

13.0500

**CABLE TELEVISION FRANCHISE TRANSFER ORDINANCE
TOWNSHIP OF GRAND HAVEN, MICHIGAN
ord. no. 321 eff. Nov. 20, 1999**

An Ordinance granting consent to the transfer of control of a Cable Television System and Franchise.

WHEREAS, The Grand Haven Charter Township (“Municipality”) has granted a cable television franchise (“Franchise”) and Avalon Cable of Michigan, L.L.C., a Delaware limited liability company (“Company”) is the current grantee under the Franchise; and

WHEREAS, Company is a wholly owned subsidiary of Avalon Cable, L.L.C., a Delaware limited liability company (“Avalon”)

WHEREAS, by Securities Purchase Agreement dated as of May 13, 1999 Charter Communications Holding Company, L.L.C., a Delaware limited liability company (“Charter”) will purchase all of the issued and outstanding equity interests of Avalon and will thereby assume control of Company, the Franchise and the cable television system in Municipality (the “Transaction”); and

WHEREAS, Municipality is relying upon such information and documents in acting upon the application for franchise authority consent; and

WHEREAS, Municipality intends to consent to the transfer of control, subject to acceptance of the terms and conditions set forth herein, having determined that such consent is in the best interest of and consistent with the public necessity and convenience of Municipality.

THE TOWNSHIP OF GRAND HAVEN, OTTAWA COUNTY, MICHIGAN
ORDAINS:

13.0501

Sec. 1

Municipality does hereby consent to the transfer of control of the Franchise and the cable television system in Municipality in the manner proposed, subject to the execution by Avalon Cable, L.L.C., Avalon Cable of Michigan, L.L.C., and Charter Communications Holding Company, L.L.C. of an Acceptance Agreement in the form attached hereto.

13.0502

Sec. 2

To the extent that this Ordinance or the attached Acceptance Agreement modify any of the terms and conditions of the Franchise, said Franchise is hereby amended. Except as hereby amended, the provisions of the Franchise shall remain unchanged.

13.0503 Sec. 3

This Ordinance shall be in full force and effect seven (7) days after its publication in the manner provided by law, unless a notice of intent to file a referendum petition is timely filed with the Township Clerk. If such a notice of intent to file a referendum petition is filed with the Township Clerk then this Ordinance shall take effect as provided in Public Acts 296 and 297 of 1996, and written acceptance as above specified; provided, however, that this Ordinance shall expire on March 31, 2000 and shall be of no further force and effect if the Transaction has not closed by that date.

13.0504 Sec. 4 PERMIT REQUIRED

This Ordinance was approved and adopted by the Township Board on November 8, 1999. This Ordinance shall be effective on November 20, 1999.

ACCEPTANCE OF TERMS AND CONDITIONS TO TRANSFER
CONTROL OF FRANCHISEE

“ACCEPTANCE AGREEMENT”

1. Recitals.

- A. Avalon Cable of Michigan, L.L.C., a Delaware limited liability company (“Company”) is the current grantee under a cable television franchise (the “Franchise”) granted by Grand Haven Charter Township (“Municipality”).
- B. Company is a wholly owned subsidiary of Avalon Cable, L.L.C., a Delaware limited liability company (“Avalon”).
- C. In 1998, Company’s predecessor and other affiliated parties entered into an Acceptance Agreement for the purpose of accepting Municipality’s consent to a transfer of control of the Franchise (the “1998 Acceptance Agreement”).
- D. In or about January 1999, Company, Avalon, and Avalon Cable of Michigan Holdings, Inc. entered into an agreement for the purpose of accepting Municipality’s consent to a transfer of the Franchise to Company and an internal reorganization described in the agreement (the “1999 Acceptance Agreement”). In the 1999 Acceptance Agreement, Company agreed to accept and be bound by the 1998 Acceptance Agreement.
- E. Avalon Cable of Michigan Holdings, Inc., a Delaware corporation, unconditionally guaranteed performance of the obligations of Company under the Franchise and the 1998 and 1999 Acceptance Agreements.
- F. Pursuant to a Securities Purchase Agreement dated as of May 13, 1999, Charter Communications Holding Company, L.L.C., a Delaware limited liability company (“Charter”), will purchase all of the issued and outstanding equity interests of Avalon and thereby assume control of Company, the Franchise, and the cable system in Municipality (the “Transaction”).
- G. Charter, Company, and Avalon make this Agreement for the purpose of accepting an Ordinance of Municipality consenting to a transfer of control of the franchise and the cable system in Municipality pursuant to the Securities Purchase Agreement described above.
- H. Charter will replace Avalon Cable of Michigan Holdings, Inc. as the guarantor of the Franchise and the 1998 and 1999 Acceptance Agreements.

2. The promise, covenants, and conditions contained herein inure to the benefit of Municipality and are binding on Charter, Company, and Avalon.
3. Except as otherwise expressly provided herein, Charter, Company, and Avalon acknowledge that the Transaction is subordinate to and will not affect the binding nature of the Franchise and the 1998 and 1999 Acceptance Agreements and the obligations provided for therein, and that the consent of Municipality to the Transaction does not constitute a waiver or release of any rights of Municipality. Company acknowledges that it continues to be bound by all of the terms, conditions and obligations of the Franchise and the 1998 and 1999 Acceptance Agreements, including any obligations to make refunds for periods prior to the transfer of control.
4. Charter, Company, and Avalon acknowledge that Municipality has consented to the transfer of control in reliance upon the representations, documents and information provided by them, including the Form 394 submitted to Municipality
5. Charter and Avalon represent and warrant that the ownership and control of Company and the Franchise following the closing of the transaction will be as set forth in Exhibit A attached hereto.
6. Charter and Avalon represent and warrant that following the closing of Transaction, Company will continue to have full legal and equitable title to the cable television system in Municipality and the Franchise.
7. Upgrades. Section 7 of the 1998 Acceptance Agreement set forth the status and projected completion dates of a planned upgrade or partial rebuild of the cable television system in Municipality. Charter's projected completion date is set forth in Exhibit B. Charter and Avalon agree that Company will make commercially reasonable best efforts to complete the upgrade/rebuild in Municipality by the date set forth in Exhibit B.
8. Prior Defaults. Charter agrees on behalf of itself and its Affiliates that it will not contend directly or indirectly that any defaults or failures to comply with the Franchise or other matters set forth in 47 USC § 546(c) (1)(A) (Communications Act of 1934, Section 626(c) (1)(A) (collectively "Defaults") occurring prior to the Transaction are waived including but not limited to the following:
 - A. The ability of Municipality to obtain redress for prior Defaults, such as recovery of any underpayment of franchise fees.
 - B. The ability of Municipality to enforce in the future any Franchise terms which may not have been enforced in the past.

- C. The ability of Municipality to consider Defaults occurring prior to the transfer of control in connection with any renewal or non-renewal of the Franchise.
9. Validity of Franchise. Charter accepts and agrees to be bound by the terms and conditions of the Franchise and all ordinances applicable to its operations after the transfer. Charter does not contend that any provision of the Franchise is unlawful or unenforceable, nor is it aware of any other ordinance or any provision in the [City Charter/other] which it contends is unlawful or unenforceable. Municipality acknowledges that the Franchise is in full force and effect.
10. Access to Records. The records and reports of the franchise grantee which are to be submitted to Municipality or otherwise made available for Municipality (such as for inspection by Municipality) pursuant to the Franchise or other ordinance or applicable law shall include records maintained by Charter and shall also include records maintained by Affiliates of Charter to the extent necessary for Municipality to discharge its responsibilities under the Franchise, FCC rules or state or local law, or to ensure compliance with the Franchise, the 1998 and 1999 Acceptance Agreements, or this Agreement.
11. Customer Service.
- A. General. Company will provide at minimum the same quality of customer service that is currently being provided, but in all events no less than the quality of service required by the Franchise, any other applicable municipal ordinance and applicable FCC regulations.
 - B. Liquidated Damages. The liquidated damage provisions of Section 8(e) of the 1998 Acceptance Agreement are hereby reinstated but shall be of no further force and effect upon Company's satisfaction of the Franchise's customer service standards for four (4) consecutive quarters following closing of the Transaction.
 - C. Customer Service Center. Charter and Company have informed Municipality that in the absence of any material change in business or market conditions, Company's new Norton Shores, Michigan customer service center will continue to operate in its present location performing the same functions after the Transaction.
 - D. Right to Rescission. Company shall provide each new subscriber with the right to rescind their cable service order without charge. Company shall provide annual written notice of the right of rescission. The right of rescission shall end upon Company's initiation of physical installation of cable system equipment on the subscriber's premises.

12. Discounted Rates. If Company's subscribers are offered what is, in effect, a discount if they obtain both cable service and some other, non-cable goods or service, then for cable franchise fee computation purposes, the discount shall be applied proportionately to cable and non-cable goods and services, in accordance with the following example:
 - A. Assume a subscriber's charge for a given month for cable service alone would be \$40, for local telephone service alone would be \$30, and for long-distance service alone would be \$30, for a total of \$100. In fact, the three services are offered in effect at a combined rate where the subscriber receives a twenty percent (20%) discount from the rates that would apply to a service if purchased individually. The discount (here, \$20) for franchise fee computation purposes would be applied pro rata so that for such purposes, gross revenues for the provision of cable service would be deemed to be \$32 (\$40 less 20% of \$40). The result would be the same if the subscriber received a \$20 discount for telephone service on the condition that he or she also subscribes for cable service at standard rates.
 - B. The existence and amount of a discount shall be determined on the basis of the sum of the lowest generally available stand alone rates for each of the goods and services offered at the combined rate.
13. Backup Power. Company or an Affiliate may not use a permanent or semi-permanent internal combustion engine (such as a gasoline or natural gas powered electric generator) to provide backup power at any point or points on the Cable System (other than inside buildings or on land owned or leased by Company or an Affiliate) without Municipality's prior written approval. Such approval may be with granted subject to conditions, such as relating to testing times (e.g., not in the middle of the night), screening, noise levels, and temperature and safe discharge of hot exhaust gases.
14. Management of Cable System. After the Transaction, Charter Communications, Inc., will manage the cable system in Municipality pursuant to an Amended and Restated Management Agreement dated as of March 17, 1999. Any termination or substantial modification of the terms of management of the cable system in Municipality by Charter Communications, Inc. shall be deemed to constitute a transfer of control requiring Municipality's consent.
15. Rates.
 - A. Transaction Transparent to Rates. Charter and Company acknowledge that: (a) the Transaction, the consent process, Municipality's action granting consent, and this Acceptance Agreement and the terms hereof do not provide any basis for increasing the amounts paid by subscribers through cost pass-through as so called "external costs" or as new franchise requirements; (b) the consent process, action, and this Acceptance

Agreement do not provide any basis for increasing the amounts paid by subscribers in any other manner; and (c) Company will not separately itemize costs of franchise requirements arising from this acceptance Agreement on subscribers bills. Company will continue to fully comply with all applicable FCC regulations and pronouncements concerning adjustments to rates.

- B. Rate Freeze. Company will not increase the rates for its basic cable or cable programming services tier(s) as defined under federal law, prior to June 1, 2000. Except where related to rebuilds or upgrades or to products or services (including specific cable programming services) not currently offered over its cable system serving Municipality, Company will make only a single one-time adjustment in its rates for cable and cable programming services tier(s) during the period from June 1, 2000 through May 31, 2001. The one time adjustment shall not exceed a pass-through of changes in costs and changes in the consumer price index and shall be no more than allowed under the Rules and Regulations of the Federal Communications Commission.

16. Cable Modem, High Speed Data and Internet Services.

- A. Company will not impede or prevent subscribers from (a) communicating with persons of the subscriber's choice, (b) sending and receiving information of the subscriber's choice, and (c) accessing and using web sites of the subscriber's choice. This Section 16.A shall not extend to any communications, information or service which is not protected by the First Amendment to the U.S. Constitution.
- B. If Company provides any cable modem service, high speed data service, Internet access or Internet service (such as that of an Internet service provider) to residential subscribers within Municipality, then without any initial or on-going charge it shall provide Municipality with one cable modem and associated access to the Internet with a speed of up to 250 kbs at a Municipal office at request of Municipality.
- C. The parties have negotiated without reaching agreement with respect to so-called open access for Internet service providers and certain related issues. The parties reserve their claims and contentions with respect to these issues. These negotiations and this Acceptance Agreement do not modify Section 10 of the 198 Acceptance Agreement and the parties' proposals and discussions on these issues will not be used to interpret that provision.

17. This paragraph left blank.

18. Guarantee. Charter Communications Holding Company, L.L.C., hereby unconditionally guarantees performance of the obligations of the Franchise, the 1998 and 1999 Acceptance Agreements and this Acceptance Agreement by Company. Upon the granting of consent by Municipality to the transfer of control, the closing of the Transaction and the execution and return of this Acceptance Agreement to Municipality, Avalon Cable of Michigan Holdings, Inc. is released from the guarantees set forth in the 1998 and 1999 Acceptance Agreements.
19. Other Matters.
- A. In the event of any conflict between the terms of this Acceptance Agreement and the Franchise or the 1998 or 1999 Acceptance Agreements, the terms of this Acceptance Agreement shall control.
- B. The parties will join in obtaining from the FCC any waivers from time to time necessary in the opinion of either to effectuate the provisions of this Acceptance Agreement. The parties do not intend, however, that any aspect of this Acceptance Agreement will require such a waiver.
- C. If the Transaction is not completed on or before March 31, 2000, then at Municipality's option prior to the closing of the Transaction, this agreement and Municipality's consent to the Transaction shall become null and void. If exercised, such option shall be exercised prior to the Transaction by Municipality giving written notice to Charter and Avalon at the addresses designated in the Securities Purchase Agreement.
- D. Cost Reimbursement. Charter and Avalon will cause Municipality to be reimbursed for its reasonable costs incurred in connection with the transfer of control and the consent process, including publication cost and fees of consultants and attorneys. Such reimbursement shall not exceed the aggregate amount of thirty five thousand dollars (\$35,000), plus publication cost for Municipality and other municipalities that have acted with it in connection with the consent process. Reimbursement of costs and expenses under this section shall not be considered franchise fee payments and shall not be passed through to subscribers.
- E. Affiliate. "Affiliate" means any individual, partnership, association, joint stock company, trust, corporation, or other person or entity who owns or controls, or is owned or controlled by, or is under common ownership or control with the entity in question.
- F. Entire Agreement. This Acceptance Agreement contains the entire agreement between the parties in connection with the transfer of control and all other negotiations and agreement merged herein and hereby superseded.

- G. Force and Effect. This Acceptance Agreement, other than paragraph 19.D hereof, shall be of no force and effect unless and until the Transaction is closed.
- H. Charter may, without Municipality's consent, (a) assign or transfer its equity interest in Avalon (and Company may assign or transfer substantially all of its assets) to another entity controlled by Paul G. Allen ("Allen"), not less than sixty five percent (65%) of which is owned, directly or indirectly, by Allen and that assumes the guarantee provided in Section 18; (b) change the ownership interests among existing equity participants in Charter and/or any of its Affiliates or sell capital stock in a transaction commonly known as an "initial public offering", if Allen continues to own, directly or indirectly, not less than sixty five percent (65%) of Charter or any entity to which an assignment or transfer has been made under subsection (a) and continues to control them; or (c) grant, or allow its Affiliates to grant, a security interest in or otherwise hypothecate (i) the equity interests of company, (ii) the Franchise and (iii) the assets of the cable system located within Municipality, but the consent of the Municipality (which shall not be withheld unreasonably) shall be required for any realization on the security by the recipient, such as a foreclosure of a mortgage or a security interest.
- 1) Charter shall give Municipality notice in writing of any transaction under this Section. The notice shall include a certification of the facts forming the basis for Charter's belief that Municipality's consent is not required and, if appropriate, a revised Exhibit A, Ownership and Control Structure. The notice shall be given in advance of the transaction if possible and in any event no later than twenty (20) days after the transaction.
 - 2) For purposes of this Section "Affiliate" means any entity or person who owns or controls, or is owned or controlled by, or is under common ownership or control with the entity in question.