

AN ORDINANCE GRANTING A FRANCHISE TO

CENTURY TELEVIEW OF MICHIGAN, INC.

TO OPERATE AND MAINTAIN A
COMMUNITY ANTENNA AND A CLOSED-CIRCUIT
TELEVISION SYSTEM IN THE

CITY OF AUGRES

AN ORDINANCE granting a permit to Century Teleview of Michigan, Inc. to construct, install, maintain and operate a Community Antenna System in the City of AuGres and providing regulations therefor.

The City Council of the City of AuGres does ordain as follows:

SECTION 1. PROHIBITED USE OF STREETS. No person, firm, partnership, corporation, association or organization shall construct, install, maintain or operate upon, above or beneath streets of the City of AuGres any wire, cable, conduit, device, equipment, facilities or apparatus for or in connection with the distribution of television or radio signals over a Broadband Television Communication Network except as may be specifically permitted by the City Council. No wire, cable, conduit, device, equipment, facilities or apparatus constructed or installed upon, above or beneath the streets in the City of AuGres under a permit herein granted shall be used for any purpose except for a Community Antenna System as herein defined.

SECTION 2. PERMIT GRANTED.

(a) The City Council hereby grants a non-exclusive permit to Century Teleview of Michigan, Inc., a Michigan Corporation, to install, construct, operate and maintain a Community Antenna System, as defined in Section 3(a) of this ordinance, in the City of AuGres, subject to the restrictions and conditions of this

ordinance. Said permittee shall hereafter be referred to as "Operator".

(b) The permit herein granted shall be effective for a period of twenty (20) years. Said permit may be renewed, at the option of the Operator, for an additional ten (10) year period; provided, however, that (i) the City Council shall be notified in writing by the Operator at least 120 days prior to the expiration of the twenty (20) year term that it intends to exercise its option to renew the permit for an additional ten (10) years and (ii) the Operator shall review with the City Council the quality and capability of the Community Antenna System prior to commencement of the additional ten (10) year term and shall make such changes and additions as shall be mutually agreed upon.

SECTION 3. DEFINITIONS.

(a) "Community Antenna System" shall mean any arrangement or combination of wires, cables, conduit, devices, equipment, facilities or apparatus whereby television or radio signals or other intelligences, either analog or digital, are broadcast over the air and are received at one or more towers, antennas or other devices from stations licensed by the Federal Communications Commission, and which for a consideration are transmitted by means of a coaxial cable or other suitable device to receiving sets or apparatus of subscribers to such service. A Community Antenna System may also transmit FM station signals, television pictures and sound originating on its own premises to provide additional service to subscribers.

(b) "Streets" shall mean and include all public streets, alleys, boulevards, parkways, public grounds and easements owned by the City of AuGres.

SECTION 4. CONDITIONS AND RESTRICTIONS ON OPERATION

The Operator, now granted a permit under this ordinance, shall be subject to the following restrictions and conditions with regard to the operation of such system, which conditions and restrictions shall be in addition to any other contained or referred to in this ordinance.

(a) Wire, cable, conduit, device, equipment, facilities or apparatus in connection with such system may be constructed, installed, operated and maintained either under or over the streets of the City of AuGres. Overhead wire, cable, conduit, device, equipment, facilities or apparatus may be installed, constructed, maintained and operated upon such poles and equipment as is there existing and pursuant to such arrangements and agreements as may be made with the owners thereof. Construction and installation of any additional poles or other equipment for the support of wire, cable, conduit, device, equipment, facilities or apparatus in the streets in connection with said system shall be submitted to a designated agent of the City of AuGres or such officer as the Mayor or such officer he shall designate for approval. He shall issue a permit to the Operator provided such construction and installation will conform to the applicable City and State codes.

(b) Except as provided above, such wire, cable, conduit, device, equipment, facilities or apparatus shall conform to the electrical code of the State of Michigan.

(c) The Community Antenna System shall transmit signals from not less than six television stations or networks.

(d) The Operator shall maintain and operate the Community Antenna System in accordance with the rules of the FCC, the state and such regulations as the City shall promulgate.

(e) In case it becomes necessary for the Operator to open or otherwise disturb any "streets", the Operator shall first secure a permit from the City of Au Gres as provided in Section 4(a) hereof.

(f) In the event at any time during the period the Community Antenna System is licensed under the provisions of this ordinance, the City shall lawfully elect to alter or change the grade of any "street", the City shall give reasonable written notice to the Operator. The Operator, upon receipt of such notice by the City, shall remove, relay and relocate its wire, cable, conduit, device, equipment, facilities or apparatus at its own expense. or apparatus at its own expense.

(g) The Operator shall, upon request of any person holding a building moving permit issued by the City, temporarily raise or lower its wire, cable, conduit, device, equipment, facilities or apparatus or disconnect or take them down to permit the moving of buildings. The expense of such removal, raising or

lowering of wire, cable, conduit, device, equipment, facilities or apparatus shall be paid for by the person requesting the same, and the Operator shall be given not less than forty-eight (48) hours advance written notice to arrange for such temporary line changes.

(h) All installation by the Operator, of wire, cable, conduit, device, equipment, facilities or apparatus shall comply in all respects with all laws, ordinances, rules and regulations of the State of Michigan, or any agency or department thereof, and of the City of Au Gres, or any agent or department thereof now or hereafter in effect.

(i) The Operator shall provide and maintain its wire, cable, conduit, device, equipment, facilities or apparatus in such conditions and of such quality so that none of its service will adversely affect radio and television reception.

(j) Installation and maintenance of wire, cable, conduit, device, equipment, facilities or apparatus shall be such that standard color signals shall be transmitted with reasonable fidelity to any subscriber receiver.

(k) The Operator may not, either directly or indirectly, engage in the servicing or repair of television receivers in the City of Au Gres and may not, either directly or indirectly, require of any subscriber the patronage of any designated person or company engaged in such service or repair business. The foregoing shall not apply to the repair or adjustment of wire, cable, conduit, device,

equipment, facilities or apparatus other than receivers, which is a part of the system of the Operator.

(1) The Operator shall submit to inspections by duly authorized personnel of the City of AuGres or the designated agent of the City of AuGres as designated by the Mayor or City Council and shall make available to such inspectors or duly authorized personnel its facilities and equipment. The City of AuGres reserves the rights of reasonable regulation of the installation and maintenance of the facilities of the Operator.

SECTION 5. WAIVER OF LIABILITY. The City of AuGres shall not be liable to the Operator for any damage caused to Operator's Community Antenna System, whether caused by the City's power lines, or its agents or employees, or from any cause whatever.

SECTION 6. TRANSFER OF PERMIT. The Operator may not transfer or assign any rights granted under this ordinance without approval of the City Council. Transfer from a subsidiary to a parent corporation, vice-versa, shall not be considered a transfer under this section.

SECTION 7. LIABILITY OF OPERATOR. The Operator shall indemnify and save the City of AuGres, its agents and employees, harmless from any and all claims for personal injuries or property damage, and any other claims, cost, including attorney's fees,

expense of investigation and litigation of claims and actions which may arise from the installation and/or operation of said System. For this purpose the Operator shall carry and at all times maintain on file with the City Council insuring such Operator and City against any and all liability arising from the installation, maintenance and operation of the Cable Television System, with limits of liability of not less than Three Hundred Thousand (\$300,000.00) Dollars property damage, and One Million (\$1,000,000.00) Dollars for any one accident resulting in personal injury or death. Such policy of insurance or certificate thereof by a company licensed to do business in the State of Michigan shall be filed with the City Clerk prior to commencement of such use, together with a certificate that said policy of insurance shall not be terminated, revoked or cancelled without a thirty (30) day written notice to the City of Au Gres.

SECTION 8. FRANCHISE FEE. The Operator shall pay to the City a franchise fee of three percent (3%) of the Operator's gross annual subscriber revenues from Basic Service from the operation of the cable communications system within the City limits. The franchise fee on revenues collected from January 1 through June 30 of each and every year shall be due and payable by the Operator to the City on or before September 30 of the following quarter, and the franchise fee on revenues collected from July 1 through December 31 of each and every year shall be due and payable by the Operator to the City on or before March 31 of the following year.

SECTION 9. COMPLIANCE WITH APPLICABLE LAWS, RULES AND ORDINANCES. The Operator under this ordinance shall at all times during the life of the permit be subject to all lawful exercises of the police power of the City and to such reasonable regulations as the City may hereafter by resolution or ordinance provide. In addition, the Operator and its System shall be subject to the laws of the State of Michigan.

SECTION 10. REVOCATION OF PERMIT. Upon failure of the Operator to observe any of the terms and provisions of this ordinance, the City of Au Gres may serve written notice upon the Operator requiring it to perform or to act as required by said ordinance. If the Operator shall fail at the end of a sixty (60) day period following receipt of such notice to perform or act as required by this ordinance, the City of Au Gres may terminate said license and all rights thereunder after notice and hearing. Notice of hearing shall be given by registered mail to the post office address of the Operator deposited in the U.S. mails not less than twenty (20) days prior to such hearing. Revocation or suspension of the bond and/or insurance referred to in Section 7 hereof shall be grounds for immediate termination of said license, without notice or hearing.

SECTION 11. RATES.

(a) The Operator shall charge and collect from its subscribers for Basic CATV Service and Expanded CATV Service the initial monthly subscriber rates set forth in Exhibit A hereto. The rates and charges set forth in Exhibit A may be changed, from

time to time, in order to provide the Operator with a fair and compensatory return on its investment. If the Operator intends to increase its rates, it shall give to the City Clerk written notice of any proposed increase in rates at least sixty (60) days prior to the proposed effective date of such increase. The City Council shall give public notice of any proposed increased rates and hold a public hearing within such sixty (60) day period for the purpose of determining whether the increased rates and charges proposed by the Operator will be fair and compensatory. The Operator shall cooperate with the City Council in connection with such public hearings and shall supply to the City Council upon request such data and information as reasonably may be required for its determination. The pendency of such proceedings before the City Council shall prevent the proposed increase in rates from going into effect. The City Council after the public hearing shall either: (1) approve the increased rates proposed by the Operator, or (2) direct the Operator to submit to the City Council revised rates and charges. In either case, the City Council shall approve just, equitable and compensatory rates for the Operator not later than sixty (60) days following the proposed effective date of the increased rates initially proposed by the Operator.

(b) The Operator may charge a connection fee for each outlet. From time to time such fee may be increased in order to compensate for the Operator's installation costs. The initial charge for installation and other services are set forth in Exhibit B to this franchise.

(c) The Operator may impose a late charge of one and one-half percent (1 1/2%) per month or the maximum rate permitted

by law, whichever is less, for each monthly payment not paid within thirty (30) days of the date of required payment.

SECTION 12. The City shall have the right to suspend, terminate or revoke this permit in the event that the Operator does not commence installation of a substantial part of the Community Antenna System referred to herein within twenty-four (24) months from the date of the adoption of this ordinance. The System shall be operational within thirty (30) months from adoption of this ordinance.

SECTION 13. The granting of a permit under this ordinance shall not be construed as any undertaking or guarantee of the efficiency of the Operator or maintenance of the service of the Operator. The City assumes no responsibility for the acts or omissions of the Operator other than to require compliance with this ordinance.

SECTION 14. SEVERABILITY. Should any section or part of any section of this ordinance, for any reason, be declared void or invalid, the remainder of said ordinance shall not be affected thereby.

SECTION 15. This ordinance shall take effect and be in force from and after the date of its passage and publication, as provided by law.

SECTION 16. This ordinance shall give the Operator the right to originate local public service features and announcements, in conformity with State and Federal law.

ADOPTED June 3, 1982

Dennis Nipon
Mayor

ADOPTED _____

PUBLISHED June 9, 1982

Attest: Dorothy Hill
City Clerk

ACCEPTED BY: Century Teleview of Michigan, Inc.

By Clarke M. Williams
President

Attest R. P. Ferguson
Secretary