## Chapter 8AA CABLE AND COMMUNICATIONS SERVICES PROVIDERS [[1]](#BK_4C278F20173333DCD1622E0306510C68)

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FOOTNOTE(S):

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**Editor's note—** Ord. No. 01-109, § 2, adopted June 19, 2001, changed the title of chapter 8AA from cable television regulations to cable and communications services providers. [(Back)](#BK_65008DDFAC123AE818694BD898CBBC2D)

**Cross reference—** Community antenna television systems, § 8A-125 et seq. [(Back)](#BK_65008DDFAC123AE818694BD898CBBC2D)

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[Secs. 8AA-79—8AA-99. Reserved.](#BK_679B066F301D3F9F9683280BC0AC37CA)

Sec. 8AA-1. Intent and purpose.

It is the intent of the County to promote the public health, safety, and general welfare by providing for the control of cable systems in incorporated and unincorporated Miami-Dade County; to provide for the payment of fees and other valuable consideration by a licensee to the County for the privilege of using public rights-of-way for constructing and operating a cable system; to promote widespread availability of cable service to County residents; to encourage the provision of diverse information to the community over cable; and to establish minimum standards for the regulation and performance of cable systems in Miami-Dade County for all cable television licenses granted or renewed after the effective date of this chapter [Ordinance No. 90-104].

(Ord. No. 90-104, 9-25-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-1.1. Name and scope.

This chapter shall be known as the "Miami-Dade County 1990 Cable Ordinance." It shall be applicable to all licenses issued on or after the date this chapter is passed. Nothing in this chapter shall be construed to interfere with the rights, if any, vested in a licensed cable operator pursuant to a Miami-Dade County cable license that has not expired or pursuant to federal law. The following provisions are considered quasi-contractual: [8AA-3](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-3LIPRLIRE), [8AA-4](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-4LIAPPRINRE), [8AA-7](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-7PUHEINEXLI), [8AA-8](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-8TELI), [8AA-9](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-9ACLI), [8AA-10](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-10LIISNORE), [8AA-11](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-11CHLITECO), [8AA-12](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-12EXLIAR), [8AA-13](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-13RE), [8AA-14](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-14TR), [8AA-16](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-16COSETA), [8AA-18](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-18RIRECO), [8AA-20](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-20IN), [8AA-21](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-21INPOLI), [8AA-22](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-22INPOPR), [8AA-24](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-24PEPEPABO), [8AA-25](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-25FCPELI), [8AA-26](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-26COAPLAOR), [8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO)(1), [8AA-28.1](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-28.1UNINLIACEA), [8AA-38](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-38GESTSIST)(b), [8AA-48](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-48SEPUBU), [8AA-49](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-49COCOFA), [8AA-50](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-50PUEDGOACCH), [8AA-52](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-52REREREACRE), [8AA-53](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-53QURE), [8AA-54](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-54ANRE), [8AA-55](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-55AU), [8AA-56](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-56ADRE), [8AA-63](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-63DIPRPR)(a)(2), [8AA-68](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-68PEEV), [8AA-69](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-69ENSEAUNOCUPR), [8AA-70](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-70UNRI-WOR), [8AA-71](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-71TERITE), [8AA-72](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-72PRTE), [8AA-77](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-77FOMA), [8AA-78](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-78CORIIN). The remaining provisions are considered quasi-regulatory in nature rather than quasi-contractual and therefore shall apply to all licenses regardless of when they were issued or renewed.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-2. Definitions.

Any word or term defined in the Communications Act but not defined below shall have the meaning set forth in the Communications Act.

(a) *Communications Act* shall mean the federal Communications Act of 1934, 47 U.S.C. para. 151 et seq. as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, and as those Acts may be hereinafter be amended (collectively the "Communications Act").

(b) *Cable service* shall mean the one-way transmission to subscribers of video programming or other programming services, and the subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

(c) *Cable system* shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that serves only to retransmit the television signal of one (1) or more television broadcast stations;

(2) A facility that serves subscribers without using any public right-of-way;

(3) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility shall be considered a cable system (other than for purposes of Section 621(c) of the Communications Act) to the extent such facility is used in the transmission of video programming directly to subscribers unless the extent of such use is solely to provide interactive on demand services;

(4) Any facilities of any electric utility used solely for operating its electric utility systems; or

(5) An open video system that complies with Section 653 of the Telecommunications Act, as amended.

(d) *Channel* or *cable channel* shall mean those channels engineered at the headend of a cable system for the provision of cable services generally available to subscribers of the cable system, regardless of whether such services are actually provided, including any channels designated for public, educational, or governmental use.

(e) *Commission* shall mean the Board of County Commissioners of Miami-Dade County, or its representative.

(f) Reserved.

(g) *County* shall mean Miami-Dade County, Florida.

(h) *County Manager* shall mean the Miami-Dade County Manager, as appointed by the Board of County Commissioners of Miami-Dade County.

(i1) *Director* shall mean the Consumer Services Department Director or the Director's designee.

(i2) *Distribution system* shall include all means of transmission of all signals.

(j) *Drop* shall mean the individual connection or cable from the distribution system to each individual household or connection.

(k) *Easement dedicated for compatible use* means all easements that a cable operator is authorized by State, federal, or local law to use in operating its cable system.

(l) *Federal Communications Commission (FCC)* shall mean that agency as presently constituted by the United States Congress, or any successor agency.

(m) *Reserved.*

(n) *Interconnect* shall mean the electronic connection of two (2) or more different cable systems licensed by Miami-Dade County for the purpose of sharing public, educational, and/or governmental (PEG) programs or other PEG signals.

(o) *License* shall mean the license granted to the applicant for permission to install, maintain and operate cable systems in Miami-Dade County.

(p) *Reserved.*

(q) *Licensee* shall be the corporation, partnership, individual, or other entity granted a license for the installation, maintenance and operation of a cable system(s) by the Board of County Commissioners.

(r) *Person* shall mean any individual, partnership, corporation, or other legally recognized entity, whether for-profit or not-for-profit.

(s) Reserved.

(t) *Property owner* means any individual, association, or business entity that owns or controls an apartment building, condominium, mobile home, duplex, single-family home, or other property.

(u) *Satellite master antenna television system* or *SMATV* shall mean a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings unless such facility or facilities use any public right-of-way, public property, public easement, or other easement whose use is regulated by government.

(v1) *Shall* and *will* are mandatory, not merely directive.

(v2) *State-of-the-Art* shall mean a level of technical performance, equipment, components and services which has been developed and demonstrated to be generally accepted and used in any other community in the State of Florida served by Licensee, its parents or affiliates, but excluding "tests" involving new products offered for one year or less. To qualify as State-of-the-Art a system must have no less than 750 MHz with 50 to 750 MHz downstream and 5 to 40 MHz upstream activated. Nothing herein shall be construed to require a licensee to employ any specific transmission technology.

(w) *Subscriber* shall mean any person lawfully receiving for any purpose any service provided by the cable operator.

(x) *System facilities* shall mean the physical plant and equipment constructed, operated and maintained by the licensee for the purpose of producing, receiving, amplifying and distributing radio, television and electronic signals to and from subscribers in connection with a cable system located within Miami-Dade County.

(y1) *Sunshine State One Call of Florida, Inc.* shall mean a bona fide underground notification program recognized by Miami-Dade County.

(y2) *Two-Way Capability* shall mean the incorporation into a Cable System of all appropriate design and engineering characteristics and features, including all necessary equipment, which shall be installed and operational, so that two-way transmission, including but not limited to addressability, over the System can be implemented and activated.

(z) *Weighted pro rata share of all Miami-Dade County subscribers* shall mean the percentage of the individual licensee's subscribers relative to all subscribers in Miami-Dade County. Where a system offers bulk rates to multiple-outlet subscribers, such as apartment house or motel operators, each bulk-rate contract is viewed as a number of subscriptions to be calculated by dividing the total annual charge for the bulk-rate contract by the system's basic annual subscription rate for an individual household. For example, if a cable television system charges an apartment house operator one thousand dollars ($1,000.00) a year for a bulk-rate contract and charges individual households a basic rate of fifty dollars ($50.00) per year, the bulk-rate contract is counted as twenty (20) subscriptions (i.e., 1,000 ° 50 = 20).

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 2, 9-15-92; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 01-109, § 2, 6-19-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-3. Licensing provisions; license required.

(a) Any person desiring to install and/or operate any cable television system in the unincorporated and incorporated areas of Miami-Dade County shall apply to the Commission for a license pursuant to this chapter. Any license granted by the County shall authorize and permit the licensee to engage in the business of installing, operating and maintaining a cable system(s) and providing cable services in the license area. For that purpose, subject to the approval of the Public Works Department and all existing permitting processes, the licensee is authorized to install, construct, maintain and operate in, along, under, over, through, across and upon any public right-of-way or street, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary to the cable system. To the extent provided by State and federal law, the licensee shall be entitled to use easements dedicated for compatible uses.

(b) It shall be a violation of this chapter to commence or engage in the construction, operation or maintenance of a cable system in Miami-Dade County without first having obtained a cable license awarded by the Board of County Commissioners.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-4. License application procedure; information required.

(A) All applications to construct, operate, or maintain any cable system in the unincorporated or incorporated areas or to traverse any portion of those areas for the transmitting or conveying of such service elsewhere, shall be filed with the Director. An application for the grant of an initial license may be filed pursuant to a request for proposals issued by the County or on an unsolicited basis. To be acceptable for filing, an original and two (2) copies of the application must be submitted and be accompanied by the application filing fee where required.

(B) Each application for an initial license shall set forth the following:

(1) The name, address and telephone number of the applicant.

(2) A detailed statement of the corporate or other business organization of the applicant, including but not limited to the following:

(a) The names, business addresses, and state of residence of all general partners and corporate officers of the applicant.

(b) The names, business addresses, and state of residence of all persons owning or controlling five (5) percent or more of the stock, partnership shares, or assets of the applicant and the respective ownership share of each such person.

(c) The names and addresses of any parent corporation, parent entity, or holding company that owns or, by ownership of other entities, controls the applicant.

(d) The names and addresses of any business entities owned or controlled by the applicant, including, but not limited to, SMATV or cable operations.

(e) A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the five (5) fiscal years immediately preceding the date of the application, or a letter or other acceptable evidence in writing from a responsible lending institution or funding source, addressed to both the applicant and the County, setting forth a clear statement of its intent to provide the capital required to construct and operate the proposed system. If the corporate or business entity organization of the applicant has not been in existence for a full five (5) years, applicant shall submit a certified financial statement for the period of its existence.

(f) A detailed description of all previous experience of the applicant in providing cable services or related or similar services which includes a statement identifying, by place and date, all other cable television licenses or franchises awarded to the applicant, its parent or subsidiary; the status of the licenses or franchises with respect to completion; the total cost of completion of such systems; and the amount of applicant's and its parent's or subsidiary's resources committed to such systems.

(g) An indication of whether the applicant, or any person controlling the applicant, or any officer or major stockholder of the applicant, has been adjudged bankrupt, had a cable license or franchise revoked, or been found guilty by any court or administrative agency of a violation of a security or antitrust law, felony, or any crime involving moral turpitude; and, if so, identification of any such person and a full explanation of the circumstances.

(3) A detailed financial plan describing for the first five (5) years of the license, projected number of subscribers, rates, all revenues, operating expenses, capital expenditures, depreciation schedules, income statements, and statement of sources and uses of funds and schedule of all capital additions.

(4) A detailed description of the proposed plan of operation of the applicant, which shall include, but not be limited to, the following:

(a) A detailed map indicating all areas proposed to be served, a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, a description of the construction of the proposed system including an estimate of the above and below ground mileage and the projected total cost for construction of the system.

(b) For informational purposes, a statement or schedule setting forth all proposed initial classifications of rates and charges to be made against subscribers and all rates and charges for each classification, including installation charges, service charges, or other charges. The purchase price, terms, and nature of any optional or required equipment, device, or other thing to be offered for sale to any subscriber shall be described and explained in detail.

(c) A detailed statement describing the physical facility proposed, including channel capacity, technical design, the actual equipment, and the operational and technical standards proposed by the applicant.

(d) A description of the services to be provided initially, including the broad categories of programming and all broadcast and non-broadcast signals to be carried and all non-television services to be delivered over the cable system, and if services will be offered by tiers, identification of the signals and/or services to be included on each tier.

(e) A description of how the proposed system will reasonably meet the future cable-related needs and interests of the community, including how the proposed system will meet the needs described in any recent community needs assessment conducted by or for the County.

(f) Any other information as requested in order for the County to comply with State or federal law.

(5) A copy of the form of any agreement, understanding, or other instrument proposed to be entered into between the applicant and any subscriber.

(6) A copy of any agreement covering the license area, if existing, between the applicant and any public utility providing for the use of any facilities of the public utility, including but not limited to poles, lines or conduits.

(7) Copies of all reports filed with the FCC within the last twelve (12) months by the applicant or its parent relating to cable operations, including but not limited to the last and most current FCC Form 325.

(8) Any other reasonable information which could materially affect the granting of the license and which is requested by the County.

(c) The County at its discretion may decide to accept less than the documentation above if it can establish through other sources that the applicant can meet the technical, financial, legal, and character to establish that the applicant is competent to operate a cable system.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-5. Application fee.

(a) Each application submitted for a license under the provisions of this chapter shall be accompanied by the required nonrefundable application fee to offset the reasonable cost of processing and evaluating the application.

(b) Unless prohibited by applicable law, to be acceptable for filing, an application shall be accompanied by a non-refundable filing fee in the following amount, as appropriate:

(1) For a new or initial license: .....$10,000

(2) For renewal of a license: .....$10,000

(3) For a transfer of a license: .....$10,000

(4) For modification of a license: .....$5,000

(5) For any other relief: .....$5,000

In the event that two or more licenses are owned by a common parent company, then a single filing fee may be submitted for the cumulative amount of the number of licenses being affected. However, such cumulative amount shall not exceed $40,000 per transaction.

(c) Unless prohibited by applicable law, where the County's out-of-pocket costs in considering the application exceed the amount of the application filing fee, such costs shall be paid by the applicant. Within thirty (30) calendar days from the date of the resolution approving or denying the grant of the license thereof by the County Commission, the County shall bill the applicant for the amount of the out-of pocket costs and provide its method of calculation. If the out-of pocket costs are not received by the County within sixty (60) calendar days of date of the bill, the County shall notify such applicant and the applicant shall pay a late fee at the rate of eighteen percent (18%) per annum of the amount of the unpaid or underpaid costs provided, however, that such rate does not exceed the maximum amount allowed under applicable law. If said costs are not received by the County within ninety (90) calendar days of the date of the bill, the County shall notify such applicant and any approval granted by such resolution will be null and void without further action by the County. This out-of pocket cost is intended to be a charge incidental to the awarding or enforcing of a license within the meaning of Section 622(G)(2)(d) of the Cable Act, 47 U.S.C. § 542(G)(2)(d). Payment under protest of the out of pocket costs shall be a prerequisite to contesting the amount of the fee pursuant to [Section 8AA-76](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-76AP). To the extent any such costs are applicable to more than one licensed operator, the costs shall be allocated on a weighted pro rata share of all Miami-Dade County subscribers.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-6. Notice and comment period for initial licenses.

(a) If the Director finds that an application is incomplete, the application and the fee shall be returned to the applicant with a letter describing any and all insufficiencies found in the application. The applicant may then reapply for a license upon correcting the deficiencies noted by the Director. Upon receipt of a complete application, the Director shall publish notice within a ninety-day period requesting written comments from the public or any interested person. The notice shall name the applicant, describe the proposed license area, name any existing licensee authorized to serve the area, establish a closing date for receiving comments and provide the address where the comments should be sent. All such written comments shall be submitted at least thirty (30) days before the public hearing required by [Section 8AA-7](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-7PUHEINEXLI).

(b) Upon the receipt of an application for a municipal area, the Director shall contact the municipality involved and request access to all pertinent documentation regarding the application. The Director shall determine whether the information submitted to the municipality meets, at a minimum, the requirements of this chapter, and shall determine whether a public hearing was held by a municipality regarding the application. The Director shall determine whether the municipal license or franchise contains any terms or conditions inconsistent with this chapter. If so, the County Manager shall identify those inconsistencies in his/her report to the Commission. Applications from applicants which have been issued a municipal license, franchise or permit may be processed at the discretion of the Director without the notice and comment requirements in [Section 8AA-6](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-6NOCOPEINLI)(a) provided that:

(1) The application does not seek to provide service in areas located in the unincorporated areas of the County; and

(2) The municipal license was granted after an investigation and public hearing process conducted by the municipality and similar to the process established by this chapter; and

(3) The application otherwise meets the requirements of this section.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-7. Public hearing for initial and expansion licenses.

(a) The County Manager shall prepare a report to the Commission regarding the award of a license to the applicant, which report shall consider and respond to any comments received and shall contain the County Manager's recommendations concerning the application. The County Manager shall schedule a public hearing before the Board of County Commissioners to consider the application and the County Manager's report. Notification of any cable license hearing must be published in a paper of general circulation in the County. The notice shall name the applicant, describe the proposed license area, and set a time and date certain, The public hearing may be continued from time to time and from place to place as determined to be necessary by the Commission. The County shall make a final determination on the application within eight (8) months of the date a completed application was received unless it is determined that the applicant has caused the delay.

(b) The Commission shall consider all factors required by State or federal law, including, among other factors the applicant's character, technical, legal, and financial qualifications to construct and operate the facilities proposed; the nature of the proposed system; the economic impact on private property within the proposed license area; the capability of the public rights-of-way to accommodate the proposed system; the present and future use of the rights-of-way to be used; the potential disruption to existing users of the right-of-way; whether the proposal will meet reasonably anticipated community needs and serve the public interest; and all other factors as the County may determine to be relevant. The Commission shall approve, disapprove or take any other action it finds to be in the public interest.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-8. Term of license.

No license, including a renewal license, shall be issued for a term longer than ten (10) years. A licensee holding a current license under any previous ordinance may file for a renewal of its license pursuant to the terms of this chapter which shall require adequate notice to the public and opportunity to comment and may have its license renewed for additional periods of no longer than ten (10) years duration. New and renewal licenses will receive terms that will coordinate with the terms of existing licenses so that in the future all licenses will expire and be subject to renewal simultaneously. Notwithstanding, a license may be extended for a period of greater than ten (10) years to accomplish the policy goal of having existing licenses expire and be subject to renewal simultaneously.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-9. Acceptance of license.

Within thirty (30) calendar days after the resolution awarding the license, the licensee shall file with the Director its written acceptance of the license, together with the insurance policies and bonding documents required by Sections [8AA-21](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-21INPOLI) through [8AA-24](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-24PEPEPABO), and its agreement to be bound by and to comply with all requirements pursuant to the provisions of this chapter and the license. All material statements and declarations contained in the application shall be incorporated as conditions of the license. Such acceptance and agreement shall inform and content be satisfactory to and approved by the County Attorney.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-10. License is nonexclusive and restricted.

(a) Any license granted under this chapter shall be nonexclusive, and issuance will not expressly or implicitly preclude the issuance of other licenses to operate cable systems within the County or affect the County's right to authorize use of public rights-of-way to other persons as it determines appropriate.

(b) The licenses granted pursuant to this chapter shall confer only such privileges or exemptions specifically provided in this chapter or mandated by federal or State law.

(c) Any privilege claimed under the license in any street or other public property shall be subordinate to any prior lawful occupancy of the streets or other public property.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-11. Changes to license terms and conditions.

Each application for modification of a license shall set forth the following information. To be acceptable for filing, the application must be submitted and be accompanied by the required application fee.

(a) The specific modification requested;

(b) The justification for the requested modification, including the impact of the requested modification on subscribers and others, and the impact on the applicant if the modification is not approved;

(c) A statement whether the modification is sought pursuant to federal or State law, and, if so, a demonstration that the requested modification meets the legal standards of that law; and

(d) Any other information necessary for the County to make a determination.

No application fee shall be required where the modification is requested by the County or where the modification is required to bring the license into conformity with the law of a superior sovereign.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-12. Expansion of a license area.

Except for pass-through facilities to connect noncontiguous portions of a licensee's license area, no facilities or equipment may be installed outside of the licensee's area, and the licensee shall not offer or provide service to persons outside of the license area. Licensees may apply for an expansion of their license area by filing an application accompanied by the required application fee. Only applicants that have an existing cable license approved by the Board of County Commissioners will be considered.

(a) The Director shall investigate all applications for installation of cable distribution systems to determine whether the application meets the following standards:

(1) The requested installation is within the applicant's license area;

(2) The licensee has adequate financial and managerial resources to complete the requested installation in a logical, orderly and prompt fashion;

(3) The licensee is in full compliance with all provisions of this chapter and any approved rules and regulations;

(4) The expansion will meet reasonably anticipated community needs and serve the public interest; and all other factors as the County may determine to be relevant.

(b) Should the Director determine that the requested installation is within the licensed areas, the Director shall, within ten (10) days after receipt of the application, provide notice of the application to the cable licensee or licensees operating within the County. Such affected licensee may, within twenty (20) days after the date shown on the face of the notice provide written comments regarding the requested installation. The Director shall consider and respond to any such comments received in a timely manner.

(c) Applications for installation of cable distribution systems shall be approved or disapproved by the Director, whether in whole or in part, in writing not later than ninety (90) days after receipt of an application. Applications for which decisions are not rendered within ninety (90) days shall be considered approved in their entirety. The Director shall notify the licensee, the Public Works Department, the utility companies, and each licensee in the affected area of his decision.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 97-32, § 1, 4-15-97; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-13. Renewal.

The County shall grant or deny renewals pursuant to the procedures mandated by any controlling federal or State law in effect at the time of the renewal.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-14. Transfers.

(a) No transfer of a license shall occur without prior approval of the County, which approval shall not be unreasonably withheld.

(b) Any transfer of a license shall be subject to the application requirements of [Section 8AA-4](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-4LIAPPRINRE)(B)(1), (2), (3), and (8). Final action on the request shall be taken by the Commission within a reasonable amount of time of receipt of a completed application.

(c) Transfer of a license shall mean (1) assignment, sale or transfer of more than thirty (30) percent of the stock, partnership shares or assets of the licensee to a person other than the licensee; (2) assignment, sale or transfer of more than forty (40) percent of the ownership of any parent corporation, parent entity or holding company that owns, or by ownership of other entities, controls the licensee; or (3) the transfer of any interest that results in the change of effective control of the licensee.

(d) This section does not apply to any restructure, recapitalization or refinancing which does not change the effective control of the licensee; in such transfer, the licensee shall give prior notice to the Director within thirty (30) days prior to such transfer.

(e) In making a determination on whether to grant an application to transfer a license, the Commission will consider the legal, financial, technical and character qualifications of the transferee to operate the system.

(f) Approval by the County of a transfer of a license does not constitute a waiver or release of any of the rights of the County under this chapter.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-15. Authority of the Director.

(a) The Director shall have the responsibility for overseeing the day-to-day administration of this chapter and licenses granted hereunder. The Director, or any member of the Director's staff so designated by the Director, may administer oaths, certify to official acts, issue subpoenas, and compel the attendance of witnesses and the production of papers, account books, contracts, documents and other records, data or information, when necessary, convenient, or appropriate in the discharge of the duties of his office. The Director shall be empowered to take all administrative actions on behalf of the County, including adopting forms for application and reporting and other administrative procedures as are necessary, except for those actions specified in this chapter which are reserved to the Board of County Commissioners.

(b) The Director shall exercise jurisdiction and have the power and authority to regulate and supervise each license as defined herein in respect to service and license areas within Miami-Dade County, in accordance with the standards set by the provisions of this chapter. This jurisdiction shall be exclusive and superior to that of all other boards, agencies, commissions, political subdivisions, and municipalities in Miami-Dade County, Florida, and in case of conflict all lawful acts, orders, rules and regulations of the Director shall in each instance prevail, subject to the Constitution and general laws of the State of Florida.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-16. Communications Services Tax.

(a) Each Licensee shall collect and remit to the Florida Department of Revenue the Communications Services Tax pursuant to chapter 202, Florida Statutes and Chapter 29 Article IV-A of the Code of Miami-Dade County. Collection and remittance of the Communications Services Tax do not include the following:

(1) In the case of any license granted after December 30, 1984, capital costs which are required by the license to be incurred by the cable operator for public, educational or governmental access facilities;

(2) Requirements or charges incidental to the awarding or enforcing of the license, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

(3) Any fee imposed under [title 17](../level2/PTIIICOOR_CH17HO.docx#PTIIICOOR_CH17HO), United States Code.

(b) In the event that state law is amended to allow collection of license fees from Cable Services Providers, or in the event that state law preempting the collection of such license fee is declare void by a court of competent jurisdiction, the license fee provisions contained in this section shall automatically revert to those provisions contained in this section in effect on the date of adoption of this chapter to the extent those provisions are not inconsistent with state law.

(c) All municipal ordinances, franchises and licenses in conflict with this section are hereby superseded to the extent of such conflict.

(d) Nothing in this section shall limit the licensee's liability to pay other local taxes, fees, charges, or assessments to the County and other taxing and governmental authorities.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 90-104, § 1, 9-25-90; Ord. No. 92-97, § 3, 9-15-92; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 01-109, § 2, 6-19-01)

Sec. 8AA-17. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed [section 8AA-17](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-17RE) in its entirety. Former sections [8AA-17](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-17RE) pertained to selling of signal and derived from Ord. No. 90-73, § 1, adopted July 24, 1990; and Ord. No. 01-44, § 1, adopted March 20, 2001.

Sec. 8AA-18. Rights reserved to the County.

(a) The right is hereby reserved to the Commission to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional rules and regulations as it shall find necessary in the exercise of the police power, for the proper administration and enforcement of the provisions of this chapter; provided that such regulations shall be reasonable and shall conform with the terms and conditions of the licenses and the rights herein granted and shall not be in conflict with federal or State law. Rules and regulations promulgated by the County shall insure fair and equitable treatment for all municipalities affected by cable service. No such rules and regulations shall become effective until a public hearing has been held upon the proposed rules and regulations, and any amendments or modifications thereto, and the same have been filed with the Clerk of the Commission.

(b) The County shall have the right to install, maintain, and operate antennae, amplifiers, coaxial cable, wire, fiber optic cable fixtures and appurtenances necessary for a County communications system upon or within the communications facilities of the licensee on the condition that such installations do not interfere with the property or operations of the licensee and at no cost to the County except to reimburse the licensee for any additional costs incurred as a result of any such construction by County.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-19. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed [section 8AA-17](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-17RE) in its entirety. Former [section 8AA-19](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-19RE) pertained to liability, indemnification; liability in case of emergency and derived from Ord. No. 90-73, § 1, adopted July 24, 1990.

Sec. 8AA-20. Indemnification.

The licensee shall indemnify, defend and hold the County, its officers, agents and employees harmless from any liability, claims, damages, judgments, costs or expenses, including reasonable attorney's fees caused by any conduct undertaken by the licensee, its officers, agents or employees, pursuant to or by reason of the license or caused by any policy or practice by Miami-Dade County on behalf of the licensee arising pursuant to Sections [8AA-28.1](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-28.1UNINLIACEA); [8AA-64](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-64THVATAVI); and [8AA-66](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-66CO). The licensee shall at its sole cost and expense, upon demand of the County, appear in and defend any and all suits, actions or other legal proceedings, whether judicial, quasi-judicial, administrative, legislative or otherwise, brought or instituted or had by third persons or duly constituted authorities, against or affecting the County, its officers, agents or employees, and arising out of or pertaining to any conduct, policy, or practice which is within the scope of this indemnity.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-21. Insurance; policy limits.

(a) Within thirty (30) days after the effective date of the license, and prior to any operations under the license, the licensee shall provide proof of the required insurance. The licensee shall maintain said insurance throughout the term of the license and said insurance shall include, at a minimum, the following types of insurance coverage in amounts not less than shown:

(1) *Worker's compensation:* Coverage to apply for all employees for statutory limits in compliance with the applicable State and federal laws. The policy must include employers' liability with a limit of five hundred thousand dollars ($500,000.00) each accident.

(2) *Comprehensive general liability:* Shall have minimum limits of two million dollars ($2,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. This shall include premises and/or operations, independent contractors, and subcontractors and/or completed operations, broad form property damage, XCU coverage, and a contractual liability endorsement.

(3) *Business auto policy:* Shall have minimum limits of one million dollars ($1,000,000.00) per occurrence combined single limit for bodily injury liability and property damage liability. This shall include owned vehicles, hired and non-owned vehicles.

(b) The insurance coverage obtained by the licensee in compliance with this section shall be approved by the Risk Management Division of the General Services Administration and the County Attorney, and such insurance policies, along with written evidence of payment of required premiums, shall be filed and maintained with the Director or his designee during the term of the license.

(c) Upon thirty (30) days notice, the insurance coverage and policy requirements may be changed and increased from time to time at the discretion of the Board of County Commissioners to reflect changing liability exposure and limits.

(d) Nothing herein is intended as a limitation to the extent of any legal liability of the licensee.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-22. Insurance policy provisions.

(a) *Resident company and agent:* All insurance policies, letters of credit and bonds as are required of a licensee in this chapter shall be written by a company or companies authorized and qualified to do business in the State of Florida, and have a minimum rating of "A X" in Best's Rating Guide.

(b) *Certificates and renewals:* Certificates and renewals of all coverage required shall be promptly filed by the licensee with the Director or his designee. Each policy shall require notice and the licensee shall notify the County within thirty (30) days of any cancellation or modification of any insurance coverage required by this chapter, which notice shall be sent by registered mail to the Director or his designee. Renewal certificates shall be filed with the County no less than thirty (30) days prior to the policy expiration date.

(c) *Additional insured:* Miami-Dade County shall be included as an additional insured on the comprehensive general liability.

(d) *Premium payment:* Companies issuing the insurance policies shall have no recourse against the County for payment of any premiums or assessments, and same shall be the sole responsibility of the licensee.

(e) Neither the provisions of this section, nor the acceptance of any bonds by the County pursuant to this chapter, nor any damages received by the County thereunder, shall be construed to excuse performance by a licensee or limit the liability of a licensee for damages to the full amount of the bonds or otherwise.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 4, 9-15-92; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-23. Reserved.

**Editor's note—**

Ordinance No. 97-32, § 2, adopted April 15, 1997, reserved [§ 8AA-23](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-23RE). Formerly, such section pertained to bonding requirements; construction bond and derived from Ord. No. 90-73, § 1, 7-24-90.

Sec. 8AA-24. Permanent performance and payment bond.

The licensee shall within thirty (30) days of the effective date of an initial license granted under this chapter or within thirty (30) days of the granting of a renewal or the transfer of a license existing prior to this chapter, furnish to the County a performance bond or an irrevocable letter of credit issued by a Florida bank or a federally insured lending institution. The performance bond amount shall be based on the number of total homes passed by the cable system, regardless of whether the cable is owned or leased by the licensee, for cable service in the following amounts:

0 to 100,000 total homes passed .....$100,000.00

100,001 to 150,000 total homes passed .....$300,000.00

150,001 and up total homes passed .....$500,000.00

The licensee's bond amount shall be determined based upon the required reports to be filed with the County on January 25th each year. If multiple licensees are owned by a common parent company, such licensees may meet the requirements of this provision by posting a joint bond in an amount equal to the sum of each licensee's bond obligation, but not exceeding $1,000,000.00, in which event they shall be jointly and severably liable for any failure to perform under their individual licenses.

The performance bond or letter of credit shall be used to guarantee the compliance with performance requirements and payment of all sums which may become due to the County under this chapter. The performance bond or letter of credit shall be maintained in the full amount specified herein throughout the term of the license and for one (1) year after the license expires or is terminated, without reduction or allowances for any amounts which are withdrawn or paid pursuant to this chapter.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-25. FCC petition and license.

The licensee shall, except for existing licenses, within sixty (60) days after the issuance of a license under this chapter, apply to the FCC for all certifications, registrations or licenses as may be required for the operation of the cable system. Failure of the licensee to obtain the necessary permits and licenses within one (1) year of the issuance of a license under this chapter shall cause the license to become null and void, unless the licensee petitions the Commission for an extension of time upon good cause shown.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-26. Compliance with applicable laws and ordinances.

(a) The licensee shall at all times during the life of this chapter be subject to all lawful exercise of the police power by the County and to such reasonable regulation by the County as the County shall hereafter provide. The licensee shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business. The Licensee shall at all times comply with the requirements of Article III of this Chapter. Specific and exact compliance to all zoning and building regulations shall be adhered to by the licensee.

(b) Except as may be specifically provided for in this chapter, the failure of the County or a licensee, upon more than one (1) occasion, to exercise a right or to require compliance or performance under this chapter shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance in the future.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-109, § 2, 6-19-01)

Sec. 8AA-27. Cable system construction.

(1) In areas where cable service is not available, the licensee shall, at the request of the County, extend its cable television service to areas that have a minimum density of thirty (30) dwellings or business entities per strand mile of cable within one hundred (100) feet of its energized coaxial cable. The licensee may at its option extend service to areas not meeting the above criteria.

(2) At the end of the second year of the license and continuing every two (2) years thereafter, the cable operator will file a report with the Diretor. In the report, the cable operator shall demonstrate that the cable operator has refrained from redlining based on income, race, ethnicity, religion, and national origin. Such report shall state whether the licensee provides uniform products, services, and rates throughout its systems within Miami-Dade County. If the licensee's products, services, and rates are not uniform throughout it systems, the report shall describe the different levels of products, services, and rates by census tract and block groups in its systems. It shall also provide the licensee's explanation for such different levels and the licensee's timetable for making such levels uniform. If a licensee's system is not contiguous, the licensee shall list the census tracts and block groups in which it provides cable service. The report shall be submitted in a format approved by Director and contain such additional information that the Director deems necessary, including a list of census tracts and block groups in which the licensee provides cable services. Instead of, or in addition to, such supporting information, the Director may require the licensee to put such information on a map on a size and scale chosen by the Director. Failure to file such report will constitute a violation of this section, and may result in penalties, including, but not limited to, termination of the license pursuant to Sections [8AA-71](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-71TERITE) and [8AA-72](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-72PRTE). If requested, the licensee shall appear before the Board of County Commissioners at a public hearing.

(3) In eliminating the requirements concerning construction of the entire license area and the contiguous build-out and other requirements of [Section 8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO) of the Code of Miami-Dade County (1990), Miami-Dade County reserves the right to enact future ordinances and regulations applicable to initial grants of future licenses and the renewal of existing licenses to accomplish the following:

(a) Establish criteria, burdens of proof, and causes of action regarding discriminatory practices, including "bright lines" statistical tests for discrimination that would prohibit disparate impact on protected individuals, groups or neighborhoods identified in [Section 8AA-63](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-63DIPRPR) of the Code of Miami-Dade County;

(b) Establish a formal method to allocate between operators in overlapping license areas the public buildings that must be served;

(c) Establish regulations providing for a "cable provider of last resort" by any lawful method, including requiring cable operators to provide such service or contribute to an industry fund to subsidize such service, provided the burden is distributed fairly among affected licensees; and

(d) Reestablish the requirements concerning construction of the entire priority service area and the contiguous build-out and other requirements of [Section 8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO) of the Code of Miami-Dade County (1990) or other build-out requirements intended to insure universal service. Such regulations must be reasonable in light of industry standards for build-out, shall allow a reasonable amount of time to accomplish the build-out, and shall make reasonable accommodation for existing systems that are not built contiguously.

(e) Reinstate the construction bond requirements of [Section 8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO) of the Code of Miami-Dade County (1990).

(4) The 1997 amendments to [Chapter 8AA](../level2/PTIIICOOR_CH8AACACOSEPR.docx#PTIIICOOR_CH8AACACOSEPR) shall not be interpreted to preempt or prevent any authority of municipalities to regulate cable television that the municipalities possessed prior to the 1997 amendments.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 97-32, § 3, 4-15-97; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-28. Reserved

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed [section 8AA-28](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-28RE) in its entirety. Former [section 8AA-28](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-28RE) pertained to rights to use easements and streets not warranted and derived from Ord. No. 90-73, § 1, adopted July 24, 1990.

Sec. 8AA-28.1. Unlawful to interfere with licensee's access to easements.

(a) Conduct prohibited.

(1) No property owner shall deny any owner, occupant, tenant, or lessee their right to have cable service provided by a licensee.

(2) No property owner shall forbid, prevent, or interfere with the licensee when the licensee is attempting to enter onto property at reasonable times and in reasonable circumstances for the purpose of the construction, installation, maintenance, or operation of a cable system or facilities on easements dedicated for compatible use.

(3) Except as provided for in subsection (b) of this provision, no property owner shall demand or accept payment in any form as a condition of permitting access to any easements dedicated for compatible use or as a condition of allowing the licensee to construct, install, maintain, or operate its cable system on an easement dedicated for compatible use.

(4) No property owner shall discriminate in rental charges or otherwise discriminate against any owner, occupant, tenant, or lessee on account of the purchase of cable services from a licensee by that owner, occupant, tenant, or lessee.

(b) In installing, maintaining, operating, or removing its facilities in, upon, on or from any easements dedicated for compatible uses, the licensee shall ensure:

(1) That the safety, functioning, and appearance of the premises and the convenience and safety of other persons not be adversely affected by the installation, construction, or removal of facilities necessary for a cable system;

(2) That the cost of the installation, construction, operation, or removal of such facilities be borne by the licensee or subscriber, or a combination of both; and

(3) That the owner be justly compensated by the licensee for any damages caused by the installation, construction, operation, or removal of such facilities by the licensee.

(c) Nothing herein shall be construed to prohibit or prevent any property owner from constructing, installing, or continuing to maintain and operate an independent television receiving system subject to the other provisions of this chapter; provided, however, that the construction, installation, maintenance, and operation of such receiving system shall not prevent the licensee from constructing, installing, maintaining, and operating its cable service through its cable system.

(d) This chapter is not intended to, and nothing herein shall be construed to, preclude appropriate payments, arrangements, or agreements for the use by cable operators of other utilities' facilities and equipment, including pole attachment agreements.

(e) Any person who willfully violates this section shall be subject to a five hundred dollar ($500.00) fine and thirty (30) days in jail for each violation.

(f) The licensee shall have a private right of action for damages and injunctive relief in any court of competent jurisdiction to enforce its rights pursuant to this section.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-29. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed [section 8AA-29](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-29RE) in its entirety. Former [section 8AA-29](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-29RE) pertained to other agreements, permit and easement requirements and derived from Ord. No. 90-73, § 1, adopted July 24, 1990.

Sec. 8AA-30. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed [section 8AA-30](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-30RE) in its entirety. Former [section 8AA-30](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-30RE) pertained to no property rights conveyed and derived from Ord. No. 90-73, § 1, adopted July 24, 1990.

Sec. 8AA-31. Construction map and sched- ule.

The licensee shall submit a plan and schedule for all major construction or reconstruction projects. In the case of all voluntary construction or reconstruction, the plan and schedule shall be submitted for informational purposes. The plan shall make reference to the licensee's cable system design details, equipment specifications, and design performance criteria (collectively referred to as licensee's proprietary data) which shall be maintained by the company at its business office. The county shall have the right to inspect but not copy licensee's proprietary data. Construction or reconstruction plans and maps shall be submitted to the County at least sixty (60) days prior to the start of construction or reconstruction.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 5, 9-15-92; Ord. No. 97-32, § 4, 4-15-97)

Sec. 8AA-32. Prior approval by County.

The licensee must comply at all times with all policies, procedures and directives of the Public Works Department. Except for individual service drops, the licensee shall not erect any pole, run any line, nor shall any construction on public property and related to the delivery of cable services be commenced without the prior approval of the Public Works Department.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-33. County's right to inspect.

The County shall have and maintain the right to inspect the installation, construction, operation and maintenance of the system by the licensee to insure the proper performance of the terms of this chapter.

(Ord. No. 90-73, § 1, 7-24-90)

Secs. 8AA-34—8AA-37. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed sections 8AA-34—8AA-37 in their entirety. Former sections 8AA-34—8AA-37 pertained to joint or common use of poles; location/relocation of facilities; work in the right-of-way; and safety, respectively, and derived from Ord. No. 90-73, § 1, adopted July 24, 1990; and Ord. No. 01-44, § 1, adopted March 20, 2001.

Sec. 8AA-38. General standards; signal standards.

(a) The cable systems shall pass standard color television and FM signals without abnormal degradation. The system must be capable of delivering all National Television Systems Committee (NTSC) color and monochrome standard signals and designed to provide picture quality of TASO grade 2 or better and superior reliability.

(b) Any cable system that commences construction, including, but not limited to, initial construction, rebuild, upgrade, or reconstruction after the effective date of this ordinance shall have a television system which is State of the Art and shall have a minimum capacity of at least seventy-eight (78) activated video channels or its digital equivalent, including two-way capability as defined. A license resolution may require a licensee to upgrade its cable system pursuant to a construction schedule in order to meet "State-of-the-Art" requirements. Failure to comply with this subsection or the upgrade or construction schedule outlined in a license resolution shall result in the imposition of fines to be paid by the licensee to the County in the amount of One Thousand Dollars ($1,000) per day or part thereof that the violation continues.

(c) All television signals transmitted on a cable system must include any closed circuit captioning information for the hearing impaired that is available to the licensee.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-38.1 Internet services.

To the extent consistent with applicable law:

(a) Any Licensee that provides or makes available cable Internet services to Subscribers will make such services available to all Subscribers within thirty-six (36) months of first offering the service.

(b) Where technically feasible and within the control of the Licensee, any Licensee offering cable Internet service by an Internet Service Provider affiliated with the Licensee to Subscribers must permit unrestricted customer access to all content on the Internet and to allow high speed Internet customers to access unaffiliated Internet Service Providers (ISP's) without viewing the content of the Licensee's affiliated ISP.

(c) In the event Licensee offers cable Internet services over its Cable System in Miami-Dade County, Licensee shall provide open access on a "Most Favored Nations" basis. This means (1) any access through its cable modem platform which Licensee makes universally available to all unaffiliated third party providers of Internet access and online services in any other community shall be made available by Licensee to all such providers in Miami-Dade County on comparable terms and conditions, or (2) any access through its cable modem platform which Licensee provides to unaffiliated third party providers of Internet access and on-line services providers due to agreements negotiated by Licensee with government entities or the lawful nondiscriminatory regulations of government entities shall be made available by Licensee to all such similar providers in Miami-Dade County on comparable terms and conditions. This requirement shall be subject to technical feasibility. Licensee shall comply with all lawful requirements with respect to access to Licensee's cable modem platform for providers of Internet access and online services.

(d) The County reserves the right to impose regulations that require Cable System Licensees that offer high-speed access to the Internet to provide nondiscriminatory equal access to all requesting unaffiliated service providers.

(e) Cable Internet services provided by a licensee over the cable system shall be deemed a "cable service" under this ordinance.

(f) The County reserves the right to regulate Internet service, including requiring open access, to the full extent consistent with applicable law.

(Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-39. Technical standards.

(a) Cable systems shall be installed and maintained in accordance with FCC technical specifications, and all State and local regulations.

(b) Any antenna structure used in the cable system shall comply with all construction, marking and lighting requirements of federal, State or local laws and accepted industry standards.

(c) All construction, installation, grounding, and maintenance shall comply with the current versions of the National Electrical Safety Code, the National Electrical Code, and the Bell System Code of Pole Line Construction.

(d) Systems shall be maintained in such a manner as to prevent signal leakage from the facilities in excess of the limits specified in applicable rules and regulations of the FCC. The licensee may disconnect any person who, in the licensee's judgment, is contributing to a signal leakage problem. Upon written request from the County, licensee shall provide a copy of the Cumulative leakage Index (CLI) report to the licensee's service area to the County.

(e) Underground construction in streets shall be of such quality as to assure continuity of service without the necessity of frequent street or pavement cutting and shall contain a self-sealing device to insure all such cables against leakage.

(f) All cables and wires shall be installed, where possible, parallel with electric and telephone lines.

(g) If the federal law preempting County regulation of technical standards is repealed, any technical standards imposed by the County shall be no stricter than the repealed federal standards or generally accepted standards in the cable television industry, whichever are greater.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 6, 9-15-92; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-40. Inspection and performance tests.

(a) The County shall have the right to make such inspections as it shall find necessary to insure compliance with terms of this license and other pertinent provisions of law. The County shall have the right to require the licensee to provide and keep accurate calibrated test equipment immediately available for use in the County for the testing of all service and operational standards in this chapter and the licensee shall conduct such tests as requested by the County in order to establish the level of performance of the system.

(b) The licensee shall advise the County ten (10) days prior to the date of all FCC proof of performance test scheduled so that the County may have an observer present. The licensee shall maintain test points as required by federal law and shall allow the County to have access to those test points upon reasonable notice and at intervals not more frequently than required by federal law, except for good and substantial cause shown.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-41. Service requirements; equipment for the hearing impaired.

A licensee shall make available to its subscribers equipment capable of decoding closed circuit captioning information for the hearing impaired. An additional reasonable charge for any such equipment may be imposed.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-42. Standby power.

Within thirty six (36) months of the award, transfer or renewal of the license, the licensee shall maintain equipment capable of providing standby power for headend, transmission and trunk amplifiers for a minimum of two (2) hours. After forty-eight (48) hours written notice, the County shall have the authority to inspect the licensee's power supply equipment to determine compliance with this section.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-43. Broad categories of programming.

Licensee shall provide broad categories of programming addressing the unique needs of the diverse communities of Miami-Dade County. Such categories of programming shall include programming representative of the languages and cultures of the community.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-44. Lock-out devices.

The licensee shall make available, to any residential subscriber so requesting, a "parental guidance" or "lock-out" device which shall permit the subscriber, at his or her option, to eliminate the audio and visual aspects from any channel reception. An additional reasonable charge for any such device may be imposed.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-45. A/B switch.

The licensee shall make available, to any residential subscriber so requesting, an input selector or A/B switch permitting conversion from cable to antenna reception. An additional reasonable charge for any such device may be imposed.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-46. Leased access channels.

A licensee must provide commercial or leased access channels to the extent required by State or federal laws. Licensee shall provide a copy of its' maximum leased access rates to the Director upon request.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-47. Emergency alert capability.

Licensee's cable system shall include an "emergency alert" capability, which shall permit the County Manager or designated representative, to the extent permitted by applicable law, to remotely override the audio of all channels on the cable system or to allow for video crawl over all channels without charge for use during emergency or disaster periods.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 7, 9-15-92; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-48. Service to public buildings.

(a) Within a reasonable amount of time, but at least within ninety (90) days following the request, a licensee shall be required to provide cable service, with converter or other necessary equipment, without installation or monthly charge to buildings within the County; provided that such buildings are passed by and within five hundred (500) feet of the licensee's existing distribution system and are owned by the County or occupied by a governmental entity for predominantly educational or governmental use, including libraries, public schools and other local tax supported elementary, secondary and college level institutions. The licensee may charge for service to that portion of the building used primarily for residential purposes. Such basic service shall be provided by means of a single drop extending to the facility. Such single drop may be internally extended by the governmental entity without cost to, or responsibility of the licensee, subject to the condition that all such internal distribution shall meet all FCC requirements relative to signal leakage. At the request of the County, the licensee shall install the additional service outlets in such facilities and shall charge only its time and material costs for such installations. At the request of the County, the licensee shall extend its distribution system to serve such buildings located more than five hundred (500) feet from the licensee's existing distribution system. In such circumstances, the government entity owning or occupying the building shall reimburse the licensee for the time and material costs incurred in extending the distribution system to within five hundred (500) feet of the building. The licensee shall remain responsible for all costs for the five hundred (500) feet adjacent to the building. The County shall not require permit fees for such installations. As used in this [section 8AA-48](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-48SEPUBU), the term "cable service" shall include all channels except premium channels sold on a per-channel or pay-per-view basis. The intent of this section is for the licensee to continue providing a comparable level of programming services as provided by licensees on the effective date of this ordinance.

(b) Licensee shall provide one (1) standard Internet service connection to the buildings in [Section 8AA-48](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-48SEPUBU)(a) at a mutually agreed discount if requested by the County.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 8, 9-15-92; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-49. County communications facilities.

With regard to underground construction, the licensee shall provide and install, in a common trench with its facilities, or in a separate trench if requested, County services conduit as specified by the County. Prior to installation of any fiber optic cable, the licensee shall notify the County of its intention and, at the County's request, the licensee shall provide and install such additional fiber optic strands or cable as the County specifies for its use. The additional cost to the licensee will be borne by the County. The licensee will not be required to maintain the County equipment and facilities.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-50. Public, educational and government access channels.

(a) The licensee shall provide and maintain at least one (1) specially designated and noncommercial public access channel available on a first-come, nondiscriminatory basis.

(b) The licensee shall provide and maintain, without charge, at least three (3) specially designated educational access channels for use and programming by local tax supported educational authorities in the elementary, secondary and college level fields, as well as instructional television for adults. Two (2) such channels shall be made immediately available from the licensee. The other channels shall be made available upon a determination by the Director that the need for additional educational channels exists using the criteria established in subsection (g). The licensee shall provide such required channels within ninety (90) days of notification of the Director's determination.

(c) The licensee shall provide and maintain, without charge, at least two (2) specially designated government access channel for Miami-Dade County government use and programming. One (1) such channel shall be made immediately available from the licensee. The other channel shall be made available upon a determination by the Director that the need for an additional government channels exists using the criteria established in subsection (g). The licensee shall provide such required channels within ninety (90) days of notification of the Director's determination. Miami-Dade County may redesignate any government channel to educational.

(d) At those time segments during which no signals are transmitted over public, educational or government access channels, the licensee may utilize such channels for any purpose consistent with the provisions of this chapter.

(e) The licensee shall endeavor to provide that the signal of each channel required in this section be received at a designated place on the subscriber's channel selector as prescribed by the Director, which shall be uniform for every cable system in the County insofar as technology and governing law permits. The channels shall be viewable on a tier that is as convenient to access as that of the most easily accessible tier of service. A subscriber shall be able to change channels from any channel the licensee offers to each channel required in this section by taking no more steps than the least amount of steps required to change from any channel to another. In this regard, a subscriber shall not be required to take additional steps such as, for example, turning on or off a digital converter box.

(f) (i) Through September 30, 2003, the licensee shall contribute matching funds to the capital costs for the educational and government access channels provided for in this section. The total contribution of all licensed operators shall be no more than one-half of the total capital cost expended by the County and shall not exceed fifty cents ($0.50) per subscriber per year. The licensee contribution shall be the percentage of capital costs equal to the licensees' weighted pro rata share of all Miami-Dade County cable subscribers. Capital costs means the cost of purchasing and replacing equipment and facilities of such channels as reflected in their official government budgets.

(ii) Effective October 1, 2003, the licensee shall contribute funds to the capital costs for the educational and government access channels provided for in this section. The licensee's contribution shall not exceed one dollar ($1.00) per subscriber per year. The licensee contribution shall be the percentage of capital costs equal to the licensee's weighted pro rata share of all Miami-Dade County cable subscribers.

(iii) The above two subsections are subject to the following:

(1) On October 15th of each year, the Director shall notify the licensee of its capital cost contribution and the method of calculation. The licensee's share shall be determined based upon the reports required to be filed with the County on July 25th of that year. The government budget utilized shall be that budget in operation at the time of the notice.

(2) The capital cost contribution shall be due within ninety (90) days following the notification.

(3) Payment of capital costs cannot be taken as a credit against the Communications Services Tax collection and remittance requirements of [Chapter 29](../level2/PTIIICOOR_CH29TA.docx#PTIIICOOR_CH29TA), Article IV-A of the Code of Miami-Dade County.

(4) Payment under protest of the capital cost contribution shall be a prerequisite to contesting the amount of the capital costs contribution pursuant to this chapter.

(g) If, during the course of the license, the Director determines that additional access channel capacity is needed, the Director may request additional channels upon the same terms as provided in this section and such request shall not be unreasonably denied based upon such factors as (1) channel capacity; (2) community need; (3) number of access channels available in comparable communities; (4) technological feasibility; (5) the then usage of existing access channels; and all other relevant factors.

(h) Licensee shall, semi-annually and upon request of the County, provide a text message on the monthly billing statement mailed to subscribers promoting the County's public, educational, and government channels and their current channel locations. The County shall make such a request in writing, with reasonable notice prior to the mailing of any billing by licensee, such that licensee's regular billing cycle shall not be interrupted. Licensee shall identify the County's Public, Educational, and Government channels on the licensee's electronic channel guide in a manner approved by the Director and will list individual programs as long as the County provides the program information to the licensee or electronic channel guide programmer in accordance with the licensee's program listing submission criteria. All printed channel listings shall identify the County's public, educational, and government channels by name.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 9, 9-15-92; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 01-109, § 2, 6-19-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-51. Interconnection of cable systems.

(a) A licensee shall interconnect the access channels of the cable system with any or all other cable systems in contiguous adjacent areas, upon the directive of the Director. Interconnection of cable systems may be done by direct cable connection, microwave link, satellite, or other appropriate method.

(b) Upon receiving the directive of the Director to interconnect, a licensee shall immediately initiate negotiations with the other affected cable system or systems in order that all costs may be shared equally among cable systems for construction, maintenance and operation of the interconnection link.

(c) A licensee may be granted reasonable extensions of time to interconnect or the County may rescind its order to interconnect upon petition by the licensee to the County. The County shall grant said request if it finds that a licensee has negotiated in good faith and has failed to obtain an agreement from the cable system or systems of the proposed interconnection or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(d) A licensee shall cooperate with any interconnection corporation, regional interconnection authority or other County, State and federal regulatory agency which may be hereafter established for the purpose of regulating, financing, otherwise providing for the interconnection of cable systems beyond the boundaries of the County.

(e) In the event it becomes necessary, the licensee shall make reasonable efforts to ensure any interconnect needed for the simultaneous redistribution of the access channels provided for in this license. Any common costs associated with this interconnection shall be shared among all licensed operators based on their respective pro rata share of all Miami-Dade County subscribers.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-52. Records and reporting requirements; access to records.

The County shall have access, at all reasonable hours, to books, records, maps, plans, contracts, engineering, accounting, financial, statistical, subscriber and service records relating to the property and operation of the licensee's Miami-Dade County system and to such other records as may be required by the County to perform its regulatory responsibilities under this chapter and the calculation of gross revenues used to compute license fees. Such records shall be made available upon reasonable notice at the licensee's local Miami-Dade County office. If the licensee shall fail to obtain books or records not kept in the local office, and if the County shall determine that an examination of such records is necessary or appropriate to the performance of any of the County's duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the licensee. The County shall have the right to inspect and audit such records as it deems appropriate for the proper administration of this chapter. The County may photocopy records only to the extent that it can protect proprietary information from disclosure under the public records law.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-53. Quarterly reports.

(a) The licensee shall submit reports to the County quarterly on forms provided by the County. The quarterly reports shall be submitted according to the following schedule: January-March reports due April 25; April-June reports due July 25; July-September reports due October 25, and October-December reports due January 25 of each year.

(b) The report shall include, but not be limited to:

(1) Number of homes passed and number of cable plant miles;

(2) Telephone reports indicating the number of calls received, number of calls abandoned, number of calls receiving a busy signal, percentage of calls receiving a busy signal, where technologically possible, average duration of each call handled by a customer service representative, average length of time each caller waits before speaking directly to a customer service representative, number of calls answered by a customer service representative within 30 seconds, and number of customer service representatives staffed to handle telephone calls;

(3) The number of total standard installations performed; the number of standard installations performed within seven (7) days; number of service interruptions reported; number of service interruptions responded to within twenty-four (24) hours; number of other service problems reported; number of other service problems responded to within thirty-six (36) hours; number of scheduled appointments; number of scheduled appointments responded to within four (4) hour window; number of planned service interruptions; number of service interruptions by day part (1 a.m. to 6 a.m., 6 a.m. to 6 p.m., 6 p.m. to 1 a.m., or, upon request of the County, based on shorter measurement intervals as licensee has available); number of service interruptions by duration; and all other information necessary to monitor the licensee's compliance with the consumer standards of this chapter;

(4) The number of subscribers for each type of cable service offered.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-109, § 2, 6-19-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-54. Annual reports.

(a) In addition to the above, the licensee shall file the following information with the quarterly report due January 25th of each year:

(1) A summary of the previous year's activities in the development of the system, including, but not limited to, services begun or dropped, the previous year's construction activities and a summary of any policy changes taking effect during the year.

(2) A current copy of the subscriber service agreement, a current list of all rates, charges and available services, a current channel list, a copy of all the licensee's published rules and regulations applicable to subscribers and users of the cable system, and a summary of the licensee's hours of operation.

(3) A summary of subscriber or consumer complaints, identifying complaints by number and category, and their disposition. Where complaints involve recurrent system problems, the nature of each problem and what steps have been taken to correct it shall be identified.

(4) A copy of updated maps depicting the location of all trunks and areas by megahertz capacity, separately identifying those areas where there was construction in the year of the report.

(5) For information purposes only, a listing of licensee's closings or holidays for the year.

(6) Demonstration of compliance with [Section 2-8.1.5](../level3/PTIIICOOR_CH2AD_ARTIINGE.docx#PTIIICOOR_CH2AD_ARTIINGE_S2-8.1.5NO) of the Code of Miami-Dade County with regard to nondiscrimination, and a report on the number of personnel employed by the licensee within Miami-Dade County, including gender, racial, and ethnic group classifications to include white non-Hispanics, Hispanics, black, and other categories, in accordance with [Section 2-8.1](../level3/PTIIICOOR_CH2AD_ARTIINGE.docx#PTIIICOOR_CH2AD_ARTIINGE_S2-8.1COPUGE)(d)(iii) of the Code of Miami-Dade County.

(b) Within four (4) months of the close of its fiscal year, the licensee shall file an annual report to the County that includes the following information:

(1) A list of all persons owning or controlling five (5) percent or more of the stock, partnership shares or assets of the licensee; and a list of any parent corporation, parent entity or holding company that owns, or by ownership of other entities controls, the licensee.

(2) If the licensee is a corporation, a list of officers and members of the board and officers and board members of any parent corporation; and where a parent corporation's stock is publicly traded, two (2) copies of its annual report.

(3) Two (2) copies of each of the licensee's balance sheet applicable to its operations in Miami-Dade County. All reports shall be certified by an independent certified public accountant and prepared in accordance with Generally Accepted Auditing Standards (GAAS) as promulgated by the American Institute of Certified Public Accountants.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 01-109, § 2, 6-19-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-55. Audit.

The County shall have the right and authority to inspect the licensee's books and records, and the right of audit and recomputation of any and all amounts due to the County prior to October 1, 2001. All costs associated with any such audit shall be borne by the licensee when said audit results in increasing, by more than five (5) percent, the licensee's annual payment to the County. Upon reasonable notice, such records necessary to perform said audit and recomputation shall be made available to the County at the licensee's Miami-Dade County office.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-109, § 2, 6-19-01)

Sec. 8AA-56. Additional reports.

(a) A licensee shall notify the County upon any purchase of a SMATV or Open Video System located within the licensee's license area.

(b) Copies of all petitions, applications and communications submitted by the licensee to the Federal Communications Commission or any other federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting cable operations authorized pursuant to a license granted under this ordinance shall also be submitted simultaneously to the Director.

(c) The licensee shall prepare and furnish to the County, at times and in the form prescribed by the County, such additional reports with respect to its operation, in the discretion of the Director, which are reasonably necessary for the administration of this chapter.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-57. Consumer protection provisions; office and telephone availability.

(a) The licensee shall maintain (1) at least one conveniently located business office and full service center in the County and (2) payment and equipment return centers no farther than a fifteen (15) mile radius from the address at which the subscriber receives cable service. As an alternative to providing such equipment return centers, licensee may provide subscribers the ability to return equipment by using a postage-prepaid delivery service at no cost to the subscriber. The payment and return centers shall be open at a minimum from 9:00 a.m. to 6:00 p.m. Monday through Friday, including some weekend and evening hours. The office shall make available for its customers parking within reasonable proximity of the office.

(b) Each licensee shall maintain a telephone system with a publicly listed toll free telephone number under the business name familiar to subscribers and employ a sufficient number of telephone lines and answering equipment or service to allow reasonable access by subscribers and members of the public to contact the licensee on a full time basis at any time twenty-four (24) hours a day, each day of the year.

(c) Knowledgeable, qualified company representatives will be available to answer customer telephone inquiries twenty-four (24) hours per day, seven (7) days per week including holidays. A company supervisor will be available to a customer upon request. If a supervisor is not available, the supervisor will call back the customer no later than the first three (3) hours of the next normal business day.

(d) Under normal operating conditions, telephone answer time by a customer service representative, including wait time, and the time required to transfer the call, shall not exceed thirty (30) seconds. Licensees that utilize automated answering and distributing equipment will limit the number of routine rings to five (5) or fewer. Licensees not utilizing automated equipment shall make every effort to answer incoming calls as promptly as the automated systems. Percent of abandoned telephone calls out of total calls received shall not exceed ten (10) percent, average. These standards shall be met no less than ninety (90) percent of the time measured on a quarterly basis. "Normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

(e) Under normal operating conditions, in a given quarter no more than three (3) percent of customer calls shall receive a busy signal.

(f) If the County determines that the licensee fails to conform to the required telephone standards in this Section for two (2) consecutive quarters:

(1) The Director may require the licensee to provide the County with a communication traffic study within sixty (60) days of notice. The study will be conducted on all customer service trunk lines and must include information on the efficiency of the communication system measured from the telephone company's central office, as well as other performance information available from the licensee's communication equipment. The study must provide information that confirms that the licensee's communications system is properly trunked and staffed to meet the requirements of this chapter using generally accepted telephonic engineering standards.

(2) Based upon the findings of the traffic study that additional personnel are needed and other relevant considerations, the Director may require the licensee to staff a minimum specified number of customer service representatives to handle telephone calls. The minimum number shall be one (1) such customer service representative for each one hundred (100) calls received daily. For purposes of this calculation, the number of calls shall be the median number of calls received on a daily basis for the two (2) consecutive quarters during which the standards were not met. If, following a County order for minimum staffing requirements, the licensee's performance meets the required telephone standards for any two (2) consecutive quarters, the County will rescind its minimum staffing order provided the licensee continues to conform to the required telephone standards.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-58. Installations, outages and service calls.

(a) Under normal operating conditions, each of the following four (4) standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis.

(1) Standard installations will be performed within seven (7) business days after an order has been placed; provided the licensee has been able to obtain any necessary easements or other consents necessary to complete the installations. "Standard" installations are up to one hundred twenty-five (125) feet from the existing distribution system.

(2) Excluding those situations beyond the control of the licensee, the licensee will respond to service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. Other service problems will be responded to within twenty-four (24) hours during the normal work week.

(3) The appointment window alternatives made available for installations, service calls, and other installation activities will be either a specific time, or a four (4) hour time block or shorter. If a licensee is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the licensee will contact the customer by telephone and reschedule as necessary at a time that is convenient for the customer. In such circumstances the licensee will use its best efforts to inform the customer of the delay before the scheduled time of the appointment. Additionally, based on community needs, licensees will schedule supplemental hours during which appointments can be set.

(b) Subscribers who have experienced one missed installation or service appointment due to the fault of the licensee shall receive installation free of charge. If the installation was to have been provided free of charge or if the appointment was for service or repair, the subscriber shall receive a credit on their bill of not less than twenty dollars ($20.00).

(c) New developments contiguous to the licensee's distribution system shall be wired for cable service within a reasonable amount of time, but at least within one hundred twenty (120) days after the development has reached seventy-five (75) percent occupancy, so long as the construction meets the density requirements of this chapter and provided the licensee has been able to obtain any necessary easements or other consents necessary to complete the installation. This section shall not apply to developments that are already served by another pay television service provider.

(d) Each licensee shall intentionally interrupt service only for good cause for the shortest time possible. Licensee shall use its best efforts to ensure that such interruptions shall occur only during the hours of 1:00 a.m. to 6:00 a.m. A written log shall be maintained for all service interruptions that includes a description of the equipment failure, location of the failed equipment, and the geographic area and number of subscribers affected by the service interruption. Upon written request, the licensee shall provide to the County a copy of the log.

(e) In the event of a service interruption to any subscriber for twenty-four (24) or more hours which interruption is within the control of the licensee, the licensee shall provide a credit or rebate to affected subscribers, upon the subscriber's written or verbal request, equal to twenty (20) percent of the monthly fees for each twenty-four-hour period during which the subscriber's service is interrupted. In the event of a service interruption to any subscriber for two (2) or more hours, the licensee shall provide a credit or rebate to affected subscribers, upon the subscriber's written or verbal request, equal to one-thirtieth of the monthly bill. For purposes of computing the time of interrupted service, the time shall begin when a complaint for interrupted service is received by the licensee or when the licensee has actual or constructive notice of the interruption, whichever occurs first. Nothing in this subsection limits the licensee from applying a rebate policy more liberal than the requirements. As used in this Section, service interruption shall mean the loss of picture or sound on one or more cable channels.

(f) In all situations where cable service is disrupted to five hundred (500) or more subscribers for a time period greater than four (4) hours, the licensee shall notify the Director or his designee immediately.

(g) All field employees must carry a picture identification indicating their employment with the licensee. This identification must be clearly visible to the public.

(h) A licensee shall disconnect any subscriber who so requests from the cable system of the licensee. No period of notice prior to voluntary termination of service may be required of subscribers by any license. No charge may be imposed by any licensee for such voluntary disconnection, or for any cable services delivered after the date of disconnect request. A subscriber may be asked to disconnect the equipment of the licensee and return it to the business office or make it available for the licensee to recover. Upon termination of service to any subscriber, the licensee shall promptly remove all portions of its system, facilities and equipment from the subscriber's premises upon request. Where removal is impractical, such as with buried cable or internal wiring, facilities and equipment may be disconnected rather than removed.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-59. Communications, bills and refunds.

(a) The licensee will provide written information in each of the following areas at the time of installation and at any future time upon request:

(1) The products and services offered;

(2) Prices and service options;

(3) How to use the cable service;

(4) Installation and service policies;

(5) The licensee's procedures for the receipt and resolution of customer complaints, the licensee's address and telephone number including area code to which complaints may be reported, and the hours of operation. Toll free telephone numbers should indicate such;

(6) The telephone number and address of the County's office designated to handle cable service complaints and inquiries in a manner that identifies the County's telephone number so that it is not confused by subscribers with that of the licensee in a format approved by the Director. Licensee shall provide subscribers with a written summary in a manner approved by the Director of the consumer protection provisions provided for in [8AA-58](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-58INOUSECA) and [8AA-59](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-59COBIRE)

(7) The availability of the "lock-out" device required by this chapter;

(8) The availability of an input selector, or A/B switch, and identification of those local broadcast stations not carried on their system;

(9) The licensee's information collection and disclosure policies for the protection of a subscriber's privacy.

(10) In addition, the licensee shall provide written notice on its monthly billing, at the written request of the County, of any announcements regarding requests or applications by the licensee for renewal. The County shall make such a request no less than sixty (60) days prior to the mailing of any billing by the licensee. Said notices shall be at the expense of the licensee and said expense shall not be considered part of the license fee assessed pursuant to this Chapter. Licensee shall air such announcement over its cable system on such channels, times, and with adequate frequency to reach a majority of its subscribers.

The information in subsections (5)—(9) above will be provided to each subscriber annually. The licensee will provide prompt notification to the County and to each affected customer of any material change in any of the above.

(b) Bills will be clear, concise and understandable.

(1) The first billing statement of the licensee after a new installation or service change shall be prorated as appropriate and shall reflect any security deposit.

(2) The billing statement of the licensee must be fully itemized, with itemizations including, but not limited to, cable service and equipment charges. Invoices will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(3) The billing statement of the licensee must state when the bill is due. Any balance not received within thirty (30) days after the due date may be assessed an administrative/late fee charge. The administrative/late fee charge must appear on the next available billing statement and must not exceed five dollars ($5.00). In a bulk fee contract the administrative/late fee charge shall not exceed five dollars ($5.00) per individual unit receiving service.

(4) Subscribers shall not be charged an administrative fee, a late fee or otherwise penalized for any failure by the licensee, its employees, or contractors, including failure to properly credit the subscriber for a payment timely made.

(5) The licensee will provide notice to the subscriber of the following at the time of installation of service, at least annually to all subscribers, as a notice enclosed with a bill that includes a past due amount, and at any time upon request of a subscriber; that payment can be remitted in person at an office of the licensee and of the addresses where payment can be made.

(6) A licensee may not alter the service within its control being provided to a subscriber (including by retiering, restructuring a tier or otherwise) unless it complies with this subsection and/or applicable federal law.

(a) If a licensee wishes to alter the service within its control to a subscriber, then the licensee must provide the subscriber with thirty (30) days advance written notice of such retiering or rate increase, and for thirty days after such notice of retiering or rate increase, a subscriber may obtain changes in service tiers at no additional charge.

(b) Except as provided herein, or under applicable federal or state law, no charge may be made for any service or equipment that the subscriber has not affirmatively requested by name. A subscriber's failure to refuse a cable operator's proposal to provide such service or equipment is not an affirmative request for service or equipment. A subscriber's affirmative request for service or equipment may be made orally or in writing. This section shall not apply to the adjustment of rates to reflect inflation, cost of living and other external costs, the addition or deletion of a specific program from a service offering, the addition or deletion of specific channels from an existing tier of service, the restructuring or division of existing tiers of service, or the adjustment of rates as a result of the addition, deletion or substitution of channels pursuant to FCC rules, provided that such changes do not constitute a fundamental change in the nature of an existing service or tier of service and are otherwise consistent with applicable regulations.

(c) Refund checks or credits will be issued promptly, but no later than the earlier of forty-five (45) days or the customer's next billing cycle following the resolution of the request, and the return of the equipment supplied by the licensee if service is terminated.

(d) All customers and the County will receive written notification a minimum of thirty (30) days in advance of any rate or channel change, provided the change is within the control of the licensee.

(e) The licensee shall, within seven (7) days after receiving written request from the County, send a written report to the County with respect to any particular consumer complaint. The report to the County shall provide a full explanation of the investigation, findings and corrective steps taken by the licensee.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-60. Privacy/use of data.

The licensee shall comply with all federal and State laws regarding collecting, storing and disseminating of individual subscriber information, and shall operate the system in a manner that protects against invasions of any person's privacy and protects the privacy of data services and data signals distributed over the system.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-61. Rates.

The licensee must give thirty (30) days prior written notice to the Director and all affected subscribers of any pricing changes or additional charges, excluding temporary marketing and sales discounts or offers. Such notice shall include the name and address of the county's office designated to review the rate increase. The licensee may reduce the price at any time.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 93-120, § 2, 11-3-93; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-61.01. Rate regulation.

[(1) *Jurisdiction.*]

(a) Dade County has jurisdiction to regulate rates in (1) the unincorporated areas of Miami-Dade County, and (2) the incorporated areas of Miami-Dade County, provided that Miami-Dade County shall have no jurisdiction to regulate rates in any municipality while that municipality is certified by the FCC to regulate rates, except where Miami-Dade County and the municipality have been certified by the FCC to regulate rates jointly. At any particular time a cable operator in a single FCC community unit shall be subject to rate regulation only by either (1) the County, (2) the municipality, or (3) the County and municipality jointly regulating rates.

(b) This section shall not be construed to create a private cause of action.

(2) *Compliance with F.C.C. regulations.* In regulating any rates as allowed by Federal law, Miami-Dade County shall be governed by and shall comply with all controlling F.C.C. regulations and Federal Statutes.

(3) Reserved.

(4) Reserved.

(5) Reserved.

(6) *Delegation to County Manager.* Subject to appeals to the County Commission, the County Manager is delegated the authority to conduct all proceedings, and issue any final or interim orders provided for in this section.

(7) *Appeals.* Any decision of the County Manager may be appealed to the County Commission pursuant to the provisions of [Section 8AA-76](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-76AP), Miami-Dade County Code. The filing of an appeal of any interim, non-final determination shall not stay the information-gathering proceedings or form a basis for the licensee to refuse to disclose information.

(8) *Further regulations.* Nothing herein shall be construed to limit the right of Miami-Dade County to modify, amend, or add to these regulations in order to comply with applicable law or to protect the interests of licensees or subscribers.

(Ord. No. 93-120, § 1, 11-3-93; Ord. No. 95-212, § 1, 12-5-95; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-62. Discontinuing or denying service.

(a) If a subscriber fails to pay a monthly subscriber or other fee or charge, the licensee may disconnect the service of the subscriber; however, such disconnection shall not be effected until thirty-five (35) days after the due date of the monthly subscriber fee or other charge, and ten (10) days advance written notice of intent to disconnect to the subscriber in question. If the subscriber pays within thirty-five (35) days of the due date and after notice of disconnection has been given, the licensee shall not disconnect. After disconnection, upon payment by the subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the licensee shall promptly reinstate service, but no later than the next availability or seven (7) days, whichever is shorter, after a service reinstatement request from a subscriber.

(b) Licensee may deny service to any subscriber where such subscriber has previously been a subscriber of the licensee and the licensee repeatedly terminated the subscriber's service due to nonpayment. Furthermore, a licensee may deny cable service to any subscriber who fails to pay an outstanding balance, who fails to return equipment, or who takes any action threatening physical harm against the licensee its agents or employees.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-63. Discriminatory practices prohibited.

(a) (1) A licensee shall not deny, delay or otherwise burden service or discriminate against subscribers or users on the basis of age, race, creed, religion, color, sex, disability, national origin, marital status, or political affiliation, and shall not deny cable service to any potential subscribers because of the income of the residents of the area in which the subscribers reside. A licensee may provide for discounts for senior citizens, the economically disadvantaged or disabled that are applied in a uniform and consistent manner. A licensee may also offer bulk discounts to multiple dwelling buildings to the extent such discounts are permissible by law.

(2) A licensee may provide for discounts for subscribers residing in government owned housing, that are applied in a uniform and consistent manner; provided however if a licensee or its' parent company is offering discounts for subscribers residing in government owned housing anywhere within Miami-Dade County, then such discounts for subscribers residing in government owned housing shall be applied in a uniform and consistent manner throughout Miami-Dade County.

(b) A licensee shall not refuse to employ, nor discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of age, race, creed, religion, color, sex, handicap, national origin, marital status, or political affiliation.

(c) A licensee shall comply at all times with the Equal Employment Opportunity provisions and reporting requirements contained in federal law. Upon written request, a copy of the licensee's annual report required by the FCC shall be submitted simultaneously to the Director.

(d) No licensee shall require a minimum number of subscribers as a precondition to providing service to any multiple dwelling unit that is located in an area that meets the minimum density requirements of [Section 8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO). This subsection shall not be applicable to hotels, motels and other multi-dwelling units in which more than a majority of the occupants have been residing there less than four (4) months or where a majority of the occupants have leases with terms for less than four (4) months.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 10, 9-15-92; Ord. No. 97-32, § 5, 4-15-97; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-64. Theft, vandalism, tampering; violation.

It is unlawful and a violation of this chapter to:

(a) Willfully obtain or attempt to obtain cable services or cable related services from another by means of artifice, trick, deception, or device without payment to the operator for such services of all lawful compensation due for each type of services unlawfully obtained.

(b) Willfully assist any other person in obtaining or attempting to obtain any cable service or cable related services without payment to the cable operator of such services of all lawful compensation due for each type of services unlawfully obtained.

(c) Willfully tamper or otherwise interfere with or connect to by any means, whether mechanical, electrical, acoustical, or other, any cable, wires, or other devices used for the distribution of cable services or cable related services without actual authority from the operator of such services.

(d) Willfully sell, rent, or lend, or promote or advertise for sale, rental or use, any device or any plan to any person with the knowledge that the person intends to use such device or plan to commit any of the acts set forth in paragraphs (a), (b), and (c), whether or not such device or plan actually has the ability to facilitate the commission of any acts set forth in paragraphs (a), (b), and (c).

(e) Willfully sell, rent, or lend, or promote or advertise for sale, rental, or use, without authority from the operator of such cable services or cable related services, any device which is electronically capable of decoding cable system signals which have been encoded by a cable operator or any person under contract with such operator.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-65. Prima facie evidence.

The presence on property, in the actual possession of a person, of any device or alteration which effects the diversion or use of cable services or cable related services without such services being reported for payment to, and specifically authorized by, the cable operator shall be prima facie evidence of a violation of this article; however, this presumption shall not apply unless:

(a) The presence of such a device or alteration can be attributed only to a deliberate act in furtherance of an intent to avoid payment for such service; and

(b) The person charged has received the direct benefit of the reduction of the cost of such services; and

(c) The recipient of such services has received the benefit of such services for at least one full billing cycle.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-66. Confiscation.

Any law enforcement agency having jurisdiction shall have the authority to confiscate any and all such instruments, apparatus, equipment, devices, instructions, and plans described in [Section 8AA-64](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-64THVATAVI), including any materials, tools, machinery, or equipment used to manufacture or produce such instruments, apparatus, equipment devices, instructions, and plans, and, upon conviction for violation of the provisions of this section, such instruments, apparatus, equipment, devices, instructions, and plans, together with all such materials, tools, machinery, and equipment used to manufacture or produce same, shall be destroyed or otherwise disposed of by order of court.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-67. Punishment; civil damages; remedies nonexclusive.

(a) Any person who willfully violates [Section 8AA-64](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-64THVATAVI) shall be subject to a five hundred dollar ($500.00) fine and thirty (30) days in jail for each violation.

(b) Whoever is found in a civil action to have violated the provisions of Sections [8AA-64](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-64THVATAVI) through [8AA-67](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-67PUCIDARENO) shall be liable in actual and punitive damages to the licensee involved or may be subject to injunction, or both, and, upon judgment in favor of the licensee, such licensee shall also be entitled to recover all costs of such action, including all appellate proceedings, together with reasonable attorney's fees.

(c) The provisions set forth herein are in addition to any remedies or sanctions of any other local, State, or federal law.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-68. Performance evaluation.

(a) The Director may conduct periodic performance evaluations of a licensee. A licensee shall cooperate with these evaluations. If the Director implements a survey of cable subscribers in connection with a performance evaluation, the Director may require a licensee to distribute the County's questionnaire to its subscribers at the County's expense. Upon request and upon reimbursement of County copying charges, the licensee may receive copies of all responses.

(b) At the conclusion of the evaluation, the Director shall issue a report of the results of any performance evaluation together with, if necessary, any recommendations for methods to improve a licensee's performance under the license or this chapter.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-69. Enforcement; settlement authority, notice and cure provisions.

(a) Provisions of this chapter listed in [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County will be enforced pursuant to that chapter. The County Manager or his designee is hereby authorized to resolve by settlement any notice of violation of this chapter issued pursuant to [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN). In deciding to settle a dispute over an alleged violation, the County shall consider: (1) the probability of success in proving the violation; (2) the nature and seriousness of the violation; (3) the licensee's past history concerning similar violations; (4) mitigating factors; and (5) the licensee's success in resolving this dispute with affected subscribers.

(b) Prior to issuing a notice of violation pursuant to [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN), the County will provide the licensee with notice and opportunity to cure. The notice shall state the Code section alleged to be violated, factual basis of the violation, the amount of the civil penalty, and the time period allowed to cure the violation without incurring a civil penalty. These notice and cure provisions will apply only to the subsections (1), (2) and (3) listed below.

(1) Licensee shall have a notice and opportunity to cure time period of no less than forty-eight (48) hours for violations of the following provisions:

|  |  |
| --- | --- |
| Section 8AA-35(g) | Burying drop cable |
| [Section 8AA-39](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-39TEST) | Improper grounding |

(2) Licensee shall have a notice and opportunity to cure time period of no less than thirty (30) days from violations of the following provisions:

|  |  |
| --- | --- |
| Sections [8AA-21](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-21INPOLI); [8AA-22](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-22INPOPR) | Maintaining insurance |
| Sections [8AA-23](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-23RE); [8AA-24](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-24PEPEPABO) | Maintaining performance bond |
| [Section 8AA-31](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-31COMASCLE) | Submission of construction plan |
| Section 8AA-36(d) | Membership in Sunshine State One-Call of Florida, Inc. |
| [Section 8AA-41](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-41SEREEQHEIM) | Equipment for the hearing impaired |
| [Section 8AA-45](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-45ABSW) | Providing A/B switch |
| [Section 8AA-48](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-48SEPUBU) | Service to public buildings |
| [Section 8AA-50](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-50PUEDGOACCH) | Providing educational and Governmental access channels |
| [Section 8AA-50](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-50PUEDGOACCH)(f) | Capital support for PEG |
| Sections [8AA-52](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-52REREREACRE); [8AA-53](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-53QURE); [8AA-54](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-54ANRE) | Recording and reporting |
| [Section 8AA-57](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-57COPRPROFTEAV)(a) | Maintaining an office |
| [Section 8AA-57](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-57COPRPROFTEAV)(b) | Maintaining 24-hour telephone system |
| [Section 8AA-57](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-57COPRPROFTEAV)(c) | Maintaining office hours |

(3) Licensee shall have a notice and opportunity to cure time period of no less than sixty (60) days for violations of the following provisions:

|  |  |
| --- | --- |
| [Section 8AA-27](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-27CASYCO) | Cable system construction |
| [Section 8AA-42](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-42STPO) | Standby power |
| [Section 8AA-58](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-58INOUSECA)(c) | Extending service to new developments |

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 92-97, § 11, 9-15-92; Ord. No. 01-44, § 1, 3-20-01; Ord. No. 03-122, § 1, 5-6-03)

Sec. 8AA-70. Uniform rights-of-way ordinance.

(a) A uniform ordinance governing rights-of-way usage by telecommunications companies and cable companies enacted pursuant to the requirements of state law requiring such ordinance shall preempt and supersede the provisions of [Chapter 8AA](../level2/PTIIICOOR_CH8AACACOSEPR.docx#PTIIICOOR_CH8AACACOSEPR) to the extent there exists a conflict between chapter 8AA and such ordinance only to the extent state law mandates the uniform treatment of telecommunications companies and cable companies regarding use of the rights-of-way.

(b) In addition to or instead of any other remedy, the County may seek legal or equitable relief from any court of competent jurisdiction.

(c) Failure of the County to enforce any requirements of a license or this chapter shall not constitute a waiver of the County's right to enforce subsequent violations of the same type or to seek appropriate enforcement remedies.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-71. Termination; right of termination.

The County reserves the right to suspend, terminate and cancel a license and all rights and privileges of a licensee after the process pursuant to this section for just and reasonable cause or in the event that any one of the following occurs:

(a) The licensee, after sixty (60) days' notice of a violation sent by certified mail by the County, continues to violate any material provision of this chapter or any rule pursuant to this chapter, except if such violation by licensee is without fault or through excusable negligence.

(b) The licensee becomes insolvent, unable or unwilling to pay its debts, or is adjudged bankrupt.

(c) The licensee practices any fraud or deceit upon the County in connection with its responsibilities under its license.

(d) The licensee fails to commence any required construction within one (1) year from the effective date of its license.

(e) The licensee fails to substantially complete construction pursuant to the requirements of this chapter within the time required by its license.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-72. Procedures for termination.

The license may be terminated in accordance with the following procedures:

(a) The County Manager shall notify the licensee in writing of the exact nature of the alleged violation constituting a ground for termination and give the licensee sixty (60) days, or such other greater amount of time as the County Manager may specify, to correct such violation or to present facts and argument in refutation of the alleged violation.

(b) If within the designated time the licensee does not remedy and/or put an end to the alleged violation, or if corrective action is not being actively and expeditiously pursued, the Commission, after a public hearing, may direct the termination of the license if it determines that such action is warranted.

(c) Prior to the public hearing, the Commission may order an administrative hearing. The County Manager shall initiate an administrative proceeding by issuing a hearing order which establishes the issues to be addressed in the hearing and the procedures to be followed, and the Manager shall appoint a presiding officer for the hearing. Upon completion of the hearing, the presiding officer shall issue a recommended decision. Parties to the hearing and the public shall have thirty (30) calendar days to comment on the recommended decision after its issuance. Within thirty (30) days after the receipt of comments, the County Manager may submit recommendations to the Commission on whether to terminate the license.

(d) Following the public hearing the Commission shall determine whether or not to revoke the license based on any recommended decision, the evidence and argument presented at the hearing, any recommendations of the County Manager, and other evidence of record. The Commission's determination shall be reflected in a written opinion setting forth the reasons for its decisions.

(e) Any license may, at the option of the County following a public hearing before the Commission, be revoked one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the licensee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceedings, unless within that one-hundred-twenty-day period:

(1) Such assignment, receivership or trusteeship has been vacated; or

(2) Such assignee, receiver or trustee has fully complied with the terms and conditions of this chapter and the license hereunder and has executed an agreement, approved by the court having jurisdiction, assuming and agreeing to be bound by the terms, and conditions of the license.

(f) In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of the licensee, the County may revoke the license, following a public hearing before the Commission, by serving notice upon the licensee and the successful bidder at the sale, in which event the license and all rights and privileges of the license will be revoked ninety (90) calendar days after serving such notice, unless:

(1) The County has approved the transfer of the license to the successful bidder; and

(2) The successful bidder has covenated and agreed with the County to assume and be bound by the terms and conditions of the license.

(Ord. No. 90-73, § 1, 7-24-90)

Secs. 8AA-73, 8AA-74. Reserved.

**Editor's note—**

Ord. No. 01-109, § 1, adopted June 19, 2001, repealed sections 8AA-73, [8AA-74](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_SS8AA-73_8AA-74RE) in their entirety. Former sections 8AA-73, [8AA-74](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_SS8AA-73_8AA-74RE) pertained to removal and restoration; removal required; and restoration required, respectively, and derived from Ord. No. 90-73, § 1, adopted July 24, 1990; and Ord. No. 01-44, § 1, adopted March 20, 2001.

Sec. 8AA-75. Continuity of service.

(a) It is the right of all subscribers to receive all available services from the licensee as long as their obligations to the licensee are satisfied. It is a violation of this chapter for the licensee to terminate service or fail to provide service to its system for more than forty-eight (48) consecutive hours. This section does not apply to acts of God or acts of war.

(b) In the event of a termination or transfer of a license for whatever reason, the licensee must do everything in its power to ensure that all County subscribers receive continuous uninterrupted service regardless of the circumstance. If necessary, to ensure continuity of service, the licensee must cooperate with the County to operate the system for a temporary period not to exceed six (6) months. Revenues accrued during that period of time shall be received by the operator.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-76. Appeal.

(a) All civil penalties enforced pursuant to the provisions of [Chapter 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN), Code of Miami-Dade County, may be appealed as provided in that chapter.

(b) All decisions of the Director may be appealed to the County Manager within fifteen (15) days.

(c) All decisions of the County Manager may be appealed within thirty (30) days by filing a written notice of appeal with the clerk of the Board of County Commissioners and providing copies to the County Manager, the Director and the County Attorney. The notice of appeal shall state the decision which is being appealed, the grounds for the appeal, a brief summary of the relief which is sought and be accompanied by a nonrefundable fee of five hundred dollars ($500.00) to be used solely to defray the cost of processing and hearing the appeal. The County Commission shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the County Manager. The County Manager shall notify any party who has filed a written request for such notification of the date when the matter will be presented to the Board of County Commissioners. Nothing contained herein shall preclude the County Commission from seeking additional information prior to rendering a final decision. The decision of the County Commission shall be in writing and a copy of the decision shall be forwarded to the County Manager, the Director and the appealing party.

(d) Within the time prescribed by the appropriate Florida Rules of Appellate Procedure, a party aggrieved by a decision of the County Commission may appeal an adverse decision to the Circuit Court in and for Miami-Dade County, Florida. The party making the appeal shall be required to pay to the Clerk of the Board the sum of five hundred dollars ($500.00) to defray the costs of preparing the record on appeal.

(Ord. No. 90-73, § 1, 7-24-90; Ord. No. 01-44, § 1, 3-20-01)

Sec. 8AA-77. Force majeure.

In the event the licensee's performance of any of the terms and conditions or obligations required by this chapter is prevented by a cause or event not within the licensee's control, such inability to perform shall be deemed excused and no penalties or sanctions shall be imposed as a result thereof; provided, however, that such inability to perform shall relieve the licensee of its responsibility to provide enhanced credits and rebates pursuant to [Section 8AA-58](../level3/PTIIICOOR_CH8AACACOSEPR_ARTICATERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTICATERE_S8AA-58INOUSECA)(e), but shall not relieve a licensee from its general obligations to provide pro rata credits or rebates for interruptions in service. For the purpose of this section, causes or events not within the control of the licensee shall include without limitation acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides, and fires, but shall not include financial inability of the licensee to perform or failure of the licensee to obtain any necessary permits or licenses from other governmental agencies or the right to use the facilities of any public utility where such failure is due solely to the acts or omissions of the licensee, or the failure of the licensee to secure supplies, services or equipment necessary for the installation, operation, maintenance or repair of the cable communications system where the licensee has failed to exercise reasonable diligence to secure such supplies, services or equipment.

(Ord. No. 90-73, § 1, 7-24-90)

Sec. 8AA-78. County's right of intervention.

The County hereby reserves to itself and the licensee acknowledges the County's right to intervene in any suit, action or proceeding involving the license granted hereunder or any provision in this chapter.

(Ord. No. 90-73, § 1, 7-24-90)

Secs. 8AA-79—8AA-99. Reserved.

### ARTICLE II. COMMUNICATIONS SERVICES REGULATIONS [[2]](#BK_7CA7842E32CDC576AA113CFB558EC393)

[Sec. 8AA-100. Definitions.](#BK_F9AAE6431B35F0570C0E6AE9264A57BD)

[Sec. 8AA-101. Registration required.](#BK_15B94DC343516AD24ECC2B8CFE122B73)

[Sec. 8AA-102. Rights granted by Registration.](#BK_1CDB3BF66328ADEA4A74909ED28400DE)

[Sec. 8AA-103. Term and renewal.](#BK_BC14953FC5DF0E5B0C391D21269D4306)

[Sec. 8AA-104. Communications Services Tax.](#BK_24EA1F8CFA9DA67D467CBD2FD5999B6D)

[Sec. 8AA-104.1 Communications Services Providers not providing communications services directly to the public.](#BK_00D101050B9A93AA25671ECBD012F83B)

[Sec. 8AA-105. Audits; inspection of records.](#BK_2F1574598BFD2BC5F0647D9CEB7189BC)

[Sec. 8AA-105.1. Audits of amounts due prior to October 1, 2000.](#BK_2EB4018D38EFBA74965A0EE633BF4140)

[Sec. 8AA-106. Reserved.](#BK_6AEE82D96841C212F4B6DEF1689A12D5)

[Sec. 8AA-107. Registration application procedure; information required.](#BK_59E71814517EB52AAB5E7C5BAA4C0827)

[Sec. 8AA-108. Reserved.](#BK_0DCA15D64C4BAE8D2CDB19DFB5791DA0)

[Sec. 8AA-109. Issuance of registration.](#BK_4D77143626B954888F07B0041C4F00E1)

[Sec. 8AA-110. Notice of Transfers, Sales or Assignments of Assets in Public Rights-of-Way.](#BK_F8095454BA4594F5DB45A516CEC81688)

[Secs. 8AA-111—8AA-122. Reserved.](#BK_145E6BC33B8ED3F83321E76D8959289E)

[Sec. 8AA-123. Service to the county.](#BK_4553071B1D801F71E00038728C86D911)

[Sec. 8AA-124. Insurance.](#BK_2D1B29202E4ACC19196CE3D1E03913F7)

[Sec. 8AA-125. Faithful performance and payment bond.](#BK_7C8EBE7477771D73AC8CF69B22931635)

[Sec. 8AA-126. Reserved.](#BK_2233B0097AC5D2240CF2F338358369B8)

[Sec. 8AA-127. Termination of Registration.](#BK_DC65DC4A5F60A5FC9215347DB3102283)

[Sec. 8AA-128. Continuing police powers.](#BK_6DD1875EBC58A79DBD725D066A6A15DB)

[Sec. 8AA-129. Consumer protection.](#BK_44E748B0E40264841997917D66903E0E)

[Sec. 8AA-130. Failure to enforce Registration.](#BK_F5A9FFBBE1D9807FA588F94D7CE2B484)

[Sec. 8AA-131. Future rules by the director.](#BK_44BBAB14D71D34B6E0EC99F3C094D2BC)

[Sec. 8AA-132. Authority of the director.](#BK_257D5C87FA54100DF5C6566234012C3B)

[Sec. 8AA-133. Director's settlement authority.](#BK_D7D133E5580927E5655FBF067089F359)

[Sec. 8AA-134. Appeals of actions, decisions or determinations of the director; judicial review.](#BK_253D8B6BD5A674468840AEEB9AB9674F)

[Sec. 8AA-135. Civil penalties.](#BK_28683735BC621B4BE8DA71022A552301)

[Sec. 8AA-136. Enforcement procedure; remedies; attorney's fees; costs.](#BK_C55DD1C2C08B568F507D9979D3A46C2B)

[Secs. 8AA-137—8AA-149. Reserved.](#BK_A9F457963E2E40FC1054C049AE9B16F1)

Sec. 8AA-100. Definitions.

(a) *Communications Facility* or *Facility* or *System* shall mean any permanent or temporary plant, equipment and property, including but not limited to cables, wires, conduits, ducts, fiber optics, poles, antennae, converters, splice boxes, cabinets, hand holes, manholes, vaults, drains, surface location markers, appurtenances, and other equipment or pathway placed or maintained or to be placed or maintained in the Public Rights-of-Way of the County and used or capable of being used to transmit, convey, route, receive, distribute, provide or offer Communications Services.

(b) *Communications Services* shall mean the transmission, conveyance or routing of voice, data, audio, video, or any other information or signals to a point, or between or among points, by or through any electronic, radio, satellite, cable, optical, microwave, or other medium or method now in existence or hereafter devised, regardless of the protocol used for such transmission or conveyance. Notwithstanding the foregoing, for purposes of this chapter "cable service", as defined in Section 202.11(2), Florida Statutes (2000), as it may be amended, is not included in the definition of "Communications Services," and cable service providers shall be subject to Article I of this chapter.

(c) *Communications Service Provider* shall mean any Person including a municipality or county providing Communications Services through the placement or maintenance of a Communications Facility in Public Rights-of-Way. "Communications Services Provider" shall also include any Person that places or maintains a Communications Facility in Public Rights-of-Way but does not provide Communications Services.

(d) *Consumer Services Department* means the Consumer Services Department of Miami-Dade County or such other department or officer assigned by the County to administer registrations issued pursuant to this Article.

(e) *Director* shall be the Director of the Consumer Services Department or his or her designee.

(f) *In Public Rights-of-Way* or *in the Public Rights-of-Way* shall mean in, on, over, under or across the Public Rights-of-Way.

(g) Reserved.

(h) *Person* shall include any individual, children, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, fiduciary, corporation, organization or legal entity of any kind, successor, assignee, transferee, personal representative, and all other groups or combinations.

(i) *Place or Maintain* or *Placement or Maintenance* or *Placing or Maintaining* shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A Communications Services Provider that owns or exercises physical control over Communications Facilities in Public Rights-of-Way, such as the physical control to maintain and repair, is "placing or maintaining" the Facilities.

(j) *Permit* shall mean a construction permit issued by the Public Works Department.

(k) *Public Rights-of-Way* shall mean a public right-of-way, public utility easement, highway, street, bridge, tunnel or alley for which the County is the authority that has jurisdiction and control and may lawfully grant access to and issue permits pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. "Public Rights-of-Way" shall not include private property. "Public Rights-of-Way" shall not include any real or personal County property except as described above and shall not include County buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

(l) *Registrant* shall mean a Communications Services Provider that has registered with the Director in accordance with the provisions of this article.

(m) *Registration* or *Register* shall mean the process described in this chapter whereby a Communications Services Provider provides the required information to the Director.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-101. Registration required.

(a) A Registration from Miami-Dade County is required to commence or engage in the construction, maintenance of, or occupation of the public right-of-way with, a system designed to deliver Communications Services by utilizing the public rights-of-way. No public rights-of-way construction permits shall be issued to a Communications Service Provider without a registration issued under this Chapter.

(b) A Registration shall not convey any title, equitable or legal, to the Registrant in the Public Rights-of-Way. Registration under this chapter governs only the placement or maintenance of Communications Facilities in Public Rights-of-Way. Other ordinances, codes or regulations may apply to the placement or maintenance in the Public Rights-of-Way of facilities that are not Communications Facilities. Registration does not excuse a Communications Services Provider from obtaining appropriate access or pole attachment agreements before locating its Facilities on the County's or another Person's facilities. Registration does not excuse a Communications Services Provider from complying with all applicable County ordinances, codes or regulations, including this chapter.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-102. Rights granted by Registration.

(a) Subject to all existing permitting processes, the Registrant is authorized to occupy, install, lay, erect, construct, remove, relocate and maintain in, on, over or upon any and all of the public right-of-ways, as they now exist or may be hereafter constructed, opened, laid out or extended within the present limits of the County, or in such territory as may be hereafter added to, consolidated or annexed to unincorporated Miami-Dade County, any and all such conduits, cables, fiber optic lines, poles, wires, supports and other structures and appurtenances as may be reasonably necessary for the construction, maintenance and operation of a Communications System. Except as provided above, this Registration does not convey the right to attach cable or conduit to poles, or occupy or use real or personal property owned by Miami-Dade County, including, but not limited to, the Metrorail and Metromover system.

(b) Any Registration granted under this article shall be non-exclusive, and the issuance of a Registration will not expressly or implicitly preclude the County from issuance of other Registrations to Communications Services Providers or affect the County's right to authorize use of public rights-of-way for other lawful purposes to other persons as it determines appropriate.

(c) This Registration authorizes the Registrant to use the public rights-of-way to provide Communications Services only. Use of the public rights-of-way for any other purpose requires separate authorization.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-103. Term and renewal.

A Registrant shall renew its Registration with the Director by April 1 of even numbered years in accordance with the Registration requirements in this chapter, except that a Registrant that initially registers during the even numbered year when renewal would be due or the odd numbered year immediately preceding such even numbered year shall not be required to renew until the next even numbered year. Within thirty (30) days of any change in the information required to be submitted pursuant to [Section 8AA-107](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-107REAPPRINRE) a Registrant shall provide updated information to the Director including, on a street map provided by Miami-Dade County, the routes of a Registrant's system built after the effective date of this chapter. If no information in the then-existing Registration has changed, the renewal may state that no information has changed. Failure to renew a Registration may result in the Director restricting the issuance of additional permits until the Communications Services Provider has complied with the Registration requirements of this chapter.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-104. Communications Services Tax.

(a) Each Registrant that provides Communications Services shall collect and remit to the Florida Department of Revenue the Communications Services Tax pursuant to chapter 202, Florida Statutes and Chapter 29 Article IV-A of the Code of Miami-Dade County.

(b) In the event that state law is amended to allow collection of license fees from Communications Services Providers, or in the event that state law preempting the collection of such license fee is declare void by a court of competent jurisdiction, the provisions contained in this section shall automatically revert to those provisions contained in this section in effect on the date of adoption of this chapter to the extent those provisions are not inconsistent with state law.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-104.1 Communications Services Providers not providing communications services directly to the public.

Registrants that place or maintain a Communications Facility in the Public Rights-of-Way but do not provide Communications Services directly to the public shall pay to the County a fee of fifty (50) cents annually per linear foot of metallic cable, fiber optic cable, or other pathway that makes physical use of the Right-of-Way. This fee shall be due annually on February 10th of each year.

(Ord. No. 01-109, § 4, 6-19-01; Ord. No. 03-122, § 2, 5-6-03)

Sec. 8AA-105. Audits; inspection of records.

All amounts paid under [section 8AA-104.1](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-104.1COSEPRNOPRCOSEDIPU) shall be subject to audit and recomputation by the County. Upon reasonable notice, the Registrant shall make available to the County once per year, during normal business hours and at the Registrant's local office, the books, records and accounts and other documentation of the Registrant (hereinafter collectively referred to as the "Reports") that are necessary to determine the accuracy of the calculations upon which the license fee payment is based. The Registrant shall maintain its records in such a manner as to clearly distinguish between linear foot calculations derived from operations in unincorporated Miami-Dade County and such linear foot calculations derived from operations in the municipalities and other jurisdictions. Miami-Dade County may waive this requirement with any particular Registrant if an agreement is reached that other methods will be utilized such as audit sampling techniques which can clearly isolate revenues and/or linear foot calculations to which the County is entitled. In the event the Reports are not made available within Miami-Dade County, the Registrant shall reimburse the County for the reasonable travel expense of the County's representative resulting from said representative's travel to the location where the Reports are maintained. The County shall maintain all books, records, accounts and other documentation of Registrant in strictest confidence to the extent allowed under the Public Records Act and other applicable Florida laws.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-105.1. Audits of amounts due prior to October 1, 2000.

The County shall have the right and authority to inspect a Communications Services Provider's books and records and the right of audit and recomputation of any and all amounts due, under a License agreement, to the County prior to October 1, 2001. Unless otherwise agreed by the County all costs associated with any such audit shall be borne by the licensee when said audit results in increasing, by more than five (5) percent, the licensee's annual payment to the County. Upon reasonable notice, such records necessary to perform said audit and recomputation shall be made available to the County at the licensee's Miami-Dade County office.

(Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-106. Reserved.

**Editor's note—**

Ord. No. 01-109, § 3, adopted June 19, 2001, repealed [section 8AA-106](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-106RE) in its entirety. Former [section 8AA-106](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-106RE) pertained to annual reports and derived from Ord. No. 99-167, § 1, adopted Dec. 16, 1999.

Sec. 8AA-107. Registration application procedure; information required.

(A) To obtain a Registration under this Article a person shall apply to the Director. To be acceptable for filing, an original and two (2) copies of the application must be submitted.

(B) Each application for registration, renewal registration, and duplicate registration shall be on a form prescribed by the Director. Each application for an initial Registration shall set forth the following:

(1) The name, address and telephone number of the applicant.

(2) The name, address and telephone number of the applicant's primary contact person in connection with the Registration, and the person to contact in case of an emergency.

(3) Identification of the applicant's fiscal year calendar.

(4) A description of the general nature and size of the proposed communication system's plant and equipment that Registrant intends to have occupy the public rights-of-way, including a list with descriptions of the appurtenances such as manholes, pedestals, handholes, controlled environmental vaults, etc.

(5) A copy of Federal and/or State certification authorizing the applicant to provide communications services.

(6) A copy of any administrative or legal decision in which the applicant was determined to have violated a law or regulation governing the use of the public rights-of-way.

(C) Within thirty (30) calendar days after the awarding of the Registration, the Registrant shall file with the Director its written acceptance of the Registration, together with the insurance policy and bonding documents required by this article, and its agreement to be bound by and to comply with all requirements pursuant to the provisions of this article and the Registration.

(D) A Registrant may cancel a Registration upon written notice to the Director stating that it will no longer place or maintain any Communications Facilities in Public Rights-of-Way within the and will no longer need to obtain permits to perform work in Public Rights-of-Way. A Registrant shall not cancel a Registration if the Registrant continues to place or maintain any Communications Facilities in Public Rights-of-Way.

(E) Registration does not in and of itself establish a right to place or maintain or priority for the placement or maintenance of a Communications Facility in Public Rights-of-Way within the County but shall establish for the Registrant a right to apply for a permit. Registrations are expressly subject to any future amendment to or replacement of this chapter and further subject to any additional County ordinances, as well as any State or Federal laws that may be enacted. In accordance with applicable County ordinances, codes or regulations, a permit may be required of a Communications Services Provider that desires to place or maintain a Communications Facility in Public Rights-of-Way. A Registration shall be a condition of obtaining a permit. Notwithstanding a Registration, permitting requirements shall apply. A permit may be obtained by or on behalf of a Registrant having a Registration if all permitting requirements are met.

(F) A Communications Services Provider with an existing Communications Facility in the Public Rights-of-Way of the County has sixty (60) days from the effective date of this chapter to comply with the terms of this chapter, including, but not limited to, Registration, or be in violation thereof.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-108. Reserved.

**Editor's note—**

Ord. No. 01-109, § 3, adopted June 19, 2001, repealed [section 8AA-108](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-108RE) in its entirety. Former [section 8AA-108](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-108RE) pertained to application fee and derived from Ord. No. 99-167, § 1, adopted Dec. 16, 1999.

Sec. 8AA-109. Issuance of registration.

The Director has the authority to and shall grant a Registration to an applicant who files a completed application and complies with the application requirements herein; provided however, the Director shall have the authority to deny a Registration if the applicant fails to meet the application requirements or the proposed use of the public rights-of-way presents a danger to the general public and other users of the public rights-of-way.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-110. Notice of Transfers, Sales or Assignments of Assets in Public Rights-of-Way.

If a Registrant transfers, sells or assigns its assets located in Public Rights-of-Way incident to a transfer, sale or assignment of the Registrant's assets, the transferee, buyer or assignee shall be obligated to comply with the terms of this chapter. Written notice of any such transfer, sale or assignment shall be provided by such Registrant to the Director within twenty (20) days after the effective date of the transfer, sale or assignment. If the transferee, buyer or assignee is a current Registrant, then the transferee, buyer or assignee is not required to re-Register. If the transferee, buyer or assignee is not a current Registrant, then the transferee, buyer or assignee shall Register as provided in [Section 8AA-107](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-107REAPPRINRE) within sixty (60) days of the transfer, sale or assignment. If permit applications are pending in the Registrant's name, the transferee, buyer or assignee shall notify the Public Works Department that the transferee, buyer or assignee is the new applicant.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Secs. 8AA-111—8AA-122. Reserved.

**Editor's note—**

Ord. No. 01-109, § 3, adopted June 19, 2001, repealed sections 8AA-111—8AA-122 in their entirety. Former sections 8AA-111—8AA-122 pertained to use of county public rights-of-way, construction requirements, alteration of the system, access by county; right to use easement and streets not warranted; other agreements, permits and easements requirements; no property rights conveyed; location/relocation of facilities; work in the public right-of-way and easements; safety; county's right to inspect; unauthorized work; protection of county property; electrical standards; and emergency, respectively, and derived from Ord. No. 99-167, § 1, adopted Dec. 16, 1999.

Sec. 8AA-123. Service to the county.

If controlling law changes to require the Registrant, or to authorize Miami-Dade County to require the Registrant, to provide Communications Services or facilities to schools, hospitals, government or other public facilities, Miami-Dade County reserves the right to require such service or facilities.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-124. Insurance.

(a) The Registrant shall provide, pay for and maintain, throughout the term of its Registration, and with companies satisfactory to the County, the types of insurance described herein. All insurance shall be from responsible companies duly authorized to do business in the State of Florida and having a financial rating in Best's Insurance Guide of A X or better. The insurance coverage obtained by the Registrant shall be approved by the Risk Management Division of the General Services Administration. All liability policies shall provide that the County is an additional insured as to the operations under this Registration and shall provide the severability of interest provision. The required coverages must be evidenced by properly executed Certificates of Insurance. The Certificates must be manually signed by the authorized representative of the insurance Registrant. Thirty (30) days advance written notice by registered or certified mail must be given to the County of any cancellation, intent not to renew or reduction in the policy coverages, which notice shall be sent by registered mail to the Consumer Services Department. Companies issuing the insurance policies shall have no recourse against the County for payment of any premiums or assessments, and same shall be the sole responsibility of the Registrant.

(b) The limits of coverage of insurance required shall be not less than the following:

(1) Worker's Compensation and Employer's Liability Insurance as required by Florida Statutes.

(2) Comprehensive General Liability Bodily injury and property damage one million dollars ($1,000,000.00) combined single limit each occurrence.

(3) Automobile Liability Bodily injury and property damage one million dollars ($1,000,000.00) combined single limit each accident covering all owned, non-owned, and hired vehicles.

(c) Upon thirty (30) days notice, the insurance coverage and policy requirements may be changed and increased from time to time at the discretion of the Board of County Commissioners to reflect changing liability exposure and limits.

(d) These insurance requirements may be met by evidence of participation of a bona-fide captive insurance or self insurance program that is established and regulated by a governmental entity.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-125. Faithful performance and payment bond.

The Registrant shall within thirty (30) days of the effective date of a Registration granted under this article, furnish to the Consumer Services Department a performance bond or an irrevocable letter of credit issued by a Florida bank or a federally insured lending institution in the amount of one hundred thousand dollars ($100,000.00). Such bond shall be maintained by the Registrant throughout the term of the Registration. The Registrant shall pay all premiums and keep the bond in full effect and force at all times throughout the term of the Registration, including, if necessary, the time required for removal of all the Registrant's system installed in the County's streets, and for one (1) year after the Registration expires or is terminated. The bond shall contain a provision that it shall not be terminated or otherwise allowed to expire without thirty (30) days prior written notice first being given to the Director and the Risk Manager. The performance bond or letter of credit shall be used to guarantee the compliance with performance requirements and payment of all sums which may become due to the County under this chapter. The Registrant shall maintain a copy of the bond on file with the County along with written evidence of the required premiums.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-126. Reserved.

**Editor's note—**

Ord. No. 01-109, § 3, adopted June 19, 2001, repealed [section 8AA-126](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-126RE) in its entirety. Former [section 8AA-126](../level3/PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE.docx#PTIIICOOR_CH8AACACOSEPR_ARTIICOSERE_S8AA-126RE) pertained to indemnification and derived from Ord. No. 99-167, § 1, adopted Dec. 16, 1999.

Sec. 8AA-127. Termination of Registration.

The County may declare a forfeiture and termination of, and revoke and cancel all rights granted under this Registration if (a) a federal/state authority suspends, denies, or revokes a Communications Services Provider's certification to provide Communications Services; (b) the Registrant's use of the public rights-of-way presents a danger to the general public and other users of the public rights-of-way; or, (c) the Registrant has abandoned its Communications Facilities in the Public Rights-of-Way and has not complied with Section 8AA-127.1. Prior to such termination by the County, the Registrant shall be served by the County with a written notice setting forth all matters pertinent to the termination action, including which of (a) through (c) above is applicable as the reason therefore, and describing the action of the County with respect thereto. The Registrant shall have sixty (60) days after service of such notice within which to address or eliminate the reason, or within which to present a plan, satisfactory to the County, to accomplish the same. In the event of such termination, the Registrant shall, within a reasonable time following demand by the County, remove or abandon the Communications Facilities and take such steps as are necessary to render every portion of the Communications Facilities remaining within the public rights-of-way of the County safe, and shall thereupon be deemed to have abandoned same in its entirety; and the same shall thereupon become the sole property of the County without payment to the Registrant. If Miami-Dade County agrees to abandonment, the Registrant shall incur, from that time forward, no future obligations with respect to the Communications Facilities.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-128. Continuing police powers.

The Registrant shall at all times during the life of the Registration be subject to all lawful exercise of the police power of the County and to all lawful nondiscriminatory regulations as the County subsequently enacts based upon its existing powers or additional powers given it in the future. The Registrant shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business. The Registrant shall at all times comply with the requirements of Article III of this Chapter. Specific and exact compliance to all zoning and building regulations shall be adhere[d] to by the Registrant.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-129. Consumer protection.

Miami-Dade County may oversee compliance with all applicable consumer protection laws and regulations, including the enforcement of [Chapter 8A](../level2/PTIIICOOR_CH8ABURE.docx#PTIIICOOR_CH8ABURE), Business Regulations, of the Code of Miami-Dade County and may participate in any federal, state and local proceedings involving or on behalf of consumers in Miami-Dade County. Miami-Dade County reserves the right to enact additional consumer protection provisions to the extent authorized by state and federal law.

(Ord. No. 99-167, § 1, 12-16-99)

Sec. 8AA-130. Failure to enforce Registration.

The Registrant shall not be excused from complying with any of the terms and conditions of this Article by any failure of the County, upon any one (1) or more occasions, to require the Registrant's performance or compliance with any one (1) or more of such terms or conditions.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-131. Future rules by the director.

The Director reserves the right to promulgate rules, regulations, and procedures to implement the intention of this article.

(Ord. No. 99-167, § 1, 12-16-99)

Sec. 8AA-132. Authority of the director.

(a) The Director shall have the responsibility for overseeing the day-to-day administration of this article and authorizations granted hereunder. The Director, or any member of the Director's staff so designated by the Director, may administer oaths, certify to official acts, issue subpoenas, and compel the attendance of witnesses and the production of papers, account books, contracts, documents and other records, data or information, when necessary, convenient, or appropriate in the discharge of the duties of his office. The Director shall be empowered to take all administrative actions on behalf of the County, including adopting forms for application and reporting and other administrative procedures as are necessary.

(b) The Director shall have the authority to initiate legal actions in the name of Miami-Dade County through the County Attorney, seeking declaratory judgment, injunctive, equitable, and legal relief to enforce the provisions of this Article.

(Ord. No. 99-167, § 1, 12-16-99)

Sec. 8AA-133. Director's settlement authority.

The Director is hereby authorized to resolve by settlement any notice of violation or lawsuit initiated by the Director. In deciding to settle a dispute over an alleged violation, the County shall consider:

(1) The probability of success in proving the violation;

(2) The nature and seriousness of the violation;

(3) The Registrant's past history concerning similar violations;

(4) Mitigating factors; and

(5) The Registrant's success in resolving the dispute with affected customers.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-134. Appeals of actions, decisions or determinations of the director; judicial review.

(a) Any Registrant who is aggrieved by any final action, decision or determination of the Director pursuant to this article may appeal to a hearing officer. Appeal shall be initiated by filing a written notice of appeal with the Director within fifteen (15) days after the date of the action, decision or determination complained of. The written notice of appeal shall set forth the nature and date of the action, decision or determination to be reviewed and a brief summary of the grounds for the appeal. Upon such filing, an administrative hearing shall be scheduled and heard by a hearing officer pursuant to [Section 8CC](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN) of the Code of Miami-Dade County, Florida. The Hearing Officer shall set the matter for hearing on the earliest practicable regularly scheduled hearing date or as soon as possible, but no sooner than ten (10) days after the request has been filed and shall cause notice of the hearing to be served upon the aggrieved party by first class mail. The notice may include, but not be limited to, the applicable Sections of [8CC-6](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-6SCCOHE)(b)(2) through (9) of the Code of Miami-Dade County, Florida. The hearing officer shall hear and consider all relevant facts in accordance with the procedures set forth in Sections [8CC-6](../level2/PTIIICOOR_CH8CCCOEN.docx#PTIIICOOR_CH8CCCOEN_S8CC-6SCCOHE)(e), (f), (g), (i), (j), (k), (l), (m)(2), and (n) of the Code of Miami-Dade County (any reference in these sections to Inspector shall mean "Director" and to violator shall mean "the person filing the appeal"), and may affirm, modify or reverse the action, decision or determination appealed from. The decision of the Hearing Officer shall constitute final administrative review and no rehearing shall be permitted. Nothing herein shall be construed to prevent or prohibit the Director from instituting any civil action or proceeding authorized by this Article at any time.

(b) The Director, the Miami-Dade County Consumer Advocate, or any Registrant who is aggrieved by any decision of the Hearing Officer may appeal a final order of the Hearing Officer by filing a notice of appeal in the Circuit Court in and for Miami-Dade County, Florida, in accordance with procedures and within the time provided by the Florida Rules of Appellate Procedure for review of administrative action. The words "action," "decision" and "determination" as used herein shall not include the filing or institution of any action, conference or proceeding by the Director in any court otherwise.

(c) Any regulated person making the appeal shall be required to pay the Director a fee, to be established by administrative order of the County Manager, to defray the costs of preparing the record on appeal. Said fee shall be effective upon approval by the Commission.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-135. Civil penalties.

In addition to any other judicial or administrative remedies or penalties provided by law, rule, regulation or ordinance, any person who violates any of the provisions of this article, any cease and desist order of the Director, any notice to correct a violation or any assurance of voluntary compliance pursuant to [Section 8A-82.1](../level4/PTIIICOOR_CH8ABURE_ARTIIIUNTRST_DIV2DIIN.docx#PTIIICOOR_CH8ABURE_ARTIIIUNTRST_DIV2DIIN_S8A-82.1SACCASCO) of the Code and this Article with respect to matters regulated under this Article or any other lawful order of the Director shall be subject to the judicial imposition and recovery of a civil penalty in an amount of not more than ten thousand dollars ($10,000.00) per offense. Each day during any portion of which such violation occurs or continues to occur constitutes a separate offense. Such monies recovered by the Director shall be deposited in a separate county fund to be used exclusively for enforcement of this Article. For purposes of this Article, all references to [Chapter 8A](../level2/PTIIICOOR_CH8ABURE.docx#PTIIICOOR_CH8ABURE) in [Section 8A-82.1](../level4/PTIIICOOR_CH8ABURE_ARTIIIUNTRST_DIV2DIIN.docx#PTIIICOOR_CH8ABURE_ARTIIIUNTRST_DIV2DIIN_S8A-82.1SACCASCO) shall mean this Article.

(Ord. No. 99-167, § 1, 12-16-99; Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-136. Enforcement procedure; remedies; attorney's fees; costs.

(a) It shall be unlawful for any person to violate any of the provisions of this article. In addition to any other judicial or administrative remedies provided by law, rule, regulation, ordinance, or this article, the Director shall have the following judicial remedies available to enforce the provisions of this article:

(1) The Director may institute a civil action in a court of competent jurisdiction to seek temporary or permanent declaratory or injunctive relief to enforce compliance with or prohibit the violation of any of the provisions of this article.

(2) The Director may institute a civil action in a court of competent jurisdiction to impose and recover a civil penalty in an amount of not more than ten thousand dollars ($10,000.00) for each violation of any of the provisions of this article. Each day during any portion of which such violation occurs or continues to occur constitutes a separate violation. The right of trial by jury shall be available in any court to determine both liability for and the amount of the civil penalties to be imposed and recovered hereunder.

(3) The Director may institute a civil action in a court of competent jurisdiction to seek restitution and other equitable relief to recover any sums and costs expended by the Director for tracing, investigating, preventing, controlling, abating or remedying any violation of any of the provisions of this article.

(b) Upon the rendition of a judgment or decree by any of the courts of this state against any person and in favor of the Director under any of the provisions of this article, the trial court, or, in the event of an appeal in which the Director prevails, the appellate court, shall adjudge or decree against said person and in favor of the Director a reasonable sum as fees or compensation for the Director's attorney prosecuting the suit in which the recovery is had. Where so awarded, compensation or fees of the attorney shall be included in the judgment or decree rendered in the case. This provision shall apply to all civil actions, legal or equitable, filed after the effective date of this article by the Director.

(c) All the judicial and administrative remedies in this article are independent and cumulative.

(Ord. No. 99-167, § 1, 12-16-99)

Secs. 8AA-137—8AA-149. Reserved.

FOOTNOTE(S):

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**Editor's note—** Ord. No. 01-109, § 4, adopted June 19, 2001, changed the name of article II from telecommunications regulations to communications services regulations. [(Back)](#BK_662327AB2825B09059BF5BC8F12D1AFC)

### ARTICLE III. PUBLIC RIGHTS-OF-WAY REGULATIONS FOR COMMUNICATIONS SERVICES PROVIDERS

[Sec. 8AA-150. Definitions.](#BK_832B41E16E5461E22C00DA46C6FA76AF)

[Sec. 8AA-151. Intent and purpose.](#BK_EDB733D751E21BDED5F550C74DA6D619)

[Sec. 8AA-152. Use of County Public Rights-of-Way; Construction Requirements; Alteration of the System; Access by County.](#BK_91DBCEB315DB4DCE2420388E2045FEA0)

[Sec. 8AA-152.1. Protection of underground utilities](#BK_A81930D6B57B727914CD57055E7F0E78)

[Sec. 8AA-153. Compliance with applicable laws and ordinances.](#BK_F79FC60AC2D4238E10C4B48C1ADA86B5)

[Sec. 8AA-154. Right to use Easement and Streets Not Warranted.](#BK_6EA04EAF89CF1B5E0BCA9E5AF00CB72D)

[Sec. 8AA-155. Other Agreements, Permits and Easements Requirements.](#BK_BB53BED82A99DF5DBFF83AE49728B46F)

[Sec. 8AA-156. No Property Rights Conveyed.](#BK_34D1300BC641EE1DF183D9B9C71ACC2B)

[Sec. 8AA-156.1 Reservation of rights.](#BK_74E3CD3B08C6BDA72F76CAB1563BA7CF)

[Sec. 8AA-157. County's Right to Inspect.](#BK_3CA2595A11A58C45A670F03F1F7ECADC)

[Sec. 8AA-158. Joint or common use of poles.](#BK_411F60155DFDABB3738426340C9D844E)

[Sec. 8AA-159. Location/Relocation of Facilities.](#BK_564AFC938EDA5C9F9A800DBB3F32F41C)

[Sec. 8AA-160. Work in the right-of-way.](#BK_584D42760EA9139CE9E30BAE052997BF)

[Sec. 8AA-161. Safety.](#BK_D53EB46D0DCEB5143DFF44D226B4D8AF)

[Sec. 8AA-162. Technical Standards.](#BK_9B6F5403C785FD8DA492C944DFCF9764)

[Sec. 8AA-163. Unauthorized Work.](#BK_747811FF6C47F6BB1FAC22CA5541BD4D)

[Sec. 8AA-164. Protection of County Property.](#BK_52958717D0CAA2E2CC22B569C8D90995)

[Sec. 8AA-165. Emergency, liability, indemnification; liability in case of emergency.](#BK_AB08CB8895B9D83D4EB0C5F7F9636B5F)

[Sec. 8AA-166. Abandonment of Facilities.](#BK_4DCE77CED029BC47D0305F8CEDA00A54)

[Sec. 8AA-167. Removal and restoration; removal required.](#BK_680962B22327257EBFC5EE344F9D110E)

[Sec. 8AA-168. Restoration Required.](#BK_294C153319F834B367DB605CD1D8D985)

Sec. 8AA-150. Definitions.

(a) *Abandonment* shall mean the permanent cessation of all uses of a Communications Facility; provided that this term shall not include cessation of all use of a Facility within a physical structure where the physical structure continues to be used. By way of example, and not limitation, cessation of all use of a cable within a conduit, where the conduit continues to be used, shall not be "Abandonment" of a Facility in Public Rights-of-Way.

(b) *Director* shall mean the Director of the Consumer Services Department.

(c) *Facility* for purposes of this article shall mean a "Cable System" as defined by Article I of this chapter or a "Communications Facility" as defined by Article II of this chapter.

(d) *In Public Rights-of-Way* or *in the Public Rights-of-Way* shall mean in, on, over, under or across the Public Rights-of-Way.

(e) *Place or Maintain* or *Placement or Maintenance* or *Placing or Maintaining* shall mean to erect, construct, install, maintain, place, repair, extend, expand, remove, occupy, locate or relocate. A Provider that owns or exercises physical control over Communications Facilities in Public Rights-of-Way, such as the physical control to maintain and repair, is "placing or maintaining" the Facilities.

(f) *Permit* shall mean a construction permit issued by the Public Works Department.

(g) *Provider* for purposes of this article shall mean a provider of "Cable Service" as defined by Article I of this chapter or a "Communications Service Provider" as defined by Article II of this chapter.

(h) *Public Rights-of-Way* shall mean a public right-of-way, public utility easement, highway, street, bridge, tunnel or alley for which the County is the authority that has jurisdiction and control and may lawfully grant access to and issue permits pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface. "Public Rights-of-Way" shall not include private property. "Public Rights-of-Way" shall not include any real or personal County property except as described above and shall not include County buildings, fixtures, poles, conduits, facilities or other structures or improvements, regardless of whether they are situated in the Public Rights-of-Way.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-151. Intent and purpose.

It is the intent of the County to promote the public health, safety and general welfare by: providing for the placement or maintenance of Communications Facilities in the Public Rights-of-Way within the County; adopting and administering reasonable rules and regulations not inconsistent with State and Federal law, including Section 337.401, Florida Statutes (2000), as it may be amended, the County's home-rule authority, and in accordance with the provisions of the Federal Telecommunications Act of 1996 and other Federal and State law; establishing reasonable rules and regulations necessary to manage the placement or maintenance of Communications Facilities in the Public Rights-of-Way by all Communications Services Providers; and minimizing disruption to the Public Rights-of-Way. It is the intent of the County to treat all Providers in a nondiscriminatory and competitively neutral manner when imposing rules or regulations governing the placement or maintenance of Facilities in the public roads or Public Rights-of-Way.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-152. Use of County Public Rights-of-Way; Construction Requirements; Alteration of the System; Access by County.

Subject to all applicable provisions of the County, Provider may perform all necessary work to construct, occupy and maintain its Facilities. The Provider must comply at all times with all policies, procedures and directives of the Public Works Department, the Planning and Zoning Department and the Building Department. Prior to the installation, placement or removal of any conduits, cables or pole lines, facilities, or the start of any other type of construction on the County's public rights-of-way, the Provider shall, pursuant to the requirements of existing or subsequently enacted County ordinances, obtain all permits from, and where applicable pay all fees to, the Public Works Department, the Planning and Zoning Department and the Building Department. The issuance of a permit by the County shall not be construed by the Provider as a warranty that the placement by the Provider of its conduits, cables or pole lines, facilities, or the start of construction, is in compliance with any applicable rules, regulations or laws. All construction and maintenance of the Provider's Facilities within County public rights-of-way incident to Provider's provision of service shall, regardless of who performs installation and/or construction, be and remain the responsibility of the Provider.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-152.1. Protection of underground utilities

In connection with excavation in the Public Rights-of-Way, Providers, where applicable, shall comply with the requirements of Article XIII.5 of [Chapter 21](../level2/PTIIICOOR_CH21OFMIPR.docx#PTIIICOOR_CH21OFMIPR) of the Code of Miami-Dade County.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-153. Compliance with applicable laws and ordinances.

(a) All Providers shall at all times during the life of this chapter be subject to all lawful exercise of the police power by the County and to such reasonable regulation by the County as the County shall hereafter provide. All Providers shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business. Specific and exact compliance to all zoning and building regulations shall be adhered to by Providers.

(b) Except as may be specifically provided for in this chapter, the failure of the County or a licensee, upon more than one (1) occasion, to exercise a right or to require compliance or performance under this chapter shall not be deemed to constitute a waiver of such right or a waiver of compliance or performance in the future.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-154. Right to use Easement and Streets Not Warranted.

It is understood that there may be from time to time within the County various Public Rights-of-Way which the County does not have the unqualified right to authorize Providers to use; therefore, in granting a Communications Services Provider Registration or a Cable Service provider License, the County does not warrant or represent as to any particular easement, right-of-way, or portion of a right-of-way or easement, that it has the right to authorize Providers to Place or Maintain portions of its Facilities therein.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-155. Other Agreements, Permits and Easements Requirements.

Nothing in this Article or with respect to the issuance of a Registration or License shall be construed to require the County to assume any responsibility for the securing of any right-of-way, easements, or other rights which may be required by a Provider for the installation of its Facilities, nor shall the County be responsible for securing any permits or agreements with other persons or utilities.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-156. No Property Rights Conveyed.

Nothing in this Article or with respect to the issuance of a Registration or License shall grant to Providers any right of property in County-owned property or public rights-of-way, nor shall the County be compelled to maintain any of its property or public rights-of-way any longer than, or in any other fashion than in the County's judgment, its own business or needs may require.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-156.1 Reservation of rights.

(a) The County reserves the right to amend this chapter as it shall find it necessary in the lawful exercise of its police powers.

(b) The County reserves the right to amend this chapter as it existed prior to the effective date of this article, to the full extent permitted by state and federal law.

(c) This article shall be applicable to all facilities Placed or Maintained in the County's Rights-of-Way on or after the effective date of this article, to the full extent permitted by state and federal law.

(d) The adoption of this article is not intended to waive any rights or defenses under any existing franchise, license or other agreements with a Provider.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-157. County's Right to Inspect.

The County shall have the right to inspect a Provider's Facilities located in the Public Rights-of-way and its installation, construction, and maintenance to insure compliance with the terms of this chapter and any requirements of the Public Works Department or applicable ordinances.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-158. Joint or common use of poles.

Providers shall enter into agreements for the joint or common use of poles or other wire holding structures where poles or other wire holding structures already exist for the use in serving the County or serving the public convenience. No location of any pole or wire holding structure of the Provider shall be a vested interest, and such pole or structure shall be removed or modified by the licensee at its own expense whenever the County determines it to be necessary in conjunction with a County project.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-159. Location/Relocation of Facilities.

(a) Unless controlling law provides otherwise, a Provider's system shall be installed underground in areas where existing power or telephone facilities are underground. If both power and telephone facilities are installed above ground, the Provider shall install its facilities underground at the request of a resident or property owner when the resident or property owner agrees to pay the additional cost of such installation.

(b) Provider shall not place any fixtures or equipment where the same will interfere with any existing gas, electric, cable system, telephone, sewer, drainage, or water lines, fixtures or equipment. The Provider shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual travel on streets; with the installation or operation of gas, electric, Cable System, telephone, water, drainage, or sewer line equipment, or with the rights of owners of property which abuts any Public Right-of-Way.

(c) Unless controlling law provides otherwise, Providers shall relocate any above ground portion of their systems underground in any easement or right-of-way area where existing power or telephone facilities are hereafter so relocated. Any such relocation shall be at the Provider's expense, and such relocation shall be accomplished concurrently with relocation of any such power and telephone facilities.

(d) Provider shall have the authority to trim trees upon or overhanging streets, alleys, sidewalks and public ways and places of the County so as to prevent the branches of such trees from coming in contact with the wires and cables of the Provider, in a manner approved by and acceptable to the County. When the County determines such trimming is necessary to protect the health safety and welfare of the public, such trimming may be done by it or under its supervision and direction at the expense of the Provider, if prior notification has been given to the Provider and the Provider thereafter failed to respond.

(e) A Provider shall promptly and at the Provider's own expense protect, support, temporarily disconnect, remove, modify or relocate any part of their system when required by the County by reason of traffic conditions, public safety, road construction, change of street grade, installation of sewers, drains, water pipes, power lines, signal devices, tracks, any other type of County improvement project, or to accommodate the abandonment of any street. Such work shall be completed no later than 30 days after receiving notice from the County or such longer period as may be agreed to by the County. In the event such contingency occurs, and the Provider fails to remove or modify its system, the County may, upon notice to the Provider, make the necessary removals and charge the Provider for the cost. Nothing in this Section shall be construed to waive any rights the Provider may have under state or federal law to be reimbursed for relocation expenses.

(f) Each Provider shall, on the request of any person holding a building moving permit issued by the County, temporarily remove, raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting same, and the Provider shall have the authority to require such payment in advance. The Provider shall be given not less than seven (7) days advance notice to arrange for such temporary wire changes.

(g) When placed underground, all service lines, drops, or laterals that connect the end user customer to the Provider's distribution system shall be buried as follows: (a) on easements and public rights-of-way at the depth as established by the Public Works manual or regulations; and (b) on private property at a sufficient depth so that no portion of the line is exposed. The County may impose a specific depth requirement for such lines on private property.

(h) Except for relocation expenses when authorized by state or federal law, the Provider shall not be entitled to any compensation for damages from the County as a result of having to remove or relocate its property, lines and cable from such public property or public rights-of-way in the event the County determines that a necessity exists for such removal or relocation.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-160. Work in the right-of-way.

(a) The Provider must obtain any required permits before causing any damage or disturbance to public rights-of-way, easements or thoroughfares as a result of its construction or operations and must restore to their former condition such property in a manner approved by the County. If such restoration is not satisfactorily performed within a reasonable time, the County, after prior notice to the Provider, may cause the repairs to be made at the expense of the Provider. All additional or reoccurring repairs required as a result of the Provider's work may also be made at the expense of the Provider.

(b) Providers granted Permits to Place or Maintain Facilities in the Public Rights-of-Way or utility easements shall provide at least seven (7) days' prior written notice to the residents of an area that Provider's construction or maintenance crews will be working in the area by mail and/or through the placement of notices on the front door knobs of the residents in the area, with such notices providing the provider's name and telephone number. Such notice shall be provided to residents whose property is directly affected, or adjacent to, the Public rights-of-way or utility easement impacted by the Provider's construction or maintenance. Such notice will inform customers that construction will take place and contain the anticipated duration, a brief and accurate statement of Provider's property and rights-of-way restoration obligations, name of contractor, if any, and list the telephone number of the Consumer Services Department if residents have complaints regarding construction, maintenance and/or restoration. The Director shall promulgate a model notice form. Use of that form, while not required, will constitute per se compliance with this notice requirement. The notice requirement in this Section shall not apply to service drops or emergency maintenance which is defined for purposes of this Section to mean repairs necessary to restore service or system performance as a result of an incident outside of the provider's control.

(c) All vehicles utilized by Providers and subcontractors working for Providers in the construction, installation or maintenance of the Provider's system shall be clearly marked, providing the licensee's name and telephone number, and, if applicable, the CC# as required by [Section 10-4](../level3/PTIIICOOR_CH10CO_ARTIINGE.docx#PTIIICOOR_CH10CO_ARTIINGE_S10-4PEWICERESECOIDVE) of the Miami-Dade County Code. Subcontractors working for multiple Providers may place magnetic signage on their vehicle(s) to meet the requirements of this subsection; provided, however, this provision does not affect the subcontractors [Section 10-4](../level3/PTIIICOOR_CH10CO_ARTIINGE.docx#PTIIICOOR_CH10CO_ARTIINGE_S10-4PEWICERESECOIDVE) requirements. All personnel employed or subcontracted by Providers in the construction of the Provider's system shall possess identification providing the employee's name and the provider's name and telephone numbers.

(d) Providers shall join and maintain a continuous membership in Sunshine State One Call of Florida, Inc. or other bona fide underground notification program accepted by Miami-Dade County and use its services prior to construction or maintenance. Only certified contractors may be utilized for the construction or maintenance.

(e) All new pedestals, amplifiers and power supplies installed or worked on by the Provider shall be marked with the name of the Provider. The Provider will make all reasonable efforts to ensure that all existing pedestals, amplifiers and power supplies shall be marked during the normal course of business.

(Ord. No. 01-109, § 5, 6-19-01; Ord. No. 03-122, § 3, 5-6-03)

Sec. 8AA-161. Safety.

(a) Providers' work performance, equipment, and job sites shall be in compliance with all applicable County, State and federal requirements and shall conform to the provisions of the public works manual. Provider's work, while in progress, shall be properly protected at all times with suitable barricades, flags, lights, flares or other devices as are required by the Manual on Uniform Traffic Control Devices (FDOT), Roadway and Traffic Design Standards (FDOT) and/or any requirements of the Public Works Department to protect all members of the public having occasion to use the portion of the streets involved or adjacent property.

(b) The Provider shall at all times employ due care and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public. All of Provider's structures and all lines, equipment and connection in, over, under and upon the public rights-of-way of the County wherever situated or located shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good order and repair.

(Ord. No. 01-109, § 4, 6-19-01)

Sec. 8AA-162. Technical Standards.

(a) All construction, installation, grounding, and maintenance shall comply with the current versions of the National Electrical Safety Code and the National Electrical Code.

(b) Underground construction in streets shall be of such quality as to assure continuity of service without the necessity of frequent street or pavement cutting.

(c) All cables and wires shall be installed, where possible, parallel with electric and telephone lines.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-163. Unauthorized Work.

Any conduits, cables or pole lines installed or placed without first having obtained the Permits herein before provided for shall be removed within ten (10) days following written notice by the County. Failure to comply following written notice may result in the removal of the conduits, cables or poles by order of the Public Works Department and the cost of removal shall be borne and paid by the Provider. When permits are required, all work done without permits will cease until all permits are pulled.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-164. Protection of County Property.

The Provider shall not in any way displace, damage or destroy any sewer, water main, pipe or any other facilities belonging to the County without the consent of the County; and the Provider shall be liable to the County for the cost of any repairs made necessary by any such displacement, damage or destruction and shall pay such costs upon demand.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-165. Emergency, liability, indemnification; liability in case of emergency.

(a) In an emergency that affects the public safety, as determined by the County, when the Provider or its representative is immediately unavailable or unable to provide the necessary immediate repairs to any portion of the Public Rights-of-Way that is damaged due to any faults or settled or sunken areas that may develop in any area over, around or adjacent to same, the County, when apprised of such an emergency, shall have the right to make the repairs with the total cost of same being charged to the Provider.

(b) If, at any time in case of fire, police action, disaster, or other emergency, it shall appear necessary in the reasonable judgment of the County to cut, move or otherwise interfere with any of the wires, cables, amplifiers, appliances or appurtenances thereto of the Provider the County shall not be liable for any injury or damage to such property and equipment of the Provider as a result of such cutting, moving or interference.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-166. Abandonment of Facilities.

(a) Upon abandonment of a Facility owned by a Provider in the Public Rights-of-Way, the Provider shall notify the Director within ninety (90) days. The Director may direct the Provider by written notice to remove all or any portion of such Abandoned Facility at the Provider's sole expense if the County determines that the Abandoned Facility's presence interferes with the public health, safety or welfare, which shall include, but shall not be limited to, a determination that such Facility: (a) compromises safety at any time for any Public Rights-of-Way user or during construction or maintenance in Public Rights-of-Way; (b) prevents another Person from locating facilities in the area of Public Rights-of-Way where the Abandoned Facility is located when other alternative locations are not reasonably available; or (c) creates a maintenance condition that is disruptive to the Public Rights-of-Way's use. In the event of (b), the County may require the third Person to coordinate with the Provider that owns the existing Facility for joint removal and placement, where agreed to by the Registrant.

(b) Reserved.

(c) In the event that the County does not direct the removal of the Abandoned Facility, the Provider, by its notice of Abandonment to the County, shall be deemed to consent to the alteration or removal of all or any portion of the Facility by the County or another Person at such third party's cost.

(d) If the Provider fails to remove all or any portion of an Abandoned Facility as directed by the County within a reasonable time period as may be required by the County under the circumstances, the County may perform such removal and charge the cost of the removal against the Provider.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-167. Removal and restoration; removal required.

(a) To the extent that it is determined to be in the interest of the health, safety, and welfare of the public a Provider shall, upon notice, promptly remove from the public rights-of-way all portions of the system and poles of such system.

(b) In the event that a communications facility has been installed in any street without complying with the requirements of this article, the Provider, within thirty (30) days after written notice by the County, shall commence removal from the streets of all such property as the County may require.

(Ord. No. 01-109, § 5, 6-19-01)

Sec. 8AA-168. Restoration Required.

(a) In the event of such removal as referenced herein, the Provider shall promptly and reasonably restore the street or other area from which such property was removed to the condition existing prior to the disruption of the street or other area.

(b) If a Provider fails to properly and promptly restore the area, the County, at its election, may restore the area and cause forfeiture of the permanent performance bond in order to reimburse the County for any costs and expenses it incurs for restoring the area.

(Ord. No. 01-109, § 5, 6-19-01)