equity. It is expressly understood and agreed that the terms and provisions of this paragraph shall not affect the right of the Village of Augusta to terminate this franchise for non-compliance.

23. EFFECTIVE DATE: This Ordinance shall take effect on the 25th day of November, 1974. All Ordinances inconsistent herewith are hereby repealed.

CERTIFICATE OF POSTING

I, MARCEA SCHWARTZ, Clerk of the Village of Augusta, hereby certify that on December 27, 1974, I posted true and correct copies of this Ordinance in three public places within the Village, being Baxter's Pharmacy U.S. Post Office and Village Hall.

Marcea C. Schwartz
MARCEA SCHWARTZ, Clerk

I, MARCEA SCHWARTZ, Clerk of the Village of Augusta, hereby certify the foregoing to be a true copy of an Ordinance passed by the Augusta Village Council at a regular meeting held on November 25, 1974.

Marcea C. Schwartz
MARCEA SCHWARTZ, Clerk