

WEST CALN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

ORDINANCE NO. 1-93

AN ORDINANCE OF THE TOWNSHIP OF WEST CALN, CHESTER COUNTY PENNSYLVANIA AUTHORIZING THE BOARD OF SUPERVISORS TO GRANT, UPON APPLICATION, THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE TELEVISION TRANSMISSION AND DISTRIBUTION FACILITIES AND ADDITIONS THERETO WITHIN THE TOWNSHIP IN, UNDER, OVER, ALONG, ACROSS AND UPON THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS AND OTHER PUBLIC PLACES IN THE TOWNSHIP FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION OF AUDIO, DIGITAL AND VIDEO IMPULSES AND TELEVISION ENERGY IN ACCORDANCE WITH THE LAWS AND REGULATIONS OF THE UNITED STATES OF AMERICA, THE COMMONWEALTH OF PENNSYLVANIA AND THIS TOWNSHIP; PROVIDING RULES AND REGULATIONS APPLICABLE THERETO; GOVERNING THE CONDUCT OF FRANCHISES; ESTABLISHING THE TERM OF ANY SUCH FRANCHISE; GOVERNING CONDITIONS FOR OCCUPANCY BY FRANCHISEE OF THE PUBLIC PLACES, ABOVE DESCRIBED; ESTABLISHING OPERATIONAL STANDARDS; REQUIRING FRANCHISE PAYMENTS TO THE TOWNSHIP; PROVIDING FOR RENEWAL AND TERMINATION PROCEDURES AND APPROVAL OF TRANSFERS; AND ESTABLISHING VIOLATIONS AND PENALTIES.

BE IT AND IT IS HEREBY ENACTED AND ORDAINED by the Board of Supervisors of West Caln Township, Chester County, Pennsylvania, as follows:

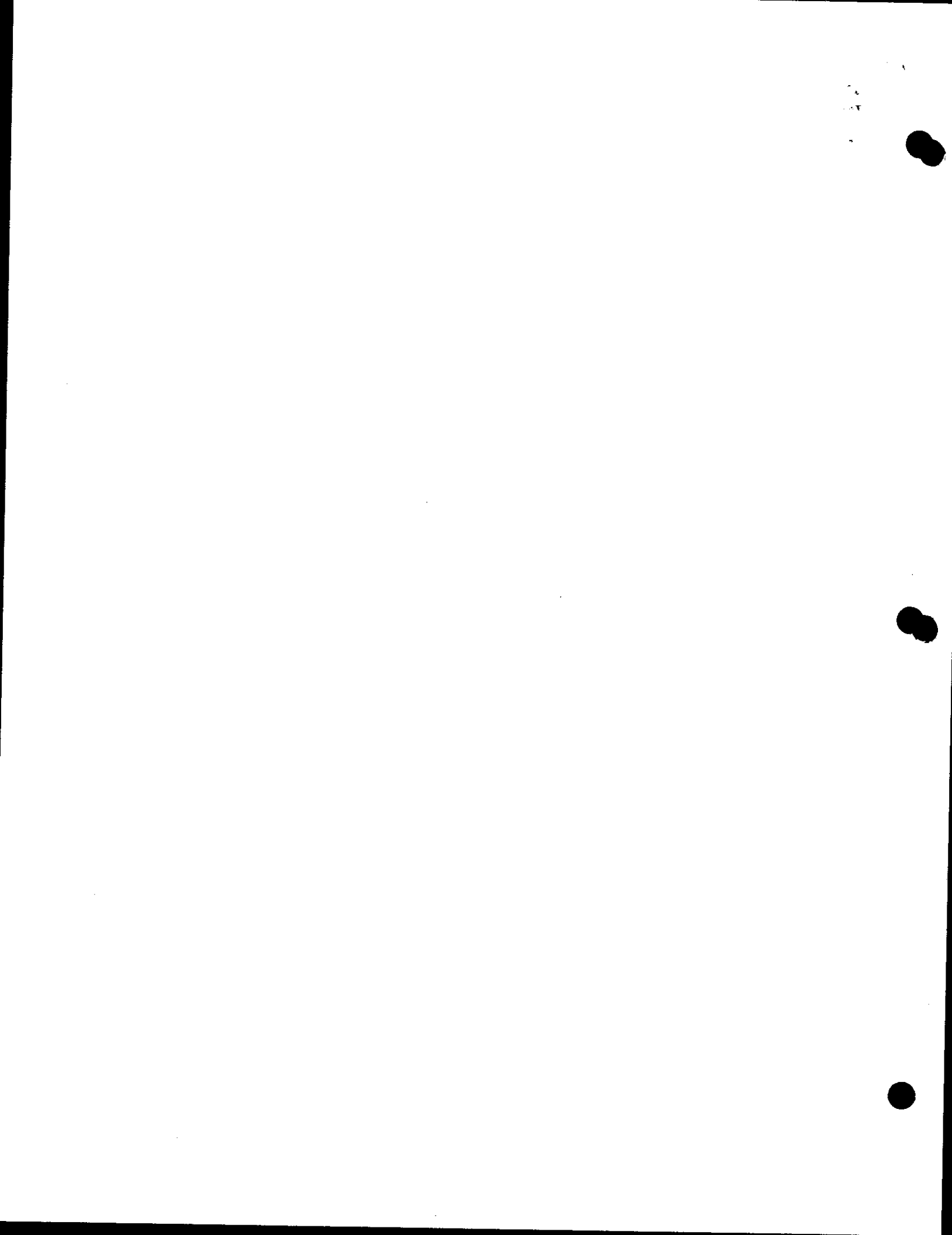
SECTION 1: Title. This Ordinance shall be known and may be as the "West Caln Township Community Antenna Television Ordinance".

SECTION 2: Definition of Terms. When used in this Ordinance, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular, and words in the singular number include the plural):

AFFILIATE - means an entity which owns or controls, is owned or controlled by or is under common ownership with Grantee.

ANNIVERSARY DATE - a mutually agreed to calendar date which will serve as that date on which future basic rates may be adjusted according to an annual cycle.

BASIC CABLE - is the tier of service regularly provided to all subscribers that includes the retransmission of all must carry broadcast television signals as defined in rules established by the Federal Communications Commission (FCC) or any other applicable government regulations in the absence of at least three must carry signals, any unaltered broadcast television signals and the public educational and governmental channels, as required by the Franchising Authority, or other applicable government authority pursuant to Title VI of the Cable Communications Policy Act or other applicable governmental act.



BASIC SUBSCRIBER REVENUES - all remuneration received directly by the Grantee from subscribers in payment for regularly furnished basic cable television service, but shall not include any taxes or services furnished by the Grantee imposed on any subscriber or user by any government, governmental unit, political subdivision, agency instrumentality, and collected by the Grantee.

CABLE COMMUNICATIONS POLICY ACT OF 1984 - that body of federal law which was enacted on October 30, 1984, and having an effective date of December 29, 1984 as amended.

CABLE SERVICE - means (i) the one way transmission to subscribers of video programming or other programming service and (ii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

CABLE TELEVISION SYSTEM (CATV) - a system of antennas, cables, wires, lines, towers, wave guides, or other conductors, converter, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing audio, video and other forms of electronic or electrical signals, located in the Township.

BOARD - Board of Supervisors of West Caln Township.

FRANCHISE - the initial authorization or renewal thereof issued by the Township, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the cable television system for the purpose of offering cable service.

FRANCHISE AREA - that area within the corporation limits of the Township as now or hereafter constituted.

GRANTEE - the grantee (Franchise Holder) of rights granted by the Township under this Ordinance. A franchisee.

GROSS SUBSCRIBER REVENUES - the monthly cable service revenues actually received by the Grantee from subscribers of the cable system. Included are revenues actually received in payment for basic cable services and additional services such as, but not limited to, HBO, Cinemax, Showtime, Disney and similar programming. Such phrase shall not include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

PAY SERVICE REVENUES - gross subscriber revenues received from so-called premium channels such as, but not limited to, HBO, Cinemax, Showtime, Disney and



similar programming less the amount which the franchisee actually pays to the provider of said service.

PAY-PER-VIEW - Special one-time events, made available from time to time, to only those cable subscribers, who prearrange to pay a special one-time fee for such individual events.

PERSON - an individual, partnership, association, joint stock company, trust corporation, or other legal entity.

PROPERTY OF GRANTEE - all property owned, installed or used by the Grantee in the conduct of a cable television system in the Township.

PUBLIC WAY - the surface of and the space above and below, and within the right-of-way, of any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way, and any temporary or permanent fixtures or improvements located thereon, now or hereafter held, owned or dedicated to the Township.

SERVICE TIER - means a category of cable service provided by Grantee, and for which a separate charge is made by Grantee.

STATE-OF-THE-ART - the latest in cable television technology which may be practically applied within the Township.

SUBSCRIBER - means a person or user of the cable system who lawfully receives cable service or other service therefrom with Grantee's expressed permission.

TOWNSHIP - The Township of West Caln, also called the "Franchising Authority".

VIDEO PROGRAMMING - means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

SECTION 3: Grant of Authority. Upon application duly made, the Township may grant to a designated Grantee by a duly executed franchise agreement the right and privilege to engage in the business of operating and providing a cable television system within the Township, and for that purpose subject to the review and prior approval of the Township Engineer when deemed necessary by the Board to erect, install, construct, repair, replace, construct, maintain and retain in, on, over, under, upon, across and along any public way, and all extensions thereof and additions thereto in the franchise area, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, and other necessary Township owned or leased property. Any such grant shall be solely for the purpose of transmission and distribution of audio, digital and video impulses



and television energy in accordance with the laws and regulations of the United States of America, of the Commonwealth of Pennsylvania, and of this Township. The Township may promulgate a form for the making of any such application, and in the event that such form is promulgated, then application shall be only on such form. Any right granted pursuant to this Ordinance shall be conditioned on the faithful performance and observance of the conditions, regulations and reservations herein specified and shall further be conditioned upon the prompt payment of the amounts provided for herein.

SECTION 4: Non-exclusive Right. The right of any Grantee to the use and occupancy of the public way shall be exclusive in the Grantee. The Township shall require a franchise agreement of the Grantee and of any other individual or company engaging in the cable television business within any portion of the Township. Further, any Grantee shall have the right in accordance with any applicable laws, rules or regulations to adjust current rates according to the evaluation of those rates effected by any other Grantee operating a cable television franchise in the Township. Such adjustments shall be accomplished through notification filed with the Township Secretary and shall occur automatically on the date established by the Grantee.

SECTION 5: Term of Franchise

A. Rights granted to any Grantee hereunder shall take effect and be in full force from and after the date upon which each application is approved by the Township and a franchise agreement is executed by the Grantee and the Township. The rights granted hereunder shall continue in full force and effect for an initial period of not less than ten (10) years after the date of application approval and the execution of a franchise agreement, and each Grantee whose application is approved, provided such Grantee is not in default, shall have the right to renew the rights granted hereunder for an additional period term of five (5) years and, thereafter, in additional five (5) year increments, from and after the expiration date of any initial renewal period provided the Grantee is not then in default. The right to renew for each additional renewal period shall be exercised by the Grantee by giving written notice to the Township of Grantee's election to exercise its renewal option, which notice shall be given not less than six (6) months, nor more than one (1) year prior to the expiration of the initial term granted hereunder. Such notice shall be either personally served or mailed, certified or registered mail, return receipt requested, to the Township at its administrative offices.

B. Prior to the issuance or renewal of any franchise to operate a cable television system within the Township, the Board shall conduct a public hearing, to which the Grantee or proposed Grantee shall be a necessary part, subject to



ten (10) days prior public notice advertised one time in a newspaper of general circulation in the Township. The following factors shall be considered in the issuance or renewal of the franchise, and the Grantee or proposed Grantee shall have the burden to demonstrate compliance with each criteria:

1. Whether the Grantee has or can substantially comply with the material terms of the proposed franchise agreement, the Ordinance and all other applicable law;

2. Whether the quality of the Grantee's service has or will be reasonable in light of the community needs;

3. Whether the Grantee has the financial, legal and technical ability to provide the services, facilities and equipment proposed; and

4. Whether the Grantee's proposal is reasonable to meet current and future cable-related community needs and interest, including the cost of meeting them.

C. Any proceeding undertaken by the Township that relates to issuance or renewal of any franchise shall be governed by and comply with the provision of Section 626 of the Cable Communications Policy Act of 1984, unless the procedures and substantive protection set forth therein shall be deemed to be preempted or suspended by the provision of any subsequent provisions of Federal or Commonwealth law, which shall then apply to any such proceeding.

D. In addition to the procedures set forth in Section 626(a), after written request by the Grantee, the Township shall notify the existing or proposed Grantee of its preliminary assessments regarding the identity of future cable-related community needs and interests, as well as the past performance of Grantee under the then current franchise agreement, if any. Such request shall be made prior to the time that the four (4) month period referred to in subsection (c) of Section 626 is considered to begin. Notwithstanding anything contrary herein, at any time during the term of any current franchise agreement under which the Grantee is operating, subject to affording the public appropriate notice and opportunity to comment, the Township in its sole discretion may agree to undertake and finalize negotiations with Grantee regarding renewal of the then current franchise agreement, and the Township may grant a renewal thereof, in its sole discretion.

E. In addition to the forgoing considerations, renewal of the Grantee's franchise shall be subject to the Township and Grantee agreeing upon a satisfactory fee schedule for the renewal period.

SECTION 6: Erection and Maintenance of Facilities.



A. To the extent possible, all franchise facilities shall be attached to existing poles. To the extent that existing poles are insufficient for the operation of a franchise, or if the Grantee is unable to negotiate agreements reasonably satisfactory to the Grantee providing for use of existing poles, Grantee shall have the right to erect and maintain its own poles at Grantees sole cost and expense as necessary for the construction and maintenance of its television distribution system, subject to the prior written approval of the location of such poles by the Township Engineer. Approval shall not be granted for the installation of such poles, when in the Township Engineer's or Board opinion installation of such new transmission facilities underground is feasible, otherwise necessary or desirable to conform to the surrounding community.

B. Grantee shall have the right, authority, power and privilege to attach any of its system facilities to any existing or future poles, towers or other electrical facilities owned by the Township in a manner which will not interfere with the use of such poles, towers and other electrical facilities by the Township provided that no such attachment shall take place unless thirty (30) days prior written notice requesting such attachment has been given by the Grantee and received by the Township and the Township Engineer has previously approved such request.

C. Grantee shall pay to the Township an annual fee for each pole utilized by Grantee owned by the Township, which fee shall not be less than Two (\$2.00) Dollars per pole. If the Grantee shall negotiate a contract with the Philadelphia Electric Co. or Bell Telephone Co. of Pennsylvania, or any other public utility for use of their poles for a fee per pole year, then the annual fee payable hereunder shall be the same as the fee payable pursuant to such negotiated contracts, but not less than the amount aforesaid. If such utility fees are different, the annual fee per pole payable to the Township shall be the higher of the negotiated utility contract fees, but not less than the aforesaid minimum fee.

D. All holders of public licenses and franchises within the corporate limits of the Township shall, to the extent permitted by law, cooperate with every Grantee hereunder to allow usage of existing poles and pole line facilities wherever possible and wherever such usage does not interfere with the normal operation of said pole and pole line so that the number of new or additional poles constructed in the Township shall be minimized.

E. Each Grantee shall extend to the Township free of any expense, joint use of any and all poles owned by the Grantee for any proper municipal purpose insofar as may be accomplished without interference with the use and enjoyment



of the Grantee's own wires and fixtures. Township shall hold each Grantee harmless for any and all action, causes of action or damage caused by any action of the Township in placing wires or appurtenances upon the poles of the Grantee.

SECTION 7: Conditions of Street Occupancy.

A. All transmission and distribution structures, poles, lines, and equipment installed or erected by the Grantee within the franchise area shall be so located as to cause minimum interference with the proper use of streets and with the rights and reasonable convenience of property owners who adjoin any of said streets, and shall be subject to prior written approval of the Township Engineer who shall determine pole setback from any cartway or underground location, as applicable and all other matters related to such location and installation. The cable television system shall be constructed and operated in compliance with all applicable governmental construction and electrical codes.

B. In case of disturbance of any street or paved area, the Grantee shall, at its sole expense and in a manner approved by the Township, replace and restore such street and paved area in as good condition as existed immediately prior to such disturbance.

C. The Grantee shall, at its sole expense, protect, support, temporarily disconnect, remove from or relocate in the same public way or public place, any property of the Grantee when lawfully required by the Township by reason of traffic conditions, public safety, street grade, installation of sewers, drains, gas or water pipes, or any other type of structures or improvements by or required by the Township, but the Grantee shall, in all cases, have the right of abandonment of its property, subject to the Township Ordinances unless such property shall unreasonably interfere with or shall detract from such public ways or public places as determined by the Township in its sole discretion.

D. Should the Township seek to alter, improve, redevelop or refurbish any street(s) or area presently served by the existing cable television system, the Township shall notify the Grantee of such plans. This notice shall be issued concurrent with the notification of public utility companies and Grantee shall be invited to all pre-construction conferences.

E. Whenever it shall be necessary for any Grantee to raise, lower or temporarily remove its lines or facilities to permit the moving of any machinery or equipment or any building or other structure, the Grantee shall accomplish the same upon the request of any person lawfully entitled to move same. The actual expense thereof shall be paid by the person requesting the same and the Grantee shall have the right to require payment in advance of the reasonably estimated cost to be incurred; provided, however, that if any such raising, lowering or



temporary removal shall be necessary for Township purposes and shall be done at the request of the Township, then it shall be accomplished by the Grantee at no charge to the Township. The Grantee shall be given not less than ten (10) business days advance notice to arrange for such temporary wire changes.

F. To the extent that the Township shall have the authority to grant the same, and after approval of the property owner, subject to prior written approval of the Township, the Grantee shall have the authority, at its expense, to trim trees overhanging any street in the franchise area so as to prevent branches from coming in contact with the Grantee's wires and cables, except that at the option of the Township, such trimming may be done by it or under its supervision and direction at the Grantee's expense.

G. Subject to any applicable Commonwealth or Federal regulations or tariffs, the Township shall have the right at no expense to the Township to make additional use, for any public purposes, of any poles or conduits controlled or maintained exclusively by or for the Grantee in any street provided:

1. Such use by the Township does not unreasonably interfere with the use by the Grantee.

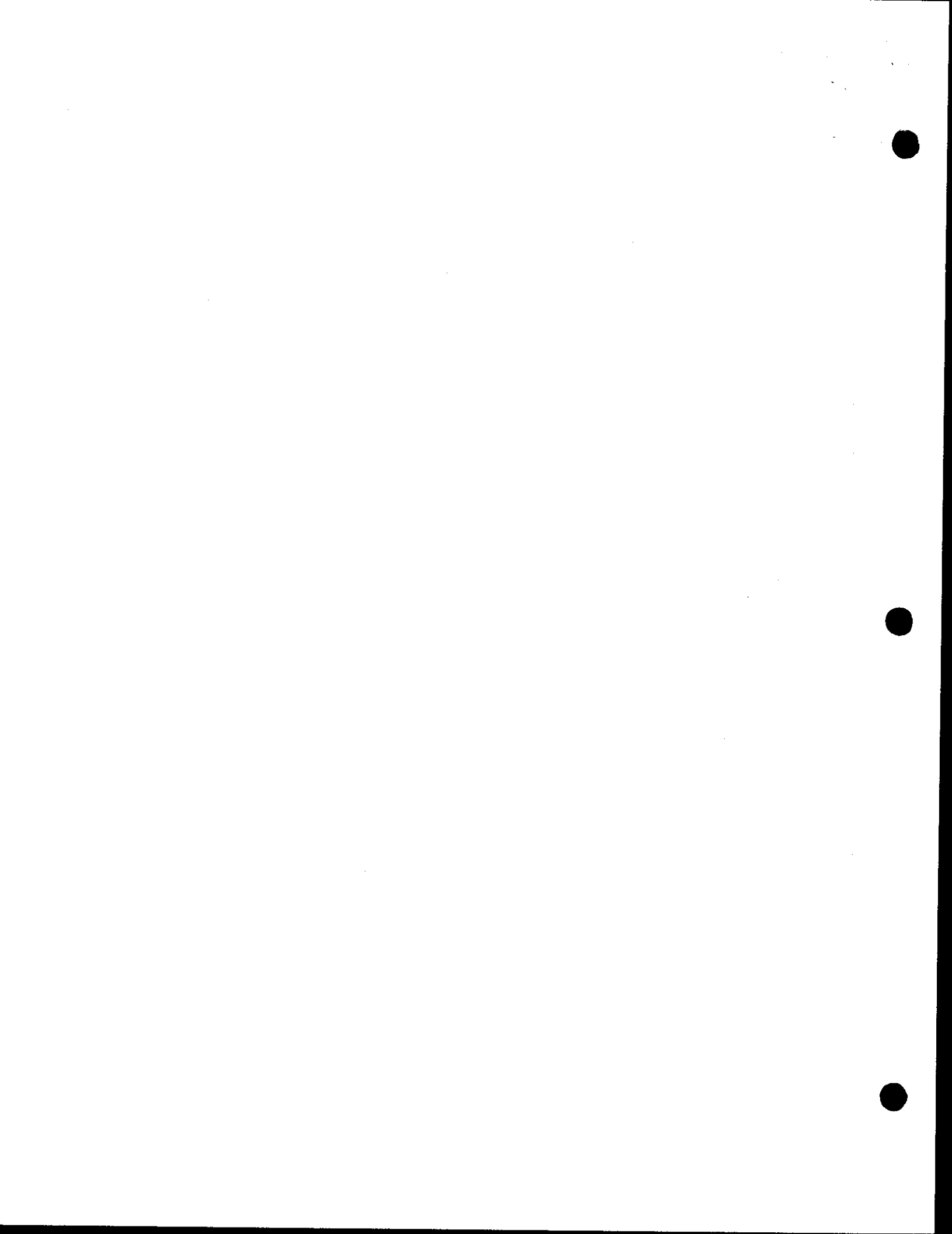
2. The Township holds the Grantee harmless against and from all claims, demands, causes of actions, suits, actions, proceedings, damages, cost or liabilities of every kind and nature whatsoever arising exclusively out of Township use of said poles and conduits.

3. This hold harmless provision shall include, but not be limited to, reasonable attorney's fees and costs.

SECTION 8: Provision for Service.

A. Each Grantee whose application is approved pursuant to this ordinance, shall construct an all bands system capable of providing at least thirty (30) channels of television reception and FM radio to the Grantee's subscribers, and installation and maintenance of equipment shall be such that standard color signals shall be transmitted to the subscribers.

B. Each Grantee shall furnish upon request, free of charge, at least one service distribution connection to each school, fire station, police station, Township Administration Building and public library located within the Township and along any of the Grantees transmission line routes, within the normal distribution area, and shall make available for public use in any of those facilities no fewer than 1 channel per 35 channels otherwise offered and two channels for 52 channels or more offered.



C. In the case of any emergency or disaster, the Grantee shall, upon the Township's request, make available at least one cable television channel to the Township for emergency use during the emergency or disaster period.

SECTION 9: Safety Requirements.

A. The Grantee shall at all times employ a high degree of care and shall install and maintain in use constant with the state of the art methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. All such work shall be performed in compliance with applicable FCC or other Federal, Commonwealth and Local regulations.

B. Grantee shall keep all structures and all lines, equipment and connections in, over, under and upon all public ways within the franchise area in a safe and first class condition and in good order and repair.

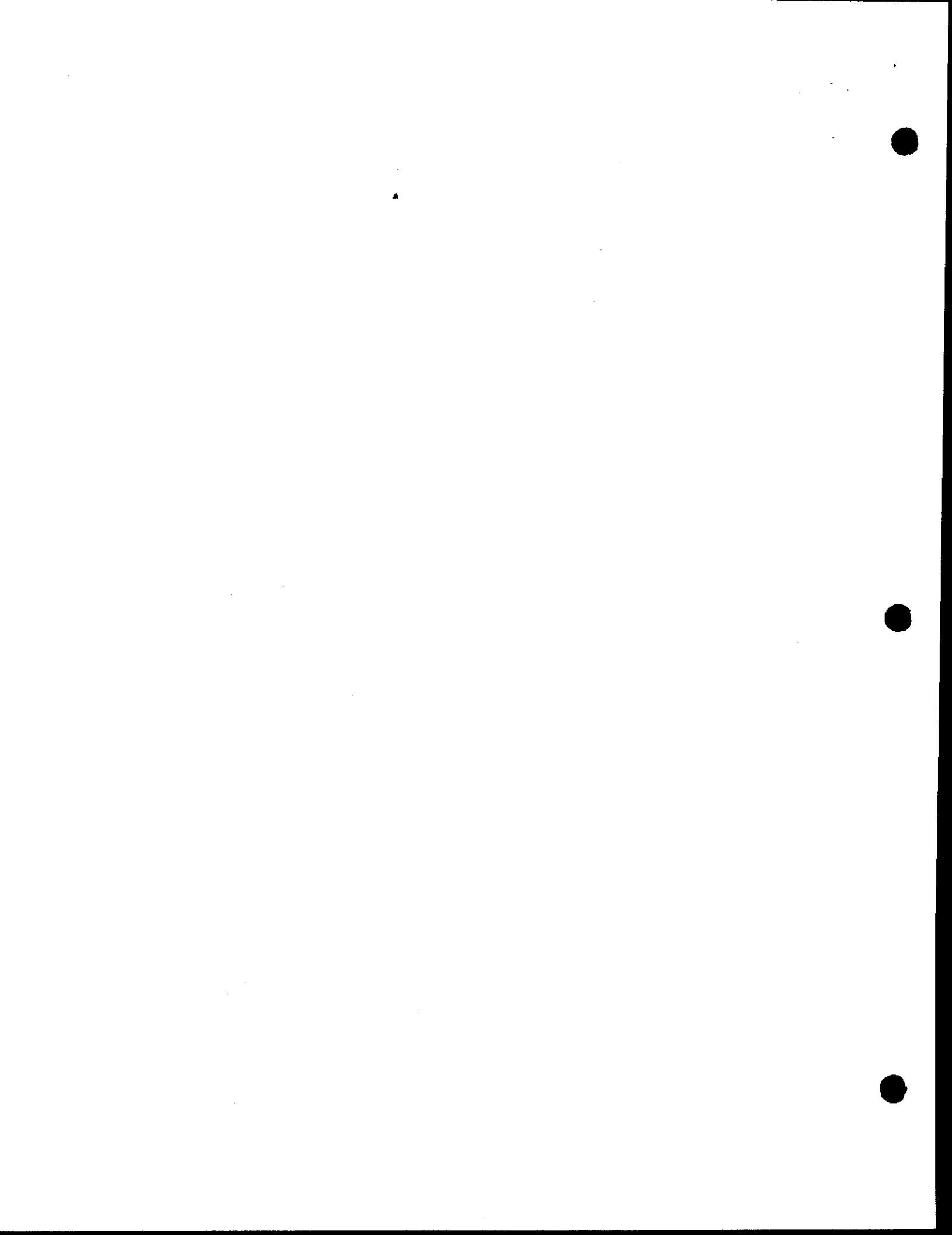
SECTION 10: System Construction and Extension.

A. The Grantee is hereby authorized to extend the system within the franchise area to the extent that such extension is or may become technically and economically feasible.

B. Provided, whenever the Grantee shall have received written requests for service from at least seven (07) subscribers within 400 cable meters (1,300 cable feet) of its aerial trunk cable, or from at least nine (9) subscribers within 400 meters (1,300 cable feet) of its underground trunk cable, it shall extend its system to such subscribers solely for the usual connection and service fees for all subscribers. The 400 meters shall be measured in extension length of Grantee's cable required for service located within the public way or easement and shall not include length of necessary drop cable to subscribers's home or premises.

C. No person in the Grantee's franchise area shall be arbitrarily refused services; but in recognition of the capital cost involved in unusual circumstances, including, without limitation, instances when the distance from distribution cable to connection of services to subscriber when population density is less than the density as specified hereinabove, service may be made available on the basis of costs of materials, labor and easements, in order to prevent inequitable burdens on cable subscribers in more densely populated areas.

D. For all residential structures hereinafter erected which are to be serviced by underground utilities, the developer of the subdivision or development may acquire cable television service for such development under an agreement negotiated between the Grantee and such developer. Such agreement shall contain reasonable terms and conditions prevailing in the Chester County market area. Grantee will, with, due diligence and in a businesslike manner, seek to



finalize satisfactory cable television service agreements with developers who do future construction within the Township. However, absent such agreements the Grantee shall have no obligation to serve such areas. Circumstances shall be timely reported to the Township.

In those areas of the franchise area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain all of its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the cable television system's signal quality. In those areas of the franchise area where the transmission or distribution facilities of the respective public utilities providing telephone communications, and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate and maintain all of its transmission facilities, or any part thereof, aerially or underground. Nothing contained in this section shall require Grantee to construct, operate and maintain underground, any ground mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of respective public utilities providing telephone communications and electric services are placed underground after the effective date of this Agreement Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground (except vaults) if it is given reasonable notice and access to the public utilities facilities at the time such are placed underground.

SECTION 11: Operational Standards; Force Majeure

A. The Grantee shall operate and maintain the cable television system in full compliance with the standards established and mandated by the Federal Communications Commissions (FCC).

B. The Township may, but shall not be obligated to, perform technical tests of the cable television system during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the cable television system in order to determine whether or not the Grantee is in compliance with this Ordinance, and applicable Commonwealth or Federal Laws. Except in emergency circumstances, such tests may be undertaken only after giving Grantee reasonable notice thereof, not to be less than five (5) business days,



and providing a representative of the Grantee an opportunity to be present during such tests. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement hereof, the reasonable costs of such tests shall be borne by the Grantee. Except in emergency circumstances, the Township agrees that such testing shall be undertaken no more than two (2) times a year in aggregate, and that the results thereof shall be made available to the Grantee upon the Grantee's request.

SECTION 12: Application Regulations; Service Interruption; and Complaint Procedure.

A. Each Grantee shall, at times, be subject to the provisions of this Ordinance and regulations adopted by the Township in furtherance hereof, and the applicable provisions of all laws of the United States and the Commonwealth of Pennsylvania. Provided, however, nothing herein contained shall be deemed to render any Grantee a public utility except as may be otherwise provided by the laws of the Commonwealth.

B. Whenever it is necessary to shut off or interrupt service for the purposes of making repairs, installations or adjustments, the Grantee shall do so at such time or times as will cause the least amount of inconvenience to its subscribers, consistent with the needs and requirements of the Grantee.

C. The Grantee shall maintain a local business office, and a local telephone service, which shall be toll free to the caller for calls originating from within West Caln Township, for the purpose of receiving inquiries and complaints from the Grantee's subscribers and from the general public. Each Grantee shall provide sufficient maintenance personnel to respond to routine service calls within twenty-four (24) hours during the period from 8:00 a.m. through 11:00 p.m. six (6) days per week, except in the case of major outages due to storms, civil unrest or acts of God. From 11:00 p.m. to 8:00 a.m. each Grantee shall maintain a telephone answering service and shall respond to routine service calls generated therefrom within twenty-four (24) hours of commencement of business the day following the call. Grantee shall maintain a written record of all such calls, which shall be available for inspection by the Township Manager upon forty-eight hours prior oral or written request. A computerized record of such calls shall fulfill the requirements of this subsection provided such computerized record is backed up on a daily basis.

SECTION 13: Rates. The Grantee shall maintain on file with the Township Secretary a schedule setting forth all rates and charges to be made to subscribers for basic cable television service, including connection and service charges. Notice of changes in rates and charges shall be filed with the Township



Secretary. The Grantee shall submit such notice of rate changes at least forty-five (45) days prior to the effective date of the adjusted rates. The Township shall, at its option, have the opportunity to meet with the Grantee to discuss rate adjustments, provided such meetings occur thirty (30) days prior to the effective date of such adjustments. Normal rate adjustments shall not occur more frequently than on an annual basis with the anniversary date relative to the adjustments understood to be the beginning and the end of this annual cycle. Intervening rate adjustments which become necessary shall be permitted if increased operating costs are caused by increases in copyright payments, utility pole or conduit rental, programming charges or franchise fee. Other intervening rate adjustments shall occur through authorization in law or through the action of an agency of government or court of competent jurisdiction.

SECTION 14: Franchise Payments.

A. The Grantee shall pay the Township on or before the last dates in April, July, October and January of each year, a franchise fee equal to five (5%) percent of the gross basic revenues and five (5%) of the pay service revenues and pay-per-view revenues as defined herein received for cable television operations in the Township for the preceding calendar quarter, and no other fee, tax, charge or consideration unless specifically provided for in this ordinance. By April 15th of each year, the Grantee shall provide an annual summary report prepared in accordance with Generally Accepted principles showing the gross annual subscriber revenues received during the preceding calendar year which summary shall be attested as true and current by a certified public accountant regularly employed by the Grantee, and Grantee shall pay any unpaid franchise fee then due for the preceding year.

B. Each Grantee shall keep true and accurate records of account showing the date and amount of all payments received from subscribers. The Township Manager or other agent(s) authorized by the Board shall have the right, at the Township's expense, to inspect and audit the Grantee's records of all subscriber revenues at any reasonable time.

C. Nothing herein contained shall be construed as requiring any Grantee to pay to the Township any portion of the revenue derived from the sale of its service to subscribers residing outside the corporate limits of the Township; provided, however, that upon annexation to the Township of any territory not now within its corporate limits, the portion of the Grantee's facilities that may be located within such annexed territory shall thereafter be subject to all of the terms of this Ordinance.

SECTION 15: Insurance Requirements and Indemnification of the Township.

A. The Grantee shall at all times protect, defend and hold the Township



harmless from all claims, actions, suits, liability, judgments, loss, expense or damages of every kind and description, including, but not limited to, investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of misconduct, negligence or alleged contractual dispute of Grantee in the ownership, construction, repair, replacement, maintenance and operations of said cable television system, provided that after receiving notice of such actions, claims, etc. the Township gives the Grantee prompt notice of any such claims, actions, suits, etc. in writing. The Grantee shall maintain in full force and effect during the life of any franchise, public liability and property damage insurance for the amount of at least One-Million Dollars (\$1,000,000.00) single limit liability from the time of commencement of construction of the cable television system. In addition, the Grantee shall carry worker's compensation coverage for its employees. Evidence of such insurance coverage shall be provided to the Township not less than 10 days prior to the commitment of construction operation of the cable television system whichever first occurs. The Township shall be a named insured under the aforementioned public liability and property damage insurance. In addition, the Township shall receive at least ten (10) days prior notice of renewals of such coverage and at least forty-five (45) days notice of any cancellation of said insurance.

B. Any insurance company providing coverage under the provisions of this section must be licensed to do business in the Commonwealth of Pennsylvania. All such insurance may contain reasonable deductible provisions not to exceed One-Thousand (\$1,000.00) Dollars for any type of coverage. At Township's election, all investigation of claims made by any person against the Township arising out of any use or misuse of privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee may bring its obligations to carry any insurance required hereby within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement or otherwise; provided, however, the interest of the Township shall be as fully protected thereby as if the Grantee had obtained individual policies of insurance.

C. Grantee shall not be initially required to obtain or maintain bonds or other surety as a condition of being awarded the franchise or continuing existence. Should a bond or other surety be required to guarantee compliance with or performance of this Ordinance or a franchise agreement executed hereunder, it shall be only at such times as there is a reasonably demonstrated need therefor. In the event that a bond or other security is required for the future, the



Township agrees to give Grantee at least thirty (30) days prior notice thereof stating the exact reason for the requirement. Such reasons must demonstrate a change in the Grantee's legal, financial or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the franchise or afford compliance therewith.

SECTION 16: Procedures.

A. Any formal inquiry, proceeding, or other action taken or proposed to be taken by the Township with respect to the operation of any existing or proposed cable television system franchise shall be subject to thirty (30) days prior written notice to the franchise holder whose right of procedural due process shall be protected at a public hearing of the Board.

B. The notice required by this section shall state clearly the action or proposed action to be taken, the time provided for a response and the person or persons in authority to whom such response shall be addressed, and such other procedures as may be specified by the Township. Any such notice shall include the date, time and place of the scheduled hearing on the proposed action. Any Grantee who is the holder or proposed holder of a franchise which is the subject of the notice shall be a necessary part to any such hearing.

C. No hearing shall be held except upon ten (10) days prior public notice published at least one time in a newspaper generally circulating in the Township. Any existing subscriber of the subject franchise holder, or any person residing within the franchise area of a proposed Grantee may become a party to the hearing by entering a formal written appearance with the Board prior to the hearing's commencement.

SECTION 17: Termination and Procedures upon Termination. The Township shall have the right to terminate any cable television franchise in the event of the failure of the franchise holder (Grantee) to perform any the material provisions of this Ordinance, or in the event of any breach of the franchise agreement. In considering termination for just cause, initiated by the Township, the following provisions shall apply exclusively:

A. Notice of Violation - In the event that the Township alleges that the Grantee has not complied with the terms of this Ordinance or the franchise agreement, it shall notify the Grantee of the exact nature of the alleged non-compliance.

B. Grantee's Right to Cure or Respond - Grantee shall have thirty (30) days after receipt of the notice described in this section to (1) respond to the Township, contesting the allegation of non-compliance, or (2) to cure such default, if it cannot be cured within a period of thirty (30) days, to specifically describe and immediately initiate reasonable steps to remedy such



default, together with the projected date of completion. The Township may reject the Grantee's proposed remedy and time for performance in the event the same is not reasonable as determined by the Township in the exercise of its sole discretion.

C. Public Hearing - In the event that Grantee fails to respond to the Township's notice, or in the event that the alleged default is not remedied within thirty (30) days after the Township's initial notification (or any extension agreed to by the Township for performance), the Township shall schedule a public hearing to investigate the Grantee's default. Ten (10) days prior notice of the hearing shall be given to Grantee. The hearing shall be conducted in accordance with the Local Agency Law.

D. Enforcement - Subject to the applicable Federal and Commonwealth law, in the event the Township, after hearing, determines that the Grantee is in default of its franchise agreement or any of the provisions of this Ordinance, the Township may:

1. Foreclose on all or any part of any security provided under this Ordinance, if any, including, without limitation, any bonds or other surety; provided however, such foreclosure shall only be in such manner and in such amount as the Township reasonably determines is necessary to remedy default; and/or

2. Commence an action for equitable relief, monetary damages or both; and/or

3. Revoke the franchise agreement and terminate the Grantee's right to operate a cable television system within the Township; or

4. Seek specific performance of any provision of the franchise agreement, plus damages, if applicable.

E. The Grantee shall not be relieved of any of its obligations to comply promptly with any provisions of this Ordinance or the franchise agreement by reason of any failure of the Township to enforce prompt compliance. The Township's waiver of Grantee's non-compliance or default, at any time, shall not act as a waiver of any future default. Provided, however, Grantee shall not be held in default or non-compliance, nor suffer any enforcement or penalty relating thereto, where such is caused by strikes, acts of God, power outages, or other events reasonably beyond its ability to control.

F. Upon expiration of its franchise, should the Grantee not have acquired an extension or renewal thereof and accepted the same, it may have and it is hereby granted, the right to enter upon the public ways or other Township property, subject to the requirements that it restore any disturbed areas to the



condition immediately pre-existing such removal. As a condition precedent thereto, the Grantee shall compute and pay to the Township any and all sums then due and owing, computed as the effective date of the franchise termination. All final payments shall be due within forty-five (45) days of the termination date.

SECTION 18: Approval of Transfer.

A. The Grantee shall not sell or transfer its plant or cable television system to another, other than an affiliate, nor transfer any rights acquired under this Ordinance or specified in the franchise agreement to another without the Board's prior written approval, following hearing. No sale or transfer of the Grantee's assets in the performance of this franchise shall be effective until the vendee, assignee, or lessee has filed the office of the Township Secretary an instrument duly executed reciting the fact of such sale, assignment of lease, accepting the terms of the franchise agreement and agreeing to perform all of the terms and conditions thereof. The Board's approval shall not be unreasonably withheld and neither this section nor other sections of this Ordinance shall preclude the mortgaging, hypothecating or assigning of rights in the system, or the pledge of stock by the Grantee for the purpose of financing, provided that such mortgage, hypothecation or assignment is subordinate to the rights of the Township.

B. If a renewal of Grantee's franchise is denied and the Township either acquires ownership of the cable television system or by its actions effects a transfer of ownership of the cable television system to another person or entity, any such acquisition or transfer shall be at fair market value, determined on the basis of the cable television system valued as an on-going concern. If Grantee's franchise is revoked for cause and the Township acquires ownership of the cable television system or by its actions effects a transfer of ownership of the cable television system to another person or entity, any such acquisition or transfer shall be at an equitable price. In the event of a revocation, at the Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its cable television system to a qualified third person or entity reasonably acceptable to the Township at fair market value, determined on the basis of the cable television system valued as an ongoing concern. Grantee shall notify Township of such election not later than thirty (30) days after such revocation. Until consummation of such transfer, at the sole discretion of the Township, the Grantee may continue to operate pursuant to the terms of its prior franchise, however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of that time, Grantee is



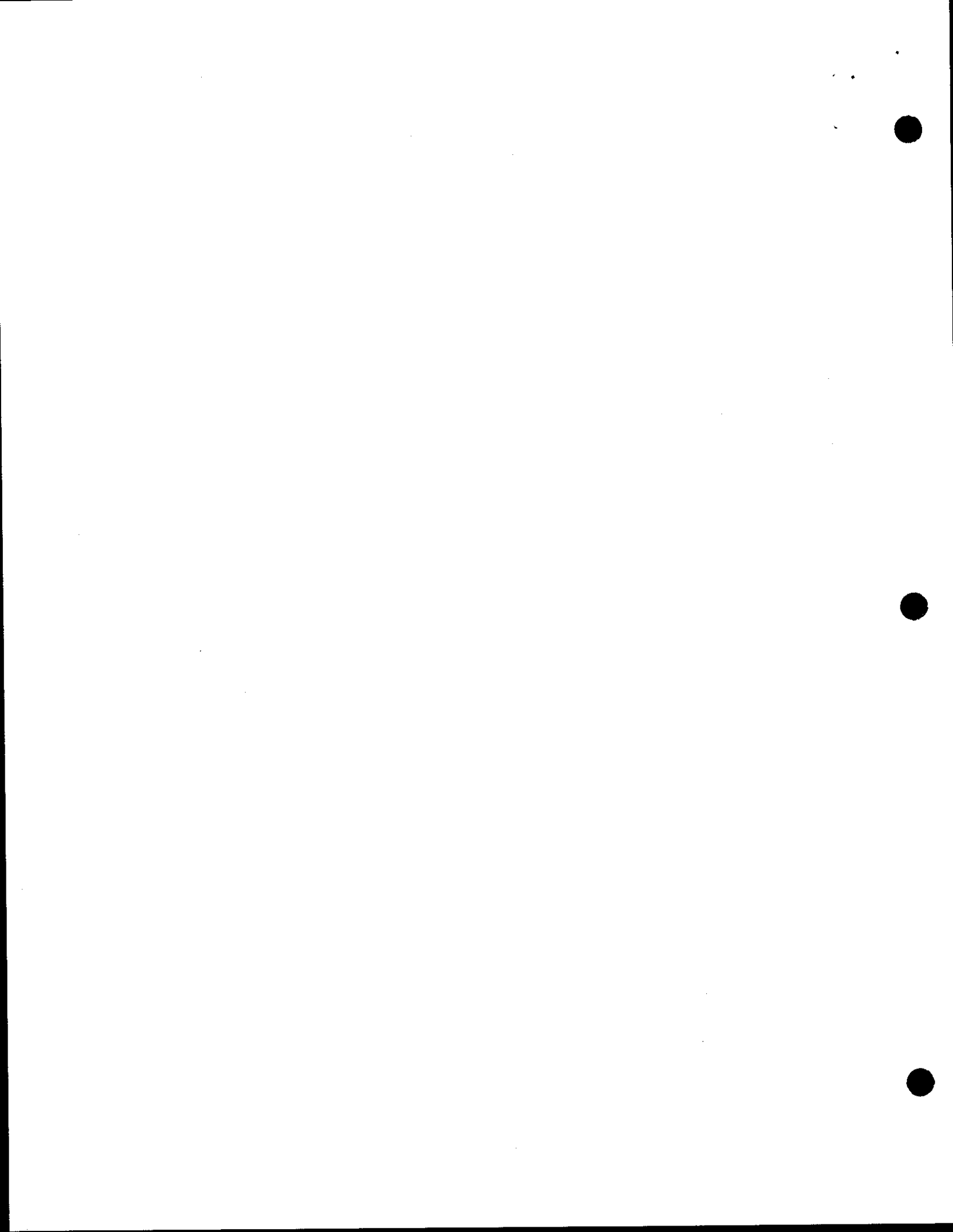
unsuccessful in procuring a qualified transferee or assignee of its cable television system, which is reasonably acceptable to the Township, Grantee and Township may avail themselves of any rights they may have pursuant to applicable law. Grantee's continued operation of its cable television system during the six (6) month period shall not be deemed as a waiver, nor an extinguishment of, any rights of either the Township or Grantee.

SECTION 19: Violations.

From and after the effective date of this Ordinance, it shall be unlawful for any person to construct, install or maintain within any public way in the Township, or any other public or private property within the Township, any equipment or facilities for the transmission and distribution of audio, digital and video impulses, including television and radio signals, through a cable television system unless a franchise authorizing such use has first been obtained from the Township, and unless and until such franchise is in full force and effect. Should any person (a Grantee is a person) violate any of the terms, conditions or provisions of this Ordinance or of a franchise agreement, or fail to comply with any lawful provision of any Township Ordinance regulating the use by any person of the public ways, or if any Grantee shall violate any other lawful rule or regulation applicable to it, whether Township, Commonwealth or Federal, and continue to violate the same for a period of thirty (30) days after notification in writing to desist from such violations, the Grantee may at the Township's option, be deemed to be in default of its franchise, and have forfeited and annulled all of its rights and privileges granted under this Ordinance and the franchise agreement, and such franchise may be terminated by the Township. Any notice given pursuant to Section 17A shall be deemed to have fulfilled the thirty (30) day notice of this Section 19.

SECTION 20: Existing Franchises.

Any cable television franchise operating within the Township existing on the effective date of this Ordinance, shall be subject to its provisions. Within thirty (30) days following adoption of this Ordinance, the Township shall undertake proceeding pursuant to Section 5 hereof to determine renewal of any existing franchise, which franchise shall then be subject to all of the terms and conditions of this Ordinance. Within thirty (30) days after any Board authorized renewal, the Township and the Grantee thereof shall enter into a revised cable television franchise agreement complying with the provisions of this Ordinance. Failure on the part of any existing franchise holder to comply with the renewal process shall subject it to the termination provisions of Section 15 thereof.



SECTION 21: Repealer.

All prior ordinances of the Township regulating the subject of cable television franchise are hereby repealed in their entirety. All other Township ordinances inconsistent herewith are repealed to the extent of their inconsistency only.

SECTION 22: Effective date.

This Ordinance shall become effective five (5) days after enactment as law provided.

ENACTED AND ORDAINED this 12TH day of JULY 1993.

ATTEST:

Larry L. Dulay
Secretary

BOARD OF SUPERVISORS
WEST CALN TOWNSHIP

Paul E. Hess Chairman
[Signature] Member
Joseph J. Hess Member

