

**TITLE XI: BUSINESS REGULATIONS**

**Chapter**

- 110. USED CAR SALES AND LOTS**
- 111. SEXUALLY ORIENTED BUSINESSES**
- 112. CABLE TELEVISION SERVICE**
- 113. WASTE HAULERS**



## CHAPTER 110: USED CAR SALES AND LOTS

### Section

- 110.01 Definitions
- 110.02 License requirements and procedure for obtaining license
- 110.03 Regulations
- 110.04 Revocation
  
- 110.99 Penalty

### 110.01 DEFINITIONS.

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

***ESTABLISHED USED CAR LOT.*** A used car lot in Big Rapids Charter Township or any land in Big Rapids Charter Township maintained and/or used for the conduct of a used car business.

***USED CAR BUSINESS.*** The purchase, sale, lease or exchange by any person, firm or corporation of five or more used cars within a 12-month period.

***USED CAR DEALER.*** A person who brokers, deals or engages in the purchase, sale, lease or exchange of five or more used cars within a 12-month period.

***USED CAR LOT.*** Any place where used cars are displayed and offered for purchase, sale, lease or exchange in the open by a used car dealer or used car business.

***USED CAR.*** Any used or second-hand motor vehicle to which a certificate of title and license plates have been issued and which motor vehicle has been registered for use on the highways by a consumer or by a dealer, and any used or second-hand vehicle, defined as any vehicle required to be titled, trailer coaches, and trailers weighing over 2,500 pounds.

(Ord. 32, passed 9-7-2010)

**110.02 LICENSE REQUIREMENTS AND PROCEDURE FOR OBTAINING LICENSE.**

(A) No person, firm or corporation shall operate as a used car dealer or engage in a used car business within the township without a township used car sales license as herein provided.

(B) A separate township used car sales license shall be required for each new used car lot.

(C) The Township Clerk is hereby authorized to issue a township used car sales license upon submission by the applicant of a written application on forms to be provided by the Township Clerk and upon compliance by the applicant with the following requirements:

(1) (a) The application shall be accompanied by written detailed plans showing the layout of land to be used, the portion thereof to be improved as required herein, method proposed for improvement/drainage, driveways for ingress and egress, and buildings to be built or existing buildings to be used in the operation of the established used car lot; and

(b) The application shall also be accompanied by evidence that he or she has obtained all applicable zoning, use or site plan approvals/permits required to be obtained prior to operating a used car lot or business in the proposed location in the township. The granting of a township used car sales license is contingent on obtaining all applicable zoning, use, or site plan approvals/permits.

(2) Applicant must furnish evidence that he or she possesses a valid state Class B used vehicle dealers license.

(3) All township used car sales licenses issued under this chapter shall remain valid unless either the state license is revoked or suspended or the township determines the lot is no longer in compliance.

(D) No township used car sales license issued under this chapter may be transferred except upon written application by the licensee and the proposed transferee on forms to be provided by the Township Clerk and the payment of a transfer fee in the amount as set by the Township Board from time to time. Prior to transferring any township used car sales license, the township shall determine that the established used car lot for which the township used car sales license is in compliance with all of the provisions of this chapter.

(Ord. 32, passed 9-7-2010) Penalty, see 110.99

**110.03 REGULATIONS.**

Each licensee under this chapter shall comply with the following regulations:

(A) Keep his or her premises in a neat and clean condition. He or she shall not allow any used motor vehicles that are part of his or her inventory to encroach upon the streets and sidewalks of the township; and

(B) Not allow any loud or boisterous noises to emanate from his or her place of business, either by persons congregating there or by the playing of recording instruments, radios and/or television sets or other sound-reproducing equipment.

(Ord. 32, passed 9-7-2010) Penalty, see 110.99

**110.04 REVOCATION.**

Any township used car sales license issued under this chapter shall be automatically revoked upon termination, suspension, revocation or failure to renew the licensee's state Class B used vehicle dealer's license or upon proof by competent legal evidence that the licensee made a false statement in any application for township used car sales license filed upon this chapter. Any such township used car sales license may be revoked by the Township Board in its discretion upon proof of conviction of the licensee for a violation of this chapter.

(Ord. 32, passed 9-7-2010)

**110.99 PENALTY.**

Any person, firm or corporation who shall violate any provision of this chapter shall be deemed guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by fine of an amount as set by the Township Board from time to time, or both such fine and imprisonment, in the discretion of the court.

(Ord. 32, passed 9-7-2010)



## CHAPTER 111: SEXUALLY ORIENTED BUSINESSES

### Section

- 111.01 Purpose and findings
- 111.02 Uses subject to control
- 111.03 Definitions
- 111.04 Unlawful activities
- 111.05 Scierter required to prove violation or business liability
  
- 111.99 Penalty

### § 111.01 PURPOSE AND FINDINGS.

The township hereby makes its stated findings and legislative record related to the adverse secondary effects of sexually oriented businesses, based on the judicial opinions and reports related to such secondary effects, as detailed below.

(A) In the development and execution of this chapter it is recognized that there are some uses which because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects shall not contribute to the blighting or downgrading of the surrounding neighborhood. These special regulations are itemized in this chapter. These controls are for the purpose of preventing a concentration of these uses within any one area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimize activities, which are prohibited in other township ordinances.

(B) In regulating sexually oriented businesses, it is the purpose of this chapter to promote the health, safety and general welfare of the citizens of the township, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of sexually oriented businesses within the township. The provisions of this chapter have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this chapter to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this chapter to condone or legitimize the distribution of obscene material.

(C) Based on evidence, of the adverse secondary effects of adult uses presented in hearings and in reports made available to the Township Board, and on findings incorporated in the cases of: *Peek-A-Boo Lounge of Bradenton, Inc. v. Manatee County*, 2009 WL 4349319 (M.D. Fla. 2009); *Sensations, Inc. et al. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir, 2008); *Pap's AM. v. City of Erie*, 529 U.S. 277 (2000); *Thomas v. Chicago Park District*, 122 S. Ct. 775 (2002); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *DLS, Inc. v. City of Chattanooga*, 107 F. 3d 403 (6th Cir. 1997); *East Brooks Books, Inc. v. City of Memphis*, 48 F. 3d 220 (6th Cir 1995); *Broadway Books v. Roberts*, 642 F. Supp. 486 (E.D. Tenn. 1986); *Bright Lights, Inc. v. City of Newport*, 830 F. Supp. 378 (E.D. Ky. 1993); *Richland Bookmart v. Nichols*, 137 F. 3d 435 (6th Cir. 1998); *Dejavu v. Metro Government*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Bamon Corp. v. City of Dayton*, 7923 F. 2d 470 (6th Cir. 1991); *Threesome Entertainment v. Strittmather*, 4 F. Supp. 2d 710 (N.D. Ohio 1998); *J.L. Spoons, Inc. v. City of Brunswick*, 49 F. Supp. 2d 1032 (N.D. Ohio 1999); *Triplett Grile, Inc. v. City of Akron*, 40 F. 3d 129 (6th Cir. 1994); *Nightclubs, Inc. v. City of Paducah*, 202 F. 3d 884, 894 (6th Cir. 2000); *O'Connor v. City and County of Denver*, 894 F. 2d 1210 (10th Cir. 1990); *Dejavu of Nashville, Inc., et al. v. Metropolitan Government of Nashville and Davidson County*, 2001 U.S. App. LEXIS 26007 (6th Cir. Dec. 6, 2001); *Z. J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d (10th Cir. 1998), *Connection Distrib. Co. v. Reno*, 154 F. 3d 281 (6th Cir. 1998); *Sundance Assocs. v. Reno*, 139 F. 3d 804 (10th Cir. 1998); *American Library Association v. Reno*, 33 F. 3d 78 (D.C. Cir. 1994); *American Target Advertising, Inc. v. Giani*, 199 F 3d 1241(10th Cir. 2000); *Z.J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d 683(10th Cir. 1998); *ILQ Investments, Inc. v. City of Rochester*, 25 F. 3d 1413, 1416, (8th Cir. 1994); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 2002 U.S. Dist. LEXIS 1896 (D. Md, Feb. 6, 2002); *Currence v. Cincinnati*, 2002 U.S. App. LEXIS 1258 (6th Cir., Jan. 24, 2002); and other cases; and on testimony to Congress in 136 Cong. Rec. S. 8987; 135 Cong. Rec. S. 14519; 135 Cong. Rec. S. 5636; 134 Cong. Rec. E. 3750; and reports of secondary effects occurring in an around sexually oriented businesses, including, but not limited to, Phoenix, Arizona - 1979; Minneapolis, Minnesota - 1980; Houston, Texas - 1997; Amarillo, Texas; Garden Grove, California - 1991; Los Angeles, California - 1977; Whittier, California - 1978; Austin, Texas - 1986; Seattle, Washington - 1989; Oklahoma - 1986; Cleveland, Ohio and Dallas, Texas - 1997; St. Croix County, Wisconsin - 1993; Bellevue, Washington, - 1998; Newport News, Virginia - 1996; New York Times Square study - 1994; Phoenix, Arizona - 1995 through 98; and also on findings from the paper entitled "Stripclubs According to Strippers; Exposing Workplace Sexual Violence", by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota, and from "Sexually Oriented Businesses: An Insider's View", by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000, and the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota), the Township Board finds that sexually oriented businesses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the township is seeking to abate and prevent in the future.

(D) The township also relies upon findings concerning secondary effects contained in additional reports as well as in cases in accord with those cited above including those upholding regulations of nudity and the time, place and manner of operation of sexually oriented businesses: *Deja Vu of Cincinnati, L.L.C. v. Union Township*, 411 F. 3d 777 (6th Cir. 2005); *Bronco's Entertainment, Ltd. v.*



*Charter Township of Van Buren*, 2005 U.S. App. LEXIS 18496 (6th Cir. 2005); *Charter Township of Van Buren v. Garter Belt, Inc.*, 258 Mich. App. 594 (2003) (following *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000), *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991), and *California v. LaRue*, 409 U.S. 109 (1972)); *Gammoh v. City of La Habra*, 395 F. 3d 1114 (9th Cir. 2005); *SOB, Inc. v. County of Benton*, 317 F. 3d 856 (8th Cir. 2003); *G. M. Enterprises, Inc. v. Town of St. Joseph*, 350 F. 3d 631 (7th Cir. 2003); *Heideman v. South Salt Lake City*, 348 F. 3d 1182 (10th Cir. 2003); *In re Tennessee Public Indecency Statute*, 1999 U.S. App. LEXIS 535 (6th Cir. 1999); *Currence v. City of Cincinnati*, 2002 U.S. App. LEXIS 1258; *Jott, Inc. v. Clinton Township*, 224 Mich. App. 513 (1997); *Michigan ex rel. Wayne County Prosecutor v. Dizzy Duck*, 449 Mich. 353 (1995); *Kev, Inc. v. Kitsap County*, 793 F. 2d 1053 (9th Cir. 1986); *Hang On, Inc. v. City of Arlington*, 65 F. 3d 1248 (5th Cir. 1995); *Tily B. Inc. v. City of Newport Beach*, 69 Cal. App. 4th (Cal. App. 1997); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 973 F. Supp. 1428 (M.D. Fla. 1997); *City of Elko v. Abed*, 2004 Minn. App. LEXIS 360 (Minn. App. 2004); *Center for Fair Public Policy v. Maricopa County Arizona*, 336 F. 3d 1153 (9th Cir. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F. 3d 435 (6th Cir. 1998); *Richland Bookmart, Inc. v. Nichols*, 278 F. 3d 570 (6th Cir. 2002); *DiMa Corp. v. Town of Hallie*, 185 F. 3d 823 (7th Cir. 1999); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F. 3d 1358 (11th Cir. 1998); *Nat'l. Amusements Inc. v. Town of Dedham*, 43 F. 3d 731 (1st Cir. 1995); *Mitchell v. Comm'n Adult Enter. Est. of the State of Delaware*, 10 F. 3d 123 (3d Cir. 1993); *Star Satellite, Inc. v. City of Biloxi*, 779 F. 2d 1074 (5th Cir. 1986); *Heideman v. South Salt Lake City*, 2006 U.S. App. LEXIS 2745 (10th Cir. 2006); *Fantasyland Video, Inc. v. San Diego County*, 373 F. Supp. 2d 1094 (S.D. Cal. 2005); *State ex rel. Nasal v. BJS No. 2, Inc.*, 127 Ohio Misc. 2d 101 (Ohio Ct. Comm. Pleas 2003); *Baby Dolls Topless Saloons, Inc. v. City of Dallas*, 295 F. 3d 471 (5th Cir. 2002); *Z.J. Gifts D-2, L.L.C v. City of Aurora*, 136 F. 3d 683 (10th Cir. 1998); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F. 3d 1186 (9th Cir. 2004); *Andy's Restaurant & Lounge, Inc. v. City of Gary*, Case No. 2:01-CV-327 (N.D. Ind. 2005); *Summaries of Key Reports Concerning the Negative Secondary Effects of Sexually Oriented Businesses*; Rome, Georgia - 1996; San Diego, California - 2003; Greensboro, North Carolina - 2003; Dallas, Texas - 1997; and numerous media reports, in finding that:

(1) Sexually oriented businesses, as a category of commercial uses, are often associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, prostitution, potential spread of disease, lewdness, public indecency, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter and sexual assault and exploitation;

(2) Illegal and unsanitary acts involving nudity, including lewd conduct, masturbation, oral and anal sex, occur at unregulated sexually oriented businesses, including those businesses which provide private or semi-private rooms, booths or cubicles for viewing films, videos or live performances; and

(3) Each of the foregoing negative secondary effects constitutes a harm which the township has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the township's rationale for this chapter, exists independent of any comparative analysis between sexually oriented and non-sexually oriented businesses. Additionally, the township's interest in regulating sexually oriented businesses extends to preventing future secondary

effects of either current or future sexually oriented businesses that may locate in the township. The township finds that the cases and documentation relied on in this chapter are reasonably believed to be relevant to said secondary effects.

(Ord. 21.01, passed 4-5-2011)

### § 111.02 USES SUBJECT TO CONTROL.

Uses subject to these controls are adult businesses as listed in § 153.019 of the township zoning regulations as follows:

(A) Adult book store or adult video store;

(B) Adult cabaret;

(C) Adult mini motion picture theatre;

(D) Adult motion picture theatre;

(E) Escort agency; and

(F) Massage parlor.

(Ord. 21.01, passed 4-5-2011)

### § 111.03 DEFINITIONS.

(A) The terms in this section shall have the meanings ascribed to them in § 153.290 of the township zoning regulations, unless otherwise indicated herein.

(B) In addition, the following terms shall have the meanings ascribed to them unless the context clearly indicates or requires a different meaning.

**EMPLOYEE.** A person who performs any service for any consideration on the premises of an sexually oriented business on a full-time, part-time or contract basis, whether or not the person is denominated an employee, independent contractor, agent or otherwise, and whether or not said person is paid a salary, wage or other compensation by the operator of said sexually oriented business. **EMPLOYEE** does not include a person exclusively on the premises for repair or maintenance of the premises or equipment on the premises or for the delivery of goods to the premises.

**NUDITY, NUDE or STATE OF NUDITY.** The knowing or intentional live display of a human genital organ or anus with less than a fully opaque covering or a female's breast with less than a fully opaque covering of the nipple and areola. **NUDITY**, as used in this chapter, does not include a woman's

breast feeding of a baby whether or not the nipple or areola is exposed during or incidental to the feeding.

**OPERATE or CAUSE TO OPERATE.** To cause to function or to put or keep in a state of doing business. **OPERATOR** means any person on the premises of a sexually oriented business who exercises overall operational control of the business or a part of the business, who can open or close the business to the public, or who causes to function or who puts or keeps the business open or in operation. A person may be found to be operating or causing to be operated a sexually oriented business regardless of whether that person is an **OWNER** or **PART OWNER** of the business.

**PATRON.** A customer of the sexually oriented business or a person from the general public, not an employee of the business, who is on the premises to obtain, receive or view the products, services or performances offered by the business.

**REGULARLY.** Recurring, attending or functioning at fixed or uniform intervals.

**SEMI-NUDITY, SEMI-NUDE or IN A SEMI-NUDE CONDITION.** The showing of the female breast below a horizontal line across the top of the areola and extending across the width of the breast at that point, or the showing of the male or female buttocks. This definition shall include the lower portion of the human female breast, but shall not include any portion of the cleavage of the human female breasts exhibited by a bikini, dress, blouse, shirt, leotard or similar wearing apparel provided the areola is not exposed in whole or in part.

**SEXUALLY ORIENTED BUSINESS.** Any adult motion picture theater, adult mini motion picture theatre, adult bookstore, adult video store or adult cabaret as defined in § 153.290 of the township zoning regulations.  
(Ord. 21.01, passed 4-5-2011)

#### § 111.04 UNLAWFUL ACTIVITIES.

(A) Nothing contained in this chapter is intended, or shall be construed, to permit or authorize activities which are unlawful under state law or township ordinance. It is unlawful and a violation of this chapter for an operator to knowingly or intentionally violate the provisions of this chapter or to allow, either knowingly or intentionally, an employee or a patron to violate the provisions of this chapter. It shall be a defense to prosecution that the person prosecuted was powerless to prevent the violation.

(B) No person shall knowingly or intentionally, in a sexually oriented business, appear before a patron or patrons in a state of nudity, regardless of whether such public nudity is expressive in nature.

(C) No employee shall knowingly or intentionally, in a sexually oriented business, appear within view of any patron in a semi-nude condition unless the employee, while semi-nude, shall be and remain at least six feet from all patrons and on a fixed stage at least 18 inches from the floor in a room of at least 600 square feet.

(D) A sexually oriented business which exhibits on the premises, through any mechanical or electronic image-producing device, a film, video cassette, digital video disk or other video reproduction characterized by an emphasis on the display of specified sexual activities or specified anatomical areas shall comply with the following requirements. The interior of the premises shall be configured in such a manner that there is an unobstructed view from an operator's station of every area of the premises, including the interior of each viewing room but excluding restrooms, to which any patron is permitted access for any purpose. An operator's station shall not exceed 32 square feet of floor area. If the premises has two or more operator's stations designated, then the interior of the premises shall be configured in such a manner that there is an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one of the operator's stations. The view required in this division (D) must be direct line of sight from the operator's station. It is the duty of the operator to ensure that a least one employee is on duty and situated in an operator's station at all times that any patron is on the portion of the premises monitored by that operator station. It shall be the duty of the operator, and it shall also be the duty of any employees present on the premises, to ensure that the view area specified in this division (D) remains unobstructed by any doors, curtains, walls, merchandise, display racks or other materials or enclosures at all times that any patron is present on the premises.

(E) Sexually oriented businesses that do not have stages or interior configurations which meet at least the minimum requirements of this section shall be given 180 days from the effective date of this chapter to comply with the stage and building requirements of this section. During said 180 days, an employee who appears within view of any patron in a semi-nude condition shall nevertheless remain, while semi-nude, at least six feet from all patrons.

(F) No employee who regularly appears within view of patrons in a semi-nude condition in a sexually oriented business shall knowingly or intentionally touch a patron or the clothing of a patron in a sexually oriented business.

(G) No operator shall allow or permit a sexually oriented business to be or remain open between the hours of 2:00 a.m. and 7:00 a.m. on any day.  
(Ord. 21.01, passed 4-5-2011) Penalty, see § 111.99

#### **§ 111.05 SCIENTER REQUIRED TO PROVE VIOLATION OR BUSINESS LIABILITY.**

This chapter does not impose strict liability. Unless a culpable mental state is otherwise specified herein, a showing of a knowing or reckless mental state is necessary to establish a violation of a provision of this chapter. Notwithstanding anything to the contrary, for the purposes of this chapter, an act by an employee shall be imputed to the sexually oriented business for purposes of finding a violation of this chapter only if an officer, director or general partner, or a person who managed, supervised or controlled the operation of the business premises, knowingly or recklessly allowed such act to occur on the premises. It shall be a defense to liability that the person to whom liability is imputed was powerless to prevent the act.

(Ord. 21.01, passed 4-5-2011)

**§ 111.99 PENALTY.**

(A) Any person, business or entity violating or refusing to comply with any provisions of this chapter shall, upon conviction, be deemed guilty of a misdemeanor and shall be punished by imposition of a fine not to exceed \$500 or by imprisonment for a period not to exceed 90 days, or both. Each day that a violation is permitted to exist or occur, and each separate occurrence, shall constitute a separate offense. Further, any premises, building, dwelling or other structure in which a sexually oriented business, as defined in § 153.290 of the township zoning regulations, is repeatedly operated or maintained in violation of the provisions of this chapter shall constitute a public nuisance and shall be subject to civil abatement proceedings initiated by the township in a court of competent jurisdiction. Each day that a violation is permitted to exist or occur shall constitute a separate operation or maintenance of the violation.

(B) Notwithstanding division (A) above, the township may employ any remedy available at law or in equity to prevent or remedy a violation of any provision of this section.  
(Ord. 21.01, passed 4-5-2011)



## CHAPTER 112: CABLE TELEVISION SERVICE

### Section

#### *General Provisions*

- 112.01 Short title
- 112.02 Purpose
- 112.03 Definitions
- 112.04 Undefined words or terms

#### *Rules, Regulations and Hearings*

- 112.15 Rate regulation; adoption of F.C.C. Rules and/or Regulations
- 112.16 Designation of the cable franchising authority
- 112.17 Regulated cable operators
- 112.18 Submission of existing rate schedule
- 112.19 Franchising authority existing rate review
- 112.20 Regulation of rate increases
- 112.21 Franchising authority rate increase review
- 112.22 Tolling order
- 112.23 Public hearing
- 112.24 Public hearing notice
- 112.25 Franchising authority decision on review of existing rates or proposed rate increase
- 112.26 Refund hearing
- 112.27 Refund hearing decision
- 112.28 Notice of franchising authority decisions
- 112.29 Proprietary information and production documents

### **GENERAL PROVISIONS**

#### **112.01 SHORT TITLE.**

This chapter may be known and referred to as the Big Rapids Charter Township Cable Television Rate Regulation Chapter.

(Ord. 17, passed 11-2-1993)





**112.02 PURPOSE.**

The purpose of this chapter is to regulate rates of cable television basic service and associated equipment through adoption of regulations consistent with the provisions of the Federal Communications Act of 1934, as amended, being 47 U.S.C. 201 et seq., including the Cable TV Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, being 47 U.S.C. 521 et seq., and the Federal Communication Commission Rules and Regulations promulgated pursuant thereto; and to provide procedures applicable to rate regulation which offer a reasonable opportunity for comment by interested parties.

(Ord. 17, passed 11-2-1993)

**112.03 DEFINITIONS.**

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

**ACT.** The Federal Communications Act of 1934, being 47 U.S.C. 201 et seq., as amended, specifically including the amendments contained in the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385, being 47 U.S.C. 521 et seq.

***ASSOCIATED EQUIPMENT.***

(1) Equipment used by a subscriber to receive basic service cable programming regardless of whether such equipment is also used to receive other tiers of regulated programming service and/or unregulated tiers of programming service(s).

(2) ***ASSOCIATED EQUIPMENT*** includes, but is not limited to:

- (a) Converter boxes;
- (b) Remote control units;
- (c) Connections for additional television receivers; and
- (d) Other cable home wiring.

***BASIC SERVICE.*** The level or tier, of cable television programming which includes, at a minimum, 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), a public, educational and/or governmental programming required by the franchise authority to be carried as a basic service, and any additional video programming signals added to the basic service by the regulated cable operator.

**EXISTING RATES.** The rates for basic service and associated equipment charged by a regulated cable operator on the initial date of regulation by the franchising authority.

**F.C.C.** The United States Federal Communications Commission.

**F.C.C. RULES AND/OR REGULATIONS.** Any and all rules and/or regulations which the F.C.C. promulgates and/or adopts pursuant to the Act.

**FRANCHISING AUTHORITY.** The Township Board.

**ORDINANCE.** This cable television basic service regulation chapter.

**RATE INCREASE.** An increase in rates for basic service and/or associated equipment including among others increases in rates that are the result of reductions in programming provided under the basic service.

**REGULATED CABLE OPERATOR.** Any operator of a cable television system that is subject to regulation by a certified franchising authority.

**TOWNSHIP.** Big Rapids Charter Township.  
(Ord. 17, passed 11-2-1993)

#### **112.04 UNDEFINED WORDS OR TERMS.**

Any word or term which is not specifically defined in 112.03 shall be given its normal, ordinary meaning. Provided that any word or term which is used in this chapter and which is not specifically defined in 112.03 but is defined in F.C.C. Rules or Regulations shall have the meaning given to such word or term in the F.C.C. Rules and/or Regulations.  
(Ord. 17, passed 11-2-1993)

### ***RULES, REGULATIONS AND HEARINGS***

#### **112.15 RATE REGULATION; ADOPTION OF F.C.C. RULES AND/OR REGULATIONS.**

(A) The township, by this reference, hereby adopts all rules and regulations regarding basic service rates and associated equipment rates which the F.C.C. promulgates pursuant to the Act, and makes said rules and regulations part of this chapter.

(B) The township has submitted an application to the F.C.C. for certification as a cable franchising authority pursuant to the Act. Upon certification as a cable franchising authority, the township shall regulate the basic service rates and associated equipment rates in compliance with the Act, the F.C.C. Rules and/or Regulations and this chapter.

(C) Upon receiving its certification, the franchising authority shall send written notice of its certification and notice that it has adopted the required regulations, return receipt requested, to all regulated cable operators within the township. The date upon which the franchising authority gives this notice is the initial date of regulation.

(Ord. 17, passed 11-2-1993)

#### **112.16 DESIGNATION OF THE CABLE FRANCHISING AUTHORITY.**

Effective upon certification of the township as a cable franchising authority, the Township Board is hereby designated as the cable franchising authority for the township and shall execute the powers, duties and responsibilities given to the cable franchising authority in this chapter, the Act and the F.C.C. Rules and/or Regulations.

(Ord. 17, passed 11-2-1993)

#### **112.17 REGULATED CABLE OPERATORS.**

(A) A regulated cable operator shall comply with all duties and obligations imposed upon the regulated cable operator by the Act, F.C.C. Rule and/or Regulations and this chapter.

(B) A regulated cable operator has the burden of proving that it's submitted existing rates or a proposed rate increase comply with the Act and F.C.C. Rules and Regulations.

(Ord. 17, passed 11-2-1993)

#### **112.18 SUBMISSION OF EXISTING RATE SCHEDULE.**

(A) Within 30 days of receiving the notice identified in 112.15(C), a regulated cable operator shall submit an original and eight copies of a written schedule of the regulated cable operators existing rates to the franchising authority. Said schedules shall be addressed in care of the Township Clerk.

(B) The schedule(s) identified in division (A) above shall contain a detailed statement explaining whether the regulated cable operators existing rates comply with existing F.C.C. Rules and/or Regulations for basic service rates and associated equipment rates.

(C) Upon receipt of the existing basic service rate and associated equipment rate schedule(s), the Township Clerk shall provide the schedule(s) to the franchising authority within seven days.

(Ord. 17, passed 11-2-1993)

**112.19 FRANCHISING AUTHORITY EXISTING RATE REVIEW.**

(A) Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to 112.22, the franchising authority shall hold a public hearing on the existing rate schedule(s) which the regulated cable operator submitted to the franchising authority, and enter a decision on said submitted schedule(s) within 30 days of the date the Township Clerk received the schedule(s). If the time for conducting the public hearing is extended pursuant to 112.22, a public hearing should be held and decision rendered, before the extended time period expires.

(B) The existing rates identified in the submitted schedule (s) of rates shall go into effect 30 days from the date of the Township Clerk's receipt of the schedule(s) unless the franchising authority disapproves the rate or extends the time period for conducting the review of existing rates pursuant to 112.22.

(C) If the franchising authority fails to act on the submitted existing rates by the end of the respective tolling period then the rates will remain in effect. If the franchising authority subsequently disapproves any portion of said rates, refunds may not be ordered unless a brief written order is issued by the franchising authority before the end of the respective tolling period directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

(Ord. 17, passed 11-2-1993)

**112.20 REGULATION OF RATE INCREASES.**

(A) A regulated cable operator cannot institute a rate increase charged to its subscribers unless the regulated cable operator complies with the Act, F.C.C. Rules and/or Regulations and this chapter.

(B) A regulated cable operator which proposes a rate increase must submit at least eight copies of the proposed rate increase(s) request to the franchising authority in care of the Township Clerk.

(Ord. 17, passed 11-2-1993)

**112.21 FRANCHISING AUTHORITY RATE INCREASE REVIEW.**

(A) Unless the time for conducting the public hearing and entering a decision is extended by the issuance of a tolling order by the franchising authority pursuant to 112.22, the franchising authority shall conduct a public hearing and render a decision upon the regulated cable operator's proposed rate increase request within 30 days of the Township Clerk's receipt of a proposed rate increase request. If the time for holding the public hearing is extended pursuant to 112.22, the public hearing should be held and decision rendered, before the extended time period expires.

(B) A proposed rate increase requested by a regulated cable operator will become effective after 30 days have elapsed from the date the Township Clerk received the proposed rate increase request unless the franchising authority disproves the proposed rate increase or extends the time period for conducting the review of the proposed rate increase pursuant to 112.22.

(C) If the franchising authority allows rate increases to go into effect at the end the respective tolling period through inaction and then subsequently disapproves any portion of such rates, than refunds may not be ordered unless a brief written order is issued by the franchising authority before the end of the respective tolling period, directing the regulated cable operator to keep an accurate accounting of all its customers and the amounts paid by each as a result of said rates.

(Ord. 17, passed 11-2-1993)

### **112.22 TOLLING ORDER.**

(A) If the franchising authority is unable to determine, based upon the material submitted by the regulated cable operator that the existing rates or proposed rate increase(s) are reasonable or if the regulated cable operator has submitted a cost of service showing, then the franchise authority may toll the 30-day deadline for an additional 90 days in cases not involving cost of service showings or for an additional 150 days in cases involving cost of service showings.

(B) In order for the franchising authority to toll the 30-day period pursuant to this section, the franchising authority must issue an order explaining that additional time and/or information is necessary in order for the franchising authority to act upon the existing rates or the proposed rate increase. Said order must be in writing, by resolution adopted within said 30-day period.

(C) The franchising authority shall send a copy of the tolling order to the regulated cable operator by first class mail within seven days after the effective date of the decision.

(Ord. 17, passed 11-2-1993)

### **112.23 PUBLIC HEARING.**

(A) During the public hearing on the review of a regulated cable operator's existing rates or on review of a proposed rate increase, the franchising authority shall provide the regulated cable operator and all other interested persons with the opportunity to comment on the rates either in person, in writing, or by agent.

(B) The franchising authority may conduct as many public hearings as necessary to carry out the provisions of the Act, F.C.C. Rules and Regulations and this chapter.

(C) If the franchising authority deems it necessary, either prior to or following a public hearing the franchising authority may direct the preparation of a written report for the franchising authority. This

report may contain a recommendation to the franchising authority for its decision on the review of the existing rate schedule(s) or proposed rate request submitted by a regulated cable operator. This recommendation should also summarize and be based upon the schedule or request submitted by the regulated cable operator; comments or objections to the schedule or request which the franchising authority received from the regulated cable operator; any additional information received from the regulated cable operator; information which the franchising authority received from a consultant, its staff or its attorney; and other information which it deems appropriate.

(D) The franchising authority shall send, by first class mail, a copy of any report to the regulated cable operator prior to the franchising authority's consideration of the report at a public hearing.  
(Ord. 17, passed 11-2-1993)

**112.24 PUBLIC HEARING NOTICE.**

(A) The franchising authority shall send a written notice of the date, time and location of the public hearing to the regulated cable operator which submitted the existing rates or proposed rate increase for review no less than seven days before the date of the public hearing. Said notice is to be sent to the regulated cable operator by first class mail.

(B) (1) The franchising authority shall cause to be published, in a qualified newspaper of general circulation within the township, a notice of the public hearing on the existing rate schedule(s) or proposed rate increase request no less than seven days before the public hearing.

(2) Said notice shall:

(a) State that a regulated cable operator has submitted the existing rate schedule(s) or proposed rate increase request to the franchising authority for review pursuant to this chapter;

(b) State the location and times at which the public may examine the submitted schedule(s) of existing rates or proposed rate increase request;

(c) State the date, time and location at which the franchising authority will conduct the public hearing; and

(d) State that all interested persons shall have an opportunity to comment on the rates at the public hearing, and/or to submit written comments on or before the date of the public hearing to the franchising authority.

(Ord. 17, passed 11-2-1993)

**112.25 FRANCHISING AUTHORITY DECISION ON REVIEW OF EXISTING RATES OR PROPOSED RATE INCREASE.**

The franchising authority shall issue a written order supported by its reasons, by resolution which:

- (A) Approves the regulated cable operator's existing rate or proposed rate increase;
  - (B) Disapproves the regulated cable operator's existing rate or proposed rate increase;
  - (C) Approves, in part, and disapproves, in part, the regulated cable operator's existing rate or proposed rate increase;
  - (D) Orders a rate reduction;
  - (E) Prescribes a reasonable rate;
  - (F) Determines that a refund hearing should be held pursuant to 112.26; and/or
  - (G) Orders any further appropriate relief permitted by this ordinance, the Act or the F.C.C. Rules and/or Regulations.
- (Ord. 17, passed 11-2-1993)

**112.26 REFUND HEARING.**

(A) If the franchising authority determines that the subscribers to a regulated cable operator may be entitled to a refund pursuant to F.C.C. rules and regulations (specifically 47 C.F.R. Part 76.942), the franchising authority shall include a notice in its decision issued pursuant to 112.25, that the franchising authority will hold a public hearing to consider ordering the regulated cable operator to make a refund to subscribers.

(B) The franchising authority shall then conduct a public hearing to determine whether to order a refund to subscribers and the amount of the refund.

(C) The franchising authority shall send, by first class mail, to the regulated cable operator, written notice of the date, time and location of the public hearing. Said notice must be sent no less than seven days before the public hearing.

(Ord. 17, passed 11-2-1993)

**112.27 REFUND HEARING DECISION.**

(A) At any refund hearing the regulated cable operator may appear in person, by agent or in writing to comment upon whether the franchising authority should order a refund.

(B) Members of the public may also comment at the refund hearing in person, by agent or in writing.

(C) At the conclusion of the refund hearing, the franchising authority shall issue a written order, by resolution:

(1) Denying a refund; or

(2) Ordering the regulated cable operator to implement a refund.

(Ord. 17, passed 11-2-1993)

### **112.28 NOTICE OF FRANCHISING AUTHORITY DECISIONS.**

(A) All decisions of the franchising authority issued pursuant to 112.25 and/or 112.27 shall be:

(1) In writing, by resolution, supported by its reasons; and

(2) Effective as of the date the franchising authority makes the decision.

(B) (1) Notice of all decisions of the franchising authority issued pursuant to 112.25 and/or 112.27 shall be published in a qualified newspaper of general circulation in the township no less than 15 days after the effective date of the decision.

(2) Said notice shall include:

(a) A summary of the franchising authority's written decision;

(b) A statement that copies of the franchising authority's decision are available for public inspection; and

(c) A statement as to the location at which, and times during which, the public may inspect copies of the franchising authority's decision.

(C) The franchising authority shall send, by first class mail, a copy of the franchising authority's decision to the regulated cable operator not more than seven days after the effective date of the franchising authority's decision.

(Ord. 17, passed 11-2-1993)

### **112.29 PROPRIETARY INFORMATION AND PRODUCTION DOCUMENTS.**

(A) The franchising authority may require the regulated cable operator to produce documents needed to make rate decisions.



(B) Requests, that proprietary information be held confidential shall be supported by the regulated cable operator and be handled in a manner analogous to the procedures and criteria set forth in 47 C.F.R. Part 0.459.

(Ord. 17, passed 11-2-1993)

## CHAPTER 113: WASTE HAULERS

### Section

- 113.01 Title
- 113.02 Definitions
- 113.03 Purpose
- 113.04 License requirements
- 113.05 Procurement procedure for license
- 113.06 Conditions of license
  
- 113.99 Penalty

### **113.01 TITLE.**

This chapter shall be known as and cited as the Big Rapids Charter Township Waste Hauler Licensing Chapter.  
(Ord. 15, passed 6-4-1991)

### **113.02 DEFINITIONS.**

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

**BOARD.** The Big Rapids Charter Township Board or any member or members designated by the board as its agent.

**PERSON.** Any individual, partnership, association or corporation.

**TOWNSHIP.** The Big Rapids Charter Township.

**WASTE HAULER.** Any person or persons who haul trash, rubbish, garbage or recyclable materials for profit within the township.  
(Ord. 15, passed 6-4-1991)

**113.03 PURPOSE.**

(A) The purpose of this chapter is to assure compliance with the current Department of Natural Resources Solid Waste Management Act, Public Act 451 of 1994, being M.C.L.A. 324.11501 et seq., which states:

A solid waste hauler transporting solid waste over a public road in this state shall deliver all waste to a disposal area or solid waste transfer facility licensed under this Act (641) and shall use only a vehicle or container that does not contribute to littering and that conforms to the rules promulgated by the Director (see M.C.L.A. 324.11527(1)).

(B) The second purpose of this chapter is to establish a registry of waste hauling's businesses that operate within the township for the general information of the public.  
(Ord. 15, passed 6-4-1991)

**113.04 LICENSE REQUIREMENTS.**

No person may commence or continue a waste hauling business, as herein defined, within the township without having first obtained a township license as provided hereafter and without maintaining such license in current effect during any business operation or activity.  
(Ord. 15, passed 6-4-1991) Penalty, see 113.99

**113.05 PROCUREMENT PROCEDURE FOR LICENSE.**

No license to commence or continue a waste hauling business shall be issued until the owner or operator thereof shall have first submitted an application to the Clerk of the township on a form provided by the township. A fee of an amount as set by the Township Board from time to time shall accompany the application. Upon the filing of the properly completed application and upon payment of the fee, the Clerk shall issue a license to the person to commence or continue the business designated in said application if the business complies with the terms of this chapter.  
(Ord. 15, passed 6-4-1991) Penalty, see 113.99

**113.06 CONDITIONS OF LICENSE.**

The license issued under this chapter shall be effective until May 31 of the succeeding year with renewals of the same to be issued upon application and payment of the fee thereof in the same manner set forth herein for the original issuance of the license. No license shall be issued by the Clerk where the existing or proposed business would be illegal under any existing law or ordinance. No license may be transferred by the holder to any other person except upon prior approval of the Board. This Board shall have the right of inspection of the hauling vehicle to assure compliance with this chapter. In the event

of any noncompliance with the provisions of this chapter after a license has been issued, the same may be revoked by order of the board until the noncompliance has been corrected as determined by the Board. (Ord. 15, passed 6-4-1991) Penalty, see 113.99

**113.99 PENALTY.**

Any violation of this chapter or any part thereof shall be punishable by a fine not to exceed an amount as set by the Township Board from time to time. In addition, the township specifically reserves the right to proceed in any court of competent jurisdiction, for the purpose of obtaining an injunction, restraining order or other appropriate remedy to compel compliance with this chapter. (Ord. 15, passed 6-4-1991)



