

LYNDON TOWNSHIP

MUNICIPAL BROADBAND ORDINANCE

ORDINANCE NO. 2018-01

WASHTENAW COUNTY, MICHIGAN

EFFECTIVE DATE

July 26, 2018

LYNDON TOWNSHIP
ORDINANCE NO. 2018-01

MUNICIPAL BROADBAND ORDINANCE

An Ordinance to protect the public health, safety, and welfare by establishing regulations governing access to and use of the Township's broadband internet access transport services, as defined in the Metropolitan Extension Telecommunications Rights-Of-Way Oversight Act, Public Act No. 48 of 2002, MCL 484.3101 et seq. (the "METRO Act"), and in accordance with the Michigan Telecommunications Act, Public Act 179 of 1991, MCL 484.2101, et seq.

THE TOWNSHIP OF LYNDON ORDAINS:

Section I. Title.

This Ordinance is known and cited as the "Lyndon Township Municipal Broadband Ordinance."

Section II. Purpose and Preamble.

1. The Township desires to construct infrastructure within the public rights-of-way and outside of the public rights-of-way with consent of the owner(s) of the property for the provision of broadband internet access transport services for the benefit of the residents of the Township of Lyndon, in accordance with the METRO Act and the Michigan Telecommunications Act.
2. The Township properly noticed and conducted a public hearing in accordance with MCL 484.3114(1)(a).
3. The Township prepared reasonable projections of at least a 3-year cost-benefit analysis as required by MCL 484.3114(1)(b).

Section III. Approval of Cost-Benefit Analysis.

In accordance with the METRO Act, the Township prepared reasonable projections of at least a 3-year cost-benefit analysis identifying and disclosing the total projected direct costs of and the revenues to be derived from constructing the infrastructure for the provision of broadband internet access transport services to its customers.

Section IV. Operation of Broadband Internet Access Service.

The Township shall operate its broadband services, including but not limited to dark fiber leasing, active Ethernet, passive optical network connectivity, and internet access for wholesale or retail to customers.

1. Applications for the use of the Township's broadband service shall be submitted by the property owner to the Township's Internet Service Provider on forms or online as directed by the Township or the Internet Service Provider.

2. Prior to providing broadband service to a customer, proof evidencing ownership or a present possessory right (e.g. rental or lease agreement) of the property to be serviced must be submitted to the Township. If new service is requested by a customer who is not the owner of the property, the customer shall obtain, and provide the Township evidence satisfactory to the Township of the property owners consent to the provision of services.
3. It shall be unlawful for a person or firm to obtain or use the broadband service over or through the Township's broadband without the Township's approval of an application for service, and paying all necessary user charges, costs and fees in accordance with this Ordinance.

Section V. Rates and Fees.

1. User charges shall be used to defray the costs of capital, operation, maintenance, and replacement of the broadband services, and to the extent permitted by law, may also be used for debt retirement.
2. The Township Board may establish by resolution a fee schedule setting forth the charges, fees and costs for the provision of broadband services in accordance with MCL 484.3114, including but not limited to:
 - a. Application fees;
 - b. Usage charges;
 - c. Fees for discontinuing broadband services to a customer;
 - d. Fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports;
 - e. Other fees and charges the Township may deem necessary to carry out the requirements of this Ordinance.

Section VI. Compliance with the METRO Act.

The Township shall comply in all respects with the requirements of the METRO Act and the Michigan Telecommunications Act, Public Act 179 of 1991, and shall not do any of the following:

1. Adopt an ordinance, rules or a policy that unduly discriminates against another person providing the same service provided, however, that subject to other requirements of the METRO Act, this paragraph shall not be construed as precluding the Township from establishing rates different from those of another person providing the same service or providing introductory or special rates.
2. Employ terms more favorable or less burdensome than those imposed by the Township upon other providers of the same service within its jurisdiction concerning access to public rights-of-ways.

3. Impose or enforce against a provider any local regulation with respect to public rights-of-ways that is not applicable to the Township in its provision of a telecommunication service provided through broadband services.

Section VII. Penalty.

Any person who violates any of the provisions of this Ordinance shall be deemed responsible for a municipal civil infraction. Any person who violates any of the provisions of this Ordinance shall also be subject to a civil action seeking appropriate injunctive or other relief as allowable by law. For violation of any provision of this Ordinance, the violator shall pay costs, which shall include all direct or indirect expenses, including attorney fees reasonably and actually incurred, engineering fees and costs, Board members', and other administrative salaries and costs, to which the Township has been put in connection with the violation. A violator of this Ordinance shall also be subject to such additional sanctions, remedies, and judicial orders as are authorized under Michigan law. Each day a violation of this Ordinance continues to exist constitutes a separate violation. Any person or other entity that violates any provision of this Ordinance is responsible for a municipal civil infraction as defined by Michigan law and subject to a civil fine determined in accordance with the following schedule:

1st violation within 3-year period* \$ 50.00

2nd violation within 3-year period* \$100.00

3rd violation within 3-year period* \$200.00

4th or subsequent violation within 3-year period* \$500.00

*determined on the basis of the date of violation(s).

Section VIII. Severability.

If any part of this Ordinance is declared invalid, that invalidation will not affect the remainder of this Ordinance.

Section IX. Repealer.

All ordinances or parts of ordinances which conflict with this Ordinance are repealed to the extent necessary to give this Ordinance full force and effect.

Section X. Effective Date.

This Ordinance is effective 30 days after it (or a summary of it) is published in a newspaper of general circulation within the Township.

ADOPTED:

YEAS: John Francis, Marc Keezer, Mary Jane Maze, Linda Reilly

NAYS: None

STATE OF MICHIGAN)
) ss
WASHTENAW COUNTY)

I, Linda Reilly, the duly elected clerk for Lyndon Township, Washtenaw County, Michigan, do hereby certify that the foregoing is a true and complete copy of an ordinance adopted at a regular meeting of the Lyndon Township Board on June 12, 2018, and that a summary of the ordinance was published in the Sun Times News on the 27th day of June, 2018.


Linda Reilly
Lyndon Township Clerk

22326:00013:3621929-4