

Charter Township of Orion

Ordinance No. 104

Cable Rate Regulation

Adopted November 1, 1993

AMENDED

August 15, 1994

AN ORDINANCE ADOPTING RATE REGULATIONS CONSISTENT WITH REGULATIONS ADOPTED BY THE FEDERAL COMMUNICATIONS COMMISSION PURSUANT TO 47 USC 543 (B).

Section 1

The Orion Community Cable Communications Commission shall comply with rules of the Federal Communications Commission set forth in Subpart N (Cable Rate Regulation) of Part 76 (Cable Television Service) of Chapter I of Title 47 of the Code of Federal Regulation regarding the regulation of cable television rates for basic service and associated equipment, as amended.

Section 2

After a cable operator has submitted for review its existing rates for the basic service tier and associated equipment costs or a proposed increase in these rates, the Orion Community Cable Communications Commission shall publish a public notice of the rates and costs giving interested parties, including the cable operator, a reasonable opportunity to file written comments, which shall be available in the office of the Village of Lake Orion, 37 E. Flint Street, Lake Orion, for public inspection and copying during normal business hours.

Section 3

The Orion Community Cable Communications Commission shall comply with procedures set forth in 47 CFR 0.459, regarding confidential business information submitted by the cable operator in a rate regulation proceeding.

Section 4

A cable operator who willfully or repeatedly fails to comply with a rate decision or refund order directed specifically at the cable operator shall be subject to a monetary forfeiture as determined by the Orion Community Cable Communications Commission, following the procedures set forth in 47 USC 503.

Section 5

In the event of a conflict between this Ordinance and a cable television franchise, the provisions of this Ordinance shall prevail.

Section 6

The Charter Township of Orion delegates to the Orion Community Cable Communications Commission all of its authority to regulate rates subject to the terms of the Intergovernmental Cable TV Agreement made on October 22, 1984.

Section 7 - Violation & Penalties

A. Municipal Civil Infraction / Payment of Fine.

Any person, firm, or corporation violating a provision of this Ordinance, upon an admission or a finding of responsibility for such violation, shall be deemed responsible for a municipal civil infraction as that term is defined and used in MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended, and shall pay a civil fine as prescribed by ordinance or as determined by the district court, district court judge, or district court magistrate.

B. Costs.

A person, firm, or corporation ordered to pay a fine under Subsection A shall be ordered by the district court judge or magistrate to pay costs of not less than Nine Dollars (\$9) or more than Five Hundred Dollars (\$500), which costs may include all expenses, direct or indirect, to which the Township of Orion has been put in connection with the violation of the Ordinance up to the entry of the court's judgment or order to pay fines and costs.

C. Additional Writs and Orders.

A person who admits or is found responsible for violation of this Ordinance shall comply with any order, writ, or judgment issued by the district court to enforce this Ordinance pursuant to Chapter 83 and Chapter 87, of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

D. Default on Payment of Fines and Costs.

A default in payment of a civil fine, costs, or damages, or expenses ordered under Subsection A or B or an installment of the fine, costs, or damages or expenses as allowed by the court, may be collected by the Township of Orion by a means authorized for the enforcement of a judgment under Chapters 40 or 60 of the Revised Judicature Act, MCL 600.101, *et seq.*; MSA 27A.101, *et seq.*, as amended.

E. Failure to Comply with Judgment or Order.

If a defendant fails to comply with an order or judgment issued pursuant to this section within the time prescribed by the court, the court may proceed under Subsection G.

F. Failure to Appear in Court.

A defendant who fails to answer a citation or notice to appear in court for a violation of this Ordinance is guilty of a misdemeanor, punishable by a fine of not more than Five Hundred Dollars (\$500) plus costs and/or imprisonment not to exceed ninety (90) days.

G. Civil Contempt.

1. If a defendant defaults in the payment of a civil fine, costs, or other damages or expenses, or installment as ordered by the district court, upon motion of the Township of Orion or upon its own motion, the court may require the defendant to show cause why the defendant should not be held in civil contempt and may issue a summons, order to show cause, or bench warrant of arrest for the defendant's appearance.
2. If a corporation or an association is ordered to pay a civil fine, costs, or damages or expenses, the individuals authorized to make disbursements shall pay the fine, costs, or damages or expenses, and their failure to do so shall be civil contempt unless they make the showing required in this subsection.
3. Unless the defendant shows that the default was not attributable to an intentional refusal to obey the order of the court or to a failure on his or her part to make a good faith effort to obtain the funds required for payment, the court shall find that the default constitutes a civil contempt and may order the defendant committed until all or a specified part of the amount due is paid.
4. If it appears that the default in the payment of a fine, costs, or damages or expenses does not constitute civil contempt, the court may enter an order allowing the defendant additional time for payment, reducing the amount of payment or of each installment or revoking the fine, costs, or damages or expenses.
5. The term of imprisonment on civil contempt for non-payment of a civil fine, costs, or damages or expenses shall be specified in the order of commitment and shall not exceed one (1) day for each Thirty Dollars (\$30) due. A person committed for non-payment of a civil fine, costs, or damages or expenses shall be given credit toward payment for each day of imprisonment and each day of detention in default of recognizance before judgment at the rate of Thirty Dollars (\$30) per day.
6. A defendant committed to imprisonment for civil contempt for non-payment of a civil fine, costs, or damages or expenses shall not be discharged from custody until one of the following occurs:
 - a. Defendant is credited with an amount due pursuant to Subsection G(5).
 - b. The amount due is collected through execution of process or otherwise.
 - c. The amount due is satisfied pursuant to a combination of Subdivisions G(6)(a) and (b).
7. The civil contempt shall be purged upon discharge of the defendant pursuant to Subsection G(6).

Section 8 - Effective Date

This Ordinance shall become effective upon publication, as provided by law.