

TITLE XI: BUSINESS REGULATIONS

Chapter

111. CABLE TELEVISION



## CHAPTER 111: CABLE TELEVISION

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*REGULATIONS***§ 111.01 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number.

*CABLE COMMUNICATIONS SYSTEM (SYSTEM).* Any system which receives and amplifies signals broadcast by 1 or more television and/or radio stations and which transmits programming originated by the system or by another party and distributes such signals and programming by wire, cable, microwave, satellite or other means to persons who subscribe to the service.

*CABLECASTING.* Programming carried on a cable system, exclusive of broadcast signals, whether originated by the cable operator or any other party.

*CITY.* The City of Mineral Point in its present incorporated form or as it may be changed by annexation.

*COUNCIL.* The Common Council of the City of Mineral Point.

*GRANTEE.* Any person granted a franchise by the Common Council under the provisions of this chapter.

*GROSS SUBSCRIBER REVENUES.* Any and all compensation, in whatever form, exchange or otherwise, derived from the providing of cable services to subscribers.

*JOINT CABLE COMMITTEE.* A joint committee consisting of 3 Common Council members appointed from each of the cities of Dodgeville and Mineral Point, which members shall be appointed by the Mayor of each city for 3-year terms, such that 1 member's term shall expire each year, with vacancies to be filled by appointment by the Mayor.

*MAY.* The action referred to is permissive.

*NOTICE, REASONABLE.* At least 5-days' notice, which notice in the case of the grantee may be personally delivered to any agent or employee of the grantee or may be mailed to the mailing address of the grantee as the same is on file with the City Clerk-Treasurer.

*SHALL.* The action referred to is mandatory and not directory.

*SUBSCRIBER.* A recipient of cable television service.

***SUBSCRIBER, COMMERCIAL.*** A subscriber who receives cable services for the purpose of providing cable service for transient residents other than homes and apartment buildings, and is billed for and receives the service on a bulk rate basis.

(1989 Code, § 22.01) (Ord. 359, passed - -)

**§ 111.02 GRANT OF AUTHORITY.**

(A) There is hereby granted by the franchising authority to the grantee the right and privilege to construct, erect, operate and maintain 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 city, poles, wires, cables, underground conduits, manholes and other cable conductors and fixtures necessary for the maintenance and operation in the city of a cable communications system, to be used for the sale and distribution of cable services to the residents of the city. The broadband cable services shall include but shall not be limited to the carriage of television and radio signals and any cablecasting programming.

(B) The grantee shall, at all times during the operation of this franchise, be subject to all lawful exercise of the police power as may be hereafter provided by the franchising authority.

(1989 Code, § 22.02) (Ord. 359, passed - -)

**§ 111.03 FRANCHISE TERRITORY.**

(A) The franchise is for the present territorial limits of the city and for any area henceforth added thereto during the term of this franchise.

(B) Cable service shall be made available to the entire franchise area in accordance with the construction timetable contained in § 111.06 of this chapter.

(1989 Code, § 22.03) (Ord. 359, passed - -)

**§ 111.04 INITIAL SERVICE AND EXTENSION OF SERVICE.**

(A) Initial service shall be to all subscribers within the city limits who request service. Extensions of service will be required to previously unserved subscribers who are within 300 feet of an existing subscriber.

(B) The cost of these extensions which are more than 300 feet shall be paid by the subscriber seeking service. In the event the subscriber is not willing to pay the costs, grantee shall not be required either to extend the system or make the installation. In the event that a requested installation or extension of less than 300 feet shall involve excessive or unusual expense, the grantee shall be permitted to negotiate the expense with the subscriber seeking service and in the event that an agreement is not reached, the dispute shall be submitted to the Joint Cable Committee for a decision, which decision shall be final and binding between the parties.

(C) If costs for extensions of over 300 feet are paid for by 1 or more subscribers, the number of potential subscribers, consisting of either current nonsubscribers, legal building lots or minimum frontage building parcels, shall be determined by either the Joint Cable Committee or the local Building Inspector and certified to the grantee. Thereafter, the grantee shall not permit future subscribers to connect to the extensions without collecting the proportionate share of the original cost thereof, without interest, which sums shall be returned to the subscriber or subscribers originally paying for the cost thereof.

(D) This right to reimbursement shall only survive the death of the person originally paying the same such that it shall be payable to either his or her widow or widower and to no one else. In the event that the person entitled to reimbursement has moved from the premises, his or her right to reimbursement shall only exist to the extent that the person has on file with the grantee a current address, such that 1 certified mail notice of the existence of a reimbursement payment can be delivered. Any such reimbursement payment that cannot be so delivered shall be returned to the subsequent subscriber or subscribers paying the same.

(1989 Code, § 22.04) (Ord. 359, passed - -)

#### **§ 111.05 DURATION OF FRANCHISE; RENEWAL; FRANCHISES GRANTED.**

(A) The duration of the rights, privileges and authorizations hereby granted shall be 15 years from the date hereof.

(B) The franchise shall be reviewed every 5 years through proceedings instituted by the Joint Cable Committee upon reasonable notice to the grantee, which review shall be a public meeting. Within 30 days either side of the commencement of the last 5 years of the present term of the franchise, and upon reasonable notice to the grantee, the Joint Cable Committee shall hold a public meeting for the purpose of considering the renewal of the franchise. Within 30 days following the holding of the meeting, the Joint Cable Committee shall recommend to the respective Common Councils as to whether or not the franchise shall be renewed. Within 30 days following such recommendation, the respective Common Councils shall decide whether or not to renew the franchise for an additional 5-year period following the expiration of the current term, and shall give reasonable notice of the decision to the grantee. Thereafter, each 5-year review meeting shall also be such renewal meeting to consider additional 5-year renewals. Grantee shall not be denied renewal unless it is determined that renewal would not be in the public interest and the reasons are documented. The city shall not arbitrarily and capriciously deny renewal nor shall renewal be denied without just cause. Nothing in this provision shall be construed to require the renewal.

(1989 Code, § 22.05) (Ord. 359, passed - -)

(C) The following ordinances granting specific franchises are hereby adopted by reference as if set out in full herein: Ordinances #359, 517, 603.

#### § 111.06 COMMENCEMENT AND COMPLETION OF CONSTRUCTION.

Within 30 days of the date of the award of this franchise, the grantee must undertake the necessary steps to secure authorization to operate from the appropriate governmental agencies regulating cable service. If authorization to operate is not received within 12 months of the date of franchise, the franchise may be cancelled at the option of the city. The grantee shall begin construction immediately upon receiving the authorization, and shall have completed 50% of construction in the first 12 months and shall have completed 100% of construction within the following 12 months.

(1989 Code, § 22.06) (Ord. 359, passed - -)

#### § 111.07 DISTRIBUTION OF SERVICE.

Service shall be provided to all residents requesting service within 90 days of the completion of the construction in the area in which they are located as referred to in the preceding section. Thereafter, there shall be no unnecessary or unreasonable delay in furnishing service to a particular resident for a service hookup after receipt of application for service by the resident.

(1989 Code, § 22.07) (Ord. 359, passed - -)

#### § 111.08 TRANSFER OF CONTROL.

(A) No transfer of effective ownership or control of the cable system may take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Council. The notice shall include full identifying particulars of the proposed transaction. Such transfer of ownership or control shall not include the disposition of facilities or equipment no longer required in the conduct of the business or a pledge or mortgage or similar instrument transferring conditional ownership of all or part of the system's assets to a lender or creditor in the ordinary course of business, so long as the lender or creditor does not thereby acquire the right to control the system's operations.

(B) In the event that grantee shall be adjudicated as bankrupt or placed in receivership, the city may, by resolution, declare this franchise forfeited and terminate it.

(1989 Code, § 22.08) (Ord. 359, passed - -)

#### § 111.09 BROADBAND CABLE COMMUNICATIONS SERVICE.

The communications system permitted to be installed and operated hereunder shall:

(A) Be operated in conformance with the FCC's *Technical Standards*, 47 C.F.R. pts.76.601 *et seq.*

(B) The grantee shall provide the local school district and the city a shared channel with the ability to cablecast television programming to all cable taps in the city. Grantee shall not charge for this

service, but it is understood that the school district and the city shall be responsible for providing their own origination equipment.

(C) Grantee shall furnish monthly service without charge to each city school district building located in the city; the City Library; Iowa County Courthouse; Mineral Point Senior Citizen's Center; and the City Hall. Grantee shall not charge for either installation or monthly service, but internal wiring shall be the responsibility of the organization receiving service where more than 1 normal tap is being installed in each building.

(D) The grantee shall provide a system having 20-channel capacity and 2-way capability. The full 20-channel capacity and 2-way capability need not be initially activated to all subscribers, but must be built into the system for potential future activation. The system's 2-way capability shall be capable of video and data transmissions when activated.

(1989 Code, § 22.12) (Ord. 359, passed - -)

#### **§ 111.10 INSTALLATION AND LOCATION OF SYSTEM.**

(A) All transmission and distribution structures, lines and equipment erected by the grantee within the city shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who join any of the streets.

(B) So far as practical, the poles used for the grantee's distribution system shall be existing utility poles within the city subject to the reaching of mutually satisfactory rental agreements with the owners thereof, it being the intent of this provision to minimize the number of new or additional poles erected within the city. In the event that grantee is unable to reach what it feels is a mutually satisfactory rental agreement to use existing utility poles, grantee may apply to the city for permission to install poles of its own.

(C) It is hereby ordained that utility easements granted by the city and the respective utilities are presumed to include the facilities of the cable television service. Hereinafter all annexations to the city providing for utility easements are to specify cable television in the easements.

(D) In case of disturbance of any street or paved area the grantee shall, at its own cost and expense and in a manner approved by the city, replace and restore the street or paved area in as good a condition as before the work involving the disturbance was done.

(E) If at any time during the period of the franchise the city shall lawfully elect to alter or change the grade of any street, the grantee, upon reasonable notice by the city, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

(F) The city reserves the right upon reasonable notice to require the grantee to protect, support, temporarily disconnect, relocate or remove from the city's streets any property of the grantee by reason of traffic conditions, public safety, street construction or vacation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communications lines, tracks or other types



of structure or improvements by governmental agencies or any other structure or public improvement. Reasonable notice for this provision shall be construed to mean at least 30 days except in the case of emergencies where no specific notice period shall be required. The grantee shall have an opportunity to present alternative routes, contest the expense and necessity of the change in its facilities required by this section and negotiate the shared cost. In no event shall the city require removal, disconnecting or relocating of the grantee's facilities without cause and the city shall consider the grantee's facilities in making its determination.

(G) Any poles or other fixtures placed in or adjacent to any street by the grantee shall be placed in such manner as to comply with all requirements of the city.

(H) The grantee shall, at the request of any person holding a moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of this temporary removal or raising or lowering wires shall be paid by the person requesting the same, and the grantee shall be given not less than 48-hours' advance notice to arrange for the temporary wire changes.

(I) The grantee shall have the authority to trim trees upon and overhanging streets of the city so as to prevent the branches of the trees from coming in contact with the wires and cables of the grantee, except that at the option of the city, the trimming may be done by it or under its supervision and direction at the expense of the grantee.

(J) In all sections of the city where the cables, wires or other like facilities of public utilities are placed underground, the grantee shall place its cables, wires or other like facilities underground. In areas that existing utility cables are aboveground, underground cable will be required only if all other utility cables are to be buried.

(K) The grantee shall be responsible for obtaining its own pole or conduit use agreements from any utility companies or others maintaining poles or conduits throughout the city, whenever the grantee finds it necessary to make use of such poles or conduits. The city shall grant to the grantee authority to use public rights-of-way for the installation of its system wherever practicable, but it shall be the responsibility of the grantee to obtain its own easements from all other property owners in the city wherever it deems it necessary to do so. The easements referred to herein shall be those wherein grantee wishes to cross private property and no utility easement or other public way is available.

(L) At the expiration of the term for which the franchise is granted, or upon its termination and cancellation as provided for herein, the city shall have the right to require the grantee to remove, at its own expense, all portions of the cable television system from all streets within the city.  
(1989 Code, § 22.13) (Ord. 359, passed - -)

#### § 111.11 INDEMNIFICATION AND INSURANCE.

(A) It shall be expressly understood and agreed by and between the city and the grantee hereunder that the grantee shall save the city and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorney's fees, sustained by the city on account of any suit,

judgment, execution, claim or demand whatsoever arising out of but not limited to copyright infringements and all other damages arising out of the installation, operation or maintenance of the cable system authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this chapter and any franchise granted hereunder.

(B) The grantee shall maintain throughout the term of the franchise a general comprehensive liability insurance policy against liability for loss, damage or personal injury, death or property damage, occasioned by the operations of grantee under any franchise granted hereunder. The city shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the City Clerk-Treasurer. These amounts shall be:

(1) For bodily injury or death to any 1 person, \$500,000; within the limit, however, of \$1,000,000 for bodily injury or death resulting from any 1 accident; and

(2) For property damage resulting from any 1 accident, \$500,000.  
(1989 Code, § 22.14) (Ord. 359, passed - -)

#### **§ 111.12 SERVICE STANDARDS.**

(A) The grantee shall put, keep and maintain all parts of the system in good condition throughout the entire franchise period.

(B) Upon termination of service to any subscriber, the grantee shall promptly remove all its facilities and equipment from the premises of the subscriber upon his or her request.

(C) Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(D) Grantee shall not allow its cable or other operations to interfere with television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the city.  
(1989 Code, § 22.15) (Ord. 359, passed - -)

#### **§ 111.13 COMPLAINT PROCEDURE.**

(A) The Joint Cable Committee is designated by the city as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures, with the City Clerk of each city being the individual to whom complaints should be referred. Such complaints shall be made in writing. The Joint Cable Committee shall have final authority to settle complaints relative to cable TV service provided by grantee including the right to order necessary correctional work done to resolve the complaint.

(B) When there have been similar complaints made or when there exists other evidence, which, in the judgment of the Joint Cable Committee casts doubt on the reliability or quality of cable service, the Joint Cable Committee shall have the right and authority to compel the grantee to test, analyze and report on the performance of the system at its own expense. This report shall be delivered to the Joint Cable Committee no later than 14 days after the Joint Cable Committee formally notifies the grantee and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested, the equipment used and procedures employed in the testing; the results of the tests; and the method in which the complaints were resolved.

(C) The tests and analyses shall be supervised by a professional engineer not on the permanent staff of the company. The aforesaid engineer shall sign all records of the special tests and forward to the Joint Cable Committee the records with a report interpreting the results of the tests and recommending actions to be taken by the city.

(D) The grantee shall maintain a local office in the area, having a publicly listed telephone, answered either personally or by answering service, such that complaints and requests for repairs or adjustments may be received on a 24-hour basis.

(E) The grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. If the complaint or request for service was caused by or is the result of a problem with the cable television system itself, no charge shall be made to the subscriber for this service. If the complaint or request for service was not the fault of the cable television system, the grantee shall be permitted to charge the subscriber for the service.

(F) The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints, and shall furnish a notice of the procedures to each subscriber at the time of initial subscription to the system.

(1989 Code, § 22.16) (Ord. 359, passed - -)

#### **§ 111.14 PREFERENTIAL OR DISCRIMINATORY PRACTICE PROHIBITED.**

Grantee shall not, as to rates, changes, service, service facilities, rules, regulations, employment or in any other respect, make or grant any undue preference or advantage to any party, nor subject any party to any prejudice or disadvantage. Such prohibition shall not apply to situations considered by the city to be in the public interest, nor shall it apply to promotional or advertising campaigns or practices temporarily engaged in by the grantee.

(1989 Code, § 22.17) (Ord. 359, passed - -) Penalty, see § 10.99

#### **§ 111.15 GRANTEE'S APPLICATION INCORPORATED.**

By its acceptance of the franchise, grantee specifically grants and agrees that its application is hereby incorporated by reference and made a part of this chapter. In the event of a conflict between proposed

service listed in the application and the provisions of this chapter, that provision which provides the greatest benefit to the city, in the opinion of the Common Council, shall prevail. Failure to provide services as promised in grantee's application as incorporated herein shall be deemed a breach of this chapter to which the provisions in § 111.18 of this chapter shall apply.

(1989 Code, § 22.18) (Ord. 359, passed - -)

#### **§ 111.16 SUBSCRIBER PRIVACY MAINTAINED.**

(A) No monitoring of any terminal connected to the system shall take place without specific written authorization by the user of the terminal in question on each occasion. In no event shall monitoring of any kind take place without a clearly visible light signal and clearly audible sound signal. The light shall be visible and the sound audible at a distance of at least 30 feet from the terminal at the time of monitoring.

(B) If monitoring is to occur, each terminal shall be equipped with a switch by which the user can, upon notification by means of the aforementioned light and sound, prevent the monitoring of that terminal, notwithstanding any prior agreement.

(C) Grantee shall not, except as required by governmental action, provide any data concerning its subscribers or users or their use of its services without first securing written authorization for the provision of such data, from the subscriber involved.

(1989 Code, § 22.19) (Ord. 359, passed - -)

#### **§ 111.17 MODIFICATION OF ORDINANCE.**

(A) The city reserves the right to add, delete, modify or otherwise change provisions of this chapter whenever it deems the same necessary, which changes shall only be made after reasonable notice to the grantee and a public hearing, notice of which hearing shall be published for 3 consecutive times, the last of which shall be at least 10 days prior to the hearing. Such additions, deletions, modifications or changes shall be reasonable and shall not materially affect the grantee's operation under the franchise nor its income or profits derived therefrom.

(B) The grantee may initiate proceedings to change or modify this chapter upon application to the city, which also shall only be done after the holding of a public hearing as set forth herein.

(1989 Code, § 22.20) (Ord. 359, passed - -)

#### **§ 111.18 ENFORCEMENT.**

Any violation by the grantee, its vendee, lessee or successors, of any material provision of this chapter, or of any supplemental written agreement entered into, by and between the city and the grantee, or the failure to promptly perform any of the provisions thereof, or the incidence of an unreasonable number of subscriber complaints not otherwise satisfactorily resolved shall, after reasonable notice to

the grantee requesting such performance or the resolution of such complaints, be cause for a penalty as prescribed in § 10.99 of this municipal code.  
(1989 Code, § 22.25) (Ord. 359, passed - -)

### **RATES AND CHARGES**

#### **§ 111.30 RATES.**

(A) The maximum initial rates which may be charged by the grantee to subscribers shall be as follows:

**(1) Residential.**

*(a) One outlet.* Installation fee of \$25 and \$8 per month (including converter).

*(b) Additional outlets.* Installation fee of \$10 and \$1.50 per month.

**(2) Commercial.**

*(a) One outlet.* Time and material installation and \$8.50 per month (including converter).

*(b) Additional outlets.* Time and material installation and \$1.50 per month.

(B) Upon interruption of service, except for acts of God or with express prior permission of the city, the following shall apply:

(1) Over 72 hours, a 20% rebate of 1-month's fees for all affected subscribers.

(2) A full-month's rebate for any month in which 1/2 or more of the service is interrupted.  
(1989 Code, § 22.09) (Ord. 359, passed - -; Am. Ord. 372, passed - -)

#### **§ 111.31 RATE CHANGES.**

(A) The grantee may increase its rates only by permission of the Common Council as set forth in this chapter, except that the grantee may increase the monthly charge for 1 television set by not more than the annual cost of living increase as determined by the Producers Price Index, Bureau of Labor Statistics, U.S. Department of Labor, which increase may be made once a year for the then-current calendar year based on the index as determined for the preceding calendar year. Any such increase that is not imposed for any particular year may be accumulated and imposed in future years, but the accumulation may only be for 2 years. Any such increase may be vetoed by the Council within 60 days after notice of the proposed increase.

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(B) Grantee may increase monthly rates above that permitted in the preceding paragraph or at other times throughout a particular year, only in the following manner: the grantee shall notify the city in writing by certified mail of the proposed rate change requested. Within 60 days of the receipt of the notice, the Common Council shall set the date for a public hearing at which there shall be considered the matter of whether the proposed rate increase would be in the public interest. Notice of the public hearing shall be given by publication of notice thereof in the official newspaper of the city at least once a week for 3 consecutive weeks, the last publication thereof to be at least 10 days before the date of the hearing. Written notice thereof shall be given to the grantee at least 30 days before the date of the hearing. Within 30 days after the hearing, the Common Council shall approve or disapprove the proposed rate increase and the approval or disapproval shall be final. Authority to increase rates shall not be unreasonably withheld by the city.

(C) The determination of the grantee's rates shall be subject to the rules and regulations of any state or federal authority which may subsequently, by due process of law, acquire jurisdiction over this type of industry or enterprise, providing the jurisdiction extends to rates.

(D) The grantee shall submit annually, or as otherwise requested upon reasonable notice, a current financial statement (signed by an officer if grantee is a corporation or by 1 of the owners thereof if it is not) including profit and loss and all sales and revenues from this franchise area, and any other such operating information as may be requested by the city. The city shall be permitted to audit grantee's records, at its own expense, at any time it wishes to do so, consistent with normal and usual accounting practices.

(1989 Code, § 22.10) (Ord. 359, passed - -)

**§ 111.32 FEES.**

(A) For the use of the streets, and other facilities of the incorporated area of the city for the operation of the cable communications system and for the supervision thereof by the franchising authority, the grantee shall pay to the franchising authority an amount equal to 3% of the grantee's gross subscriber revenues from the operations of the cable communications system in the incorporated area of the city during each year. Such payments to be made by March 15 of each year based on the gross subscriber revenues for the preceding 12 months.

(B) The rate provided for herein may be reviewed by the city after reasonable notice to the grantee and after a public hearing, notice of which hearing shall be published 3 times in the official newspaper of the city, the last of which publications shall be at least 10 days prior to the hearing.

(1989 Code, § 22.11) (Ord. 359, passed - -)