

CHAPTER 10

CABLE TELEVISION

ARTICLE I - GENERAL REGULATIONS

10-1-1 **DEFINITIONS.** For the purpose of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

"BOARD" means the Board of the Village of Bethalto, Illinois.

"COMMUNITY ANTENNA TELEVISION SYSTEM" hereinafter referred to as "CATV" means the system of coaxial cables, wave guides, or other conductors and equipment for providing television, radio or other signals (hereinafter collectively called signals) by cable, or to its facilities as herein contemplated.

"COMPANY" is Madison County Cablevision Corporation, its successors, heirs and assigns the grantee of rights under this franchise ordinance.

"PERSON" means any person, firm, partnership, association, corporation, or organization of any kind.

"TELEVISION" shall mean a system for transmission of audio signals and visual images by means of electrical impulses.

"VILLAGE" means the Village of Bethalto, Illinois.

10-1-2 **GRANT OF AUTHORITY.** In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified, the exclusive right is hereby granted by the **Village of Bethalto, Illinois to Madison County Cablevision Corporation** hereinafter referred to as the "Company", to erect, maintain, and operate a Community Antenna Television System for the interception, sale, and distribution of television and radio signals from the Company's antenna or studios to its subscribers' premises, all in accordance with the laws and regulations of the United States of America, the State of Illinois, and the Code regulations of the Village, and for this purpose the company shall have the right to erect, maintain, and operate its equipment in, upon, along, across, above, over and under the streets, alleys, public ways, and public places now laid out or dedicated, and all extensions thereof and additions thereto in the Village. The Company shall not commence any construction until any necessary approval from the **Illinois Commerce Commission** or the **Federal Communications Commission** is received.

10-1-3 **POLE USE.** The poles used for the distribution system of the Company shall be those erected and maintained by the Illinois Bell Telephone Company, Union Electric Company and/or Illinois Power Company. Where the use of poles owned by the Illinois Bell Telephone Company, Union Electric Company and/or Illinois Power Company is not practicable or mutually satisfactory and rental agreements cannot be entered into with said companies, the Company shall have the right to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system provided, however, the Company shall obtain prior approval from the Village Engineer as to the necessity for and location of any new poles to be erected. However, nothing in this Section shall preclude the Company from contracting with the Village or other utility now having pole lines in the Village to provide and maintain the transmission system of the Company, excepting that in any area being serviced by underground telephone and power lines, the television shall also be placed underground.

10-1-4 **PRESENT TELEVISION RECEPTION.** Installation shall be maintained in such a manner to avoid interference in any manner with the television reception already in existence in the areas served by the Company.

10-1-5 **INSTALLATION AND MAINTENANCE OF ATTACHMENTS.** The Company shall, at its own expense, make and maintain its attachments in safe condition and in thorough repair, and in a manner suitable to the Village and so as not to conflict with the use of said poles.

In the maintenance and operation of its television distribution system in the streets, alleys, and other public places, and in the course of any new construction or additions to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be repaired at the expense of the Company in conformity with the Code of the Village.

10-1-6 **POLE ERECTION AND CONSTRUCTION.** The Company's transmission and distribution system poles, and the wires and appurtenances thereon shall be located, erected and maintained so as not to endanger or interfere with the lives of persons, or interfere with new improvements the Village may deem proper to make, or to unnecessarily hinder to obstruct the free use of streets, alleys, bridges, or other public property. Removal of poles or rearrangement of its facilities to avoid such interference shall be at the Company's expense.

10-1-7 **SPECIFICATIONS.** The Company's poles, cables, wires, and appliances, in each and every location, shall be erected and maintained in accordance with:

(A) such requirements and specifications as the Village shall from time to time prescribe,

(B) requirements and specifications of the National Electrical Safety Code, Sixth Edition, and the National Electrical Code of the National Board of Fire Underwriters,

(C) any amendments or revisions of said codes or practices and

(D) in compliance with any rules or orders (and in particular, **General Order 160**) now in affect or that may hereafter be issued by the Illinois Commerce Commission or other authority having jurisdiction.

All installation of equipment shall be of permanent nature, durable, and installed in accordance with good engineering practice. The Company's service drops shall be installed in a neat and workmanlike manner including the house attachments so as to preserve the best overall appearance of power, telephone and television drops through the air and attached to buildings. Television service drops are to be installed where practicable from the cable away from a pole so as to preserve climbing space on the pole.

In the event a customer discontinues community antenna television service and requests removal of the Company's service drop, such removal shall be accomplished in a neat and workmanlike manner at the Company's expense.

10-1-8 **JOINT USAGE.** The Village shall cooperate with the Company by use of all legal means excepting Court action and excepting where conflicts of interests arise, in obtaining joint usage of poles owned or used by all holders of public licenses and franchises within the corporate limits of the Village.

The Company shall grant to the Village, free of expense, joint use of any and all poles owned by it for any proper municipal purpose acceptable to the Company, insofar as it may be done without interfering with the free use and enjoyment of the Company's own wires and fixtures, and the Village shall hold the Company harmless from any and all actions, causes of actions, or damage caused by replacing of the Village's wires or appurtenances upon poles of the Company. Proper regard shall be given to all existing safety rules regarding construction and maintenance in effect at the time of construction.

10-1-9 **RELOCATION OF FACILITIES.** In the event that at any time during the period of this Chapter, the Village shall elect to alter or change the grade of any streets, alleys, or other public ways, the Company, upon reasonable notice by the Village

shall remove, release, and relocate its poles, wires, cables and underground conduits, manholes and other fixtures at its own expense. Should the poles be moved by the property of the holder of any public franchise within the Village, the Company shall move its cables and appurtenances attached to the poles at its own expense, with the public franchise holder moving the poles at its own expense.

10-1-10 **TREE TRIMMING.** The Company shall have the authority and is hereby required to trim trees upon and over-hanging streets, alleys, sidewalks, and public places of the Village to prevent the branches of such trees from coming in contact with the wires, cables, and distribution system components of the Company, all trimming to be done under the supervision and direction of the Village and at the sole expense of the Company.

10-1-11 **DAMAGES.** The Company shall exercise special precaution to avoid damage to facilities of the Village and of others supported on said poles; and hereby assumes all responsibility for and agrees to indemnify the Village from and against any and all loss or damage, or claims therefore, resulting from the attachment to such poles of the Company's facilities and from any and all acts or omissions of the Company in connection therewith. The Company shall make an immediate report to the Village of the occurrence of any loss or damage and hereby agrees to pay the cost incurred in making repairs to such facilities of the Village or others.

10-1-12 **INSURANCE.** The Company shall indemnify, protect and save harmless the Village from and against losses and physical damage to property, and bodily injury or death to persons, including payments made under any workmen's compensation law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of all CATV equipment of any kind or nature whatsoever within the Village, or by any act of the Company, its agents or employees, or in any way arising out of the granting of this franchise. The Company shall carry insurance to protect itself and the Village from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damage to property shall be not less than **Fifty Thousand Dollars (\$50,000.00)** as to any one claim and not less than **Two Hundred Thousand Dollars (\$200,000.00)** aggregate in any single policy year; and against liability due to bodily injury or to death of persons, not less than **One Hundred Thousand Dollars (\$100,000.00)** as to any one person, and not less than

Three Hundred Thousand Dollars (\$300,000.00) as to all such claims arising from any one accident. The Company shall also carry such insurance as it deems necessary to protect it and the Village from all claims under the workmen's compensation laws in effect that may be applicable to the Company. All insurance required by this Chapter shall be and remain in full force and effect for the entire period of this Chapter. The policies of insurance, or a certified copy or copies thereof, shall be subject to approval by the Village Attorney of said Village and shall be deposited with and kept on file by the Village Clerk of the Village. **(Ord. No. 7312; 11-5-73)**

10-1-13 **RATES.** The Village may regulate the Company's rates as expressly provided by federal law. **(Ord. No. 93-8; 2-16-93)**

10-1-14 **SERVICE PROTECTION.** The distribution system shall be installed, operated and maintained in such a manner that no interference will be caused to the reception of signals from standard television broadcast stations or to the reception of signals transmitted by any communications service authorized by any Federal agency. **(Ord. No. 73-12; 11-5-73)**

10-1-15 **UNAUTHORIZED USE OF SERVICE.** Persons receiving CATV service may not alter, extend or otherwise tamper with the Company's facilities to service more equipment than being contracted for. **(Ord. No. 73-12; 11-5-73)**

10-1-16 **TECHNICAL STANDARDS.** All television signals impressed upon the distribution system shall be capable of being received on any television set of standard manufacture without the use of converters, special decoding equipment, or auxiliary circuits except for equipment required for closed circuit educational facilities. Special converters may be used if necessary to expand the number of channels to be carried. **(Ord. No. 73-12; 11-5-73)**

10-1-17 **POLICE POWER.** The Company shall at all times during the life of this permit be subject to all lawful exercise of the police power of the Village and to such reasonable regulations as the Village shall hereafter by ordinance provide. **(Ord. No. 73-12; 11-5-73)**

10-1-18 **SALES OF SERVICE.** Neither the Company nor any of its officers or employees shall engage in the business of selling, repairing or adjusting television sets or other electronic instruments other than those owned by the Company. This paragraph shall not be construed to restrict the Company from connecting their distribution system to television sets or other electronic instruments. (Ord. No. 73-12; 11-5-73)

10-1-19 **TERMINATION.** The permit and rights herein granted shall cease, terminate and be void unless some portion of the system is in operation within **twenty-four (24) months** from the date of acceptance of this Chapter, providing nevertheless that the time allowed herein shall automatically be extended an additional **six (6) months** in the event construction is delayed by acts of God, or unforeseen circumstances beyond the control of the Company. (Ord. No. 73-12; 11-5-73)

10-1-20 **SERVICE TO MUNICIPAL BUILDINGS AND SCHOOLS.** The Company agrees to and shall furnish without installation charge or a monthly service fee, **six (6) connections** to the Village Hall, one of which shall be directly into the Police Station facilities, and one connection to all fire houses and other municipal buildings designated by the Village Board and to all public and parochial elementary, secondary and college level schools located within the Village. (Ord. No. 73-12; 11-5-73)

10-1-21 **STATIONS TO BE FURNISHED.** Upon completion of a currently planned system upgrade, the Company shall provide a minimum of **seventy-two (72) channels**, which service may be supplemented or altered at the Company's sole discretion. The Company agrees to provide the Village with notice of such changes no less than **thirty (30) days** in advance. (Ord. No. 93-8; 2-16-93)

10-1-22 **PAYMENT AND AUDIT.** The Company shall pay to the franchising authority a franchise fee equal to **five percent (5%)** of the gross revenues received by the Company from the operation of the Cable System on an annual basis. For the purpose of this Section, the **twelve (12) month** period applicable under the franchise for the computation of the franchise fee shall be a calendar year, unless otherwise agreed to in writing by the franchising authority and the Company. The franchise fee payment shall be due and payable **ninety (90) days** after the close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of the Company showing the basis for the computation. In no event, shall the franchise fee payments required to be paid by the Company exceed **five percent (5%)** of gross revenues received by the Company in any **twelve (12) month** period, unless a revised rate is instituted as later set out in this Section.

The Village may at any reasonable time, and upon reasonably adequate notice, have access to the Company's books and records for audit purposes. This increase in franchise fee shall be effective for the calendar year commencing **January 1, 1987** and shall continue in effect thereafter for the term of the instant agreement as amended and renewed. The rate for the franchise fee established hereunder shall be subject to review and increase at the beginning of calendar year **1988, 1993** and **1998**, provided the Federal Communications Commission alters or revises the maximum allowable rates to be paid to municipal jurisdictions granting franchises. **(Ord. No. 86-19; 10-6-86)**

10-1-23 **UNDERGROUND FACILITIES.** The Company, at its own expense, shall place its facilities underground in those areas of the Village where all the utilities are underground. Before commencing any installation, repair, or maintenance work underground, at least **twenty-four (24) hours** advance notice will be given to the Superintendent of Streets or Director of Public Works and that all underground installation shall be at locations previously approved.

During installation of facilities, traffic shall not be blocked and adequate warning signs and barriers shall be installed and maintained.

The Company must furnish the Village with detailed maps showing the location of all underground facilities as built. **(Ord. No. 73-12; 11-5-73)**

10-1-24 **APPROVAL OF CONSTRUCTION.** Wherever in this Chapter provision is made for approval of the Company's construction or facilities, such approval shall be given by the person designated by the Commissioner of the Department of Public Property. **(Ord. No. 73-12; 11-5-73)**

10-1-25 **SALE OR TRANSFER.** The Company shall have the right to sell or transfer its plant or system any rights under this franchise without approval of the Village Board, providing, however, that no sale or transfer shall be effective until the vendee or transferee has filed in the office of the Village Clerk an instrument, duly executed, reciting the fact of such sale or transfer, and accepting the terms of the franchise, and agreeing to perform all the conditions thereof. **(Ord. No. 73-12; 11-5-73)**

10-1-26 **PENALTIES.** Any violation by the Company, its vendee, lessee or successor, of the material provisions of this franchise, shall cause for the forfeiture of this franchise and all rights hereunder, provided that the Village shall first notify the Company in writing, of the condition or act on which the violation is charged, and the Company shall have **thirty (30) days** within which to remedy such condition or act, and provided further, that

should it be impossible to correct the violation within the **thirty (30) days**, then the Company shall have a reasonable time to make the correction. In the event that monies due from the Company to the Village hereunder are not paid when due, then the Village shall give **thirty (30) days** written notice on any incorporated or unincorporated areas and the percentage applicable to the Village.

The term "gross operating revenue" shall mean the total amount of money received by the Company from its monthly service charged to its subscribers. (Ord. No. 73-12; 11-05-73)

10-1-27 **PURPOSE OF PAYMENT.** The payments provided for in this Ordinance to be made to the Village are in payment by the Company to the Village for the use of the streets and alleys, and additional supervision, maintenance, inspection, regulation, burdens and costs to the Village occasioned by reason of the granting of the rights hereunder. (Ord. No. 73-12; 11-05-73)

10-1-28 **GENERAL TERMS.**

(A) Failure to enforce or insist upon compliance with any of the terms or conditions of this Ordinance shall not constitute a waiver or relinquishment or any such terms or conditions, but the same shall be and remain at all times in full force and effect.

(B) Nothing herein contained shall be construed as affecting the right or privileges previously conferred by the Village, by contract or otherwise, to others, not parties to this Ordinance, to use any poles or space reserved for the Village's use on poles belonging to others, covered by this agreement; and the Village shall have the right to continue and extend such rights or privileges. The attachment privileges herein granted shall at all times be subject to such contracts and arrangements.

(C) No use under this Ordinance however extended, of the Village's poles or of space reserved for the Village's use on poles belonging to others shall create or vest in the Company any ownership or property rights in the poles, but the Company's rights therein shall be and remain a mere license. Nothing herein contained shall be construed to compel the Village to maintain any of the poles.

(D) If any section, sentence, clause or phrase of this Ordinance is for any reason held illegal, invalid, or unconstitutional, such invalidity shall not affect the validity of the Ordinance and any portions in conflict are hereby repealed. (Ord. No. 73-12; 11-05-73)

10-1-29 **TERM OF FRANCHISE.** The franchise and rights herein granted shall take effect and be in force from and after the final passage hereof, as required by law, and upon filing of acceptance by the Company with the Village Clerk, and shall continue in force and effect for a term of **ten (10) years** from the expiration of the existing franchise, as amended, on **November 5, 2003** for a total franchise extension through **November 5, 2013**, such extension of term of franchise to also be in compliance and conformity with all

rules and regulations as provided by recently enacted federal law. In the event the Company should discontinue its services for a period of **one (1) year** this franchise, and all authority under it, shall terminate. **(Ord. No. 93-8; 02-16-93)**

10-1-30 **FINAL TERMINATION OF THE FRANCHISE.** Upon termination of the franchise the Company shall remove its cables, wires, and equipment from all poles of the Village and all space reserved for the Village's use on poles belonging to others. If not so removed, the Village shall have the right to remove or have its contractor remove them at the risk, cost and expense of the Company and without any liability therefor. **(Ord. No. 73-12; 11-05-73)**

10-1-31 **NOTICES.** Notices under this Ordinance except as otherwise indicated shall be addressed to the Company by addressing same to its registered firm name: Madison County Cablevision Corporation at its regular business address, and for the Village, to the Village Clerk, Bethalto Village Hall, Bethalto, Illinois. **(Ord. No. 73-12; 11-05-73)**

10-1-32 **SERVICE AND SYSTEM MAINTENANCE.** The Company shall at its own expense, at all times maintain and furnish telephone answering service and system maintenance service to subscribers daily during normal business hours. The Company, in addition to having its telephone listed in of such telephone number. **(Ord. No. 73-12; 11-05-73)**

ARTICLE II - VILLAGE AUTHORITY

10-2-1 **VILLAGE REGULATION OF BASIC RATES.**

(A) **FCC Rate Regulations.** The Village will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Company and any other cable television system operating in the Village, notwithstanding any different or inconsistent provisions in the Franchise; and

(B) **Opportunity for Views.** In connection with such regulation, the Village will ensure a reasonable opportunity for consideration of the views of interested parties; and

(C) **Certification of Forms; Filed.** The Mayor, or his or her designee, is authorized to execute on behalf of the Village and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the Village to regulate Basic Service Rates and Charges; and

(Ord. No. 94-1; 01-03-94)