

VILLAGE OF OTISVILLE
COMMUNITY ANTENNA TELEVISION FRANCHISE
Ordinance No. 156

An Ordinance repealing Ordinance # 114, and Granting the Following Community Antenna Television Franchise.

SECTION 1: DEFINITIONS:

For the purposes of this franchise, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include future tense; words in the plural number include the plural number. The word "shall" is always mandatory not merely directory.

- a. "Village" is the Village of Otisville
- b. "Village Council" is the Otisville Village Council.
- c. "Company" is DF Cablevision Limited Partnership.
- d. "Franchise" shall mean that right and authority to operate, install and maintain a community antenna television system within the Village of Otisville.
- e. "FCC" shall mean and refer to the Federal Communications Commission.
- f. "Person" is any person, firm, partnership, corporation or association, and any other legally recognized entity.
- g. "CATV" shall mean the lines, fixtures, equipment, attachments and all appurtenances thereto which are used in construction, operation and maintenance of the community antenna television system herein authorized, which receives directly or indirectly over the air, or otherwise, and amplifies or otherwise modifies the signals transmitting programs broadcasted by one or more television or radio stations as well as signals transmitting any information of any kind whatsoever and distributes such signals to the public.
- h. "Pay Television or Pay TV" shall mean an arrangement under which a charge is made to a television receiver for receiving a particular television program.

SECTION 2: GRANT OF FRANCHISE:

There is hereby granted to the Company, the right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over and under the trees, alleys, public ways and public places now laid out or dedicated and all extensions thereof and additions thereto in the Village, poles, wires, cables and underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Village of a community television system for the interception, sale and distribution of television and radio signals.

The Company shall have the right to enter into arrangements for the attachment onto and use of the facilities owned and operated by the public utilities operated within the Village. Thereby, the Company shall strictly comply with the terms, provisions and restrictions of said agreements and copies of all agreements made with the other public utilities operating with in the Village shall be placed on file within the Village Clerk.

The right to use and occupy said streets, alleys, public ways and places for the purpose herein set forth shall be non-exclusive.

SECTION 3: COMPLIANCE WITH APPLICABLE LAWS, ORDINANCES, RULES AND REGULATIONS:

The Company shall at all times during the life of this franchise, be subject to all lawful exercise of police power by the Village and to any applicable Village ordinances. The construction, operation and maintenance of the system by the Company shall be in full compliance with the National Electrical Code as from time to time amended and revised, and in full compliance with all other applicable rules and regulations now in effect or hereinafter adopted by the Federal Communications Commission, the Village, the State of Michigan and the United States Government.

SECTION 4: LIABILITY INSURANCE AND INDEMNIFICATION:

The Company shall maintain throughout the terms of its franchise, liability insurance insuring the Village and the Company with regard to all damages for which the Village and/or the Company may be liable including, but not limited to, damages arising out of the installation, operation, maintenance or removal of the cable communications system that is subject of this franchise, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance.

The liability insurance referred to in this Section shall be in:

1. \$500,000.00 for bodily injury or death to any one person, with limits, however, of \$1,000,000.00 for bodily injury or death resulting from any one accident;
2. \$5,000,000.00 for property damage resulting from any one accident;
3. \$5,000,000.00 for all other types of liability.

The Company shall pay, and by its acceptance of this franchise, specifically agrees that it will pay, all expenses incurred by the Village in defending itself with regard to all damages and penalties which the Village may be required to pay as a result of granting this franchise, including, but not limited to, all reasonable investigation, witness and attorney fees.

The Company shall maintain, and by its acceptance of this franchise specifically agrees that it will maintain through the term of this franchise, sufficient workmen's compensation insurance coverage to adequately and fully protect its agents and employees as required by law.

The Company, during the time period of the initial installation of the Company's lines and during the subsequent periods of additional installation work, shall maintain a performance bond running to the Village in the amount of five thousand dollars (\$5,000.00) guaranteeing that the Company will promptly repair any damage to property resulting from the installation work.

The Company shall maintain throughout the term of this franchise, a faithful performance bond running to the Village in Company will observe and fulfill each term and condition of the franchise, and that in case of any breach of conditions of the bond, the amount hereof shall be recoverable from the principal and sureties thereof by the Village for all damages proximately resulting from the failure of the Company to observe and perform and provision of this franchise.

The insurance policies and bonds obtained by the Company in compliance with this Section, along with written evidence of payment of required premiums, shall be filed and maintained with the Village Clerk.

SECTION 5: TIMETABLE FOR FILING FOR CERTIFICATION AND COMPLETION OF SYSTEM:

The Company shall offer to one hundred percent (100%) of the Village residents service within two (2) years.

SECTION 6: CONDITIONS ON STREET OCCUPANCY:

a. USE:

All transmission and distribution structures, lines and equipment erected by the company within the Village shall be so located as to cause no interference with proper use of streets, sidewalks, driveways, alleys and other public ways and pieces and cause no interference with the rights or reasonable convenience of property owners who adjoin any of said streets, sidewalks, driveways, alleys or other public ways and places.

b. RESTORATION:

In case of any disturbance to streets, sidewalks, driveways, alleys, lawns, shrubs, fences, paved areas or other property, the Company shall, at its own expense and in a manner approved by the Village, replace and restore the facilities or property in as good a condition as it was before the work involving such disturbance was done. Such restoration shall be completed within ten (10) days of the date the disturbance occurs, unless a written extension is granted by the Village President.

c. RELOCATION:

If, at any time during the period of this franchise, there shall be any alteration or change in the grade of any street, sidewalk, alley or other public way, the Company, upon reasonable notice shall remove, relay and relocated its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

d. PLACEMENT OF FIXTURES:

The Company shall not place any fixtures or equipment where the same will interfere with any gas, electric, telephone or sewer and water lines or in such a manner as to interfere with the usual travel on said streets, sidewalks, driveways, alleys and public ways.

e. TEMPORARY REMOVAL OF WIRES FOR BUILDING MOVING:

The Company shall, on the request of any person holding a building moving permit issued by the Village, temporarily 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 holder of said permit. The Company shall have the authority to require such payment in advance. The Company shall

be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.

f. AUTHORITY TO TRIM TREES:

The Company shall, after giving notice to and obtaining the approval of the property owner have the authority to trim trees upon and hanging over streets, alleys, sidewalks and public ways and places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

g. UNDERGROUND FACILITIES:

The Company shall, in all sections of the Village where the other utility wires or other like facilities are placed underground, place its cables, wires or other line facilities underground to the maximum extent that existing technology reasonable permits the Company to do so.

SECTION 7: MAPS, PLATS AND REPORTS:

The Company shall on or before the first day of this franchise, and on or before each anniversary date thereof file with the Village Clerk true and accurate maps or plats, with recurring updating, showing the location of all existing and proposed installations, which shall include all receiving and transmitting stations, all truck lines, whether leased or owned outright, feeder lines, whether leased or owned outright; and, attached to such maps or plats shall be a list, by address, of current subscribers.

SECTION 8: SIGNAL QUALITY REQUIREMENTS:

The Company shall produce a picture, whether in black and white or in color, that is undistorted, free from ghost images and accompanied with proper sound on typical standard production television sets in good repair and as good as the state of the art allows, and shall transmit signals of adequate strength to produce good pictures with good sound at all outlets without causing cross-modulation in the cables or interfering with other electrical or electronic systems. For purposes of this Section, the standards to be applied in determining whether or not the Company is producing a good picture or transmitting signals of adequate strength to produce same are those acceptable standards as set forth in the rules and regulations of the Federal Communications Commission relative to community antenna television systems as amended or as shall be amended hereafter.

The Company shall demonstrate by instrument and otherwise to subscribers that a signal of adequate strength and quality is being delivered. Such demonstration shall be

made by taking a standard production television set with a screen of sufficient area as to clearly demonstrate the relative merit of the receiving signal.

SECTION 9: OPERATION AND MAINTENANCE OF SYSTEM:

The Company shall render efficient services, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Any planned interruption in service shall be preceded by notice and shall occur during times of minimum use of the system.

The Company shall maintain an office in Michigan which shall be open during all usual business hours, have a listed telephone, have the number distributed to all subscribers at the time service is instituted, and be so operated that complaints and requests for repairs or adjustments may be received at any time twenty-four (24) hours a day.

The Company shall limit failures to a minimum by locating and correcting malfunctions promptly, but in no event longer than twenty-four (24) hours after receiving notice of same. Should it be impossible to correct any malfunction within twenty-four (24) hours, a refund shall be made available to any subscriber whose services are interrupted for more than the twenty-four (24) hour period on a prorated basis.

SECTION 10: CAPACITY OF SYSTEM:

- a. The Company shall install a so-called "all-band" system capable of distributing up to forty (40) channels or their equivalent with two-way capability.
- b. The Company shall maintain at least one (1) specifically designated, non-commercial, educational and governmental access channel available on request from any educational or governmental agency, and said channel shall be made available at no cost to the local education or government authorities. In addition, the Company will provide, upon request, free installation and basic service to each governmental agency and each school in the service area.
- c. The Company shall provide the basic service to all existing or future police and fire stations without any charge therefore.

SECTION 11: PROGRAM ALTERATION:

All programs of broadcasting stations carried by the Company shall be carried in their entirety as received with announcements and advertisements and without additions.

SECTION 12: RIGHT TO PRIVACY:

The Company shall not permit any part of its system to be used by any person, firm, corporation or governmental agency for an electronic eavesdropping or surveillance or for any monitory purposes which constitutes an invasion of the right to privacy of any subscriber or user of such system unless said eavesdropping, surveillance or monitoring is performed pursuant to existing state and federal laws by a governmental law enforcement agency.

SECTION 13: RATES:

All rates shall be maintained at the same level as those in Davison, Otherwise, there will be no rate regulation.

SECTION 14: TERM OF FRANCHISE:

a. DURATION:

The rights granted under this franchise shall continue for an initial term from the effective date of this franchise through September 2, 2002. The franchise may be renewed for additional fifteen (15) year periods.

b. EFFECTIVE DATE:

This ordinance shall take effect ten (10) days after the date of publication thereof, provided, however, it shall cease and be of no effect thirty (30) days from its adoption, unless within said period the Company shall accept the same in writing filed with the Village Clerk. Upon the acceptance and publication hereof, this ordinance shall constitute a contract between said Village and the Company.

c. FRANCHISE FEE:

The Company shall pay to the Village an annual franchise fee which shall be three percent (3%) of the gross basic service revenues and 1 ½ % of pay service revenues within the Village during the preceding twelve (12) months. In no event shall the annual franchise fee be less than five hundred dollars (\$500.00).

SECTION 15: RIGHTS RESERVED TO THE VILLAGE:

The Village shall have the right to install and maintain free of charge upon the poles and cables of the Company any wire and pole fixtures necessary for a police or fire alarm system, on the condition that such wire or pole fixtures do not interfere with the cable communications operation of the Company and that such installations shall be installed in a safe manner and in conformance with State and Village regulations.

The Village shall have the right to inspect all construction or installation work performed subject to the provisions of this franchise. At the expiration of this franchise upon its termination or cancellation, as provided herein, the Village shall have the right to require the Company to remove at its own expense all portions of the cable communications system from all public streets, alleys, ways, and areas within the Village.

SECTION 16: REVOCAION OF FRANCHISE:

The franchise granted hereunder shall be subject to the right of the Village by resolution of a majority of its governing body to revoke the franchise with just cause due to breach of this Agreement, after notice to the Company.

SECTION 17: REMOVAL OF FACILITIES UPON REQUEST:

Upon the termination of service to any subscriber, the company shall remove all of the facilities and equipment of the company from the premises of such subscriber upon his or her request.

SECTION 18: TRANSFER AND CHANGE OF CONTROL OF FRANCHISE:

- a. The franchise granted by this Ordinance is nontransferable by the holder of the franchise to any other person except with the express approval of the Otisville Village Council, subject to such transferee having submitted an application and meeting all terms, conditions and requirements of the Village.
- b. A franchise issued pursuant to this Ordinance shall automatically terminate where ownership or control of a hold of the franchise is acquired by a person or group of persons acting in concert, none of whom already own or control fifty percent (50%) or more of such right of control, singularly or collectively. An application for a new franchise shall be made in the same manner as required in subsection a. of this section.

SECTION 19: APPROVAL AND PUBLICATOIN OF ORDINANCE:

This ordinance was approved by a vote of the Village Council, a quorum being present on the 4th day of August of 1997 and ordered published in three (3) public places in the Village within ten (10) days after its adoption.

(Signed) Tom Bess, Village President
Jean Griswold, Village Clerk