

ORDINANCE NO. 50

AN ORDINANCE TO ESTABLISH A COMMUNITY ANTENNA TELEVISION SYSTEM IN THE VILLAGE OF LAKEVIEW, COUNTY OF MONTCALM, STATE OF MICHIGAN, TO GRANT A NONEXCLUSIVE FRANCHISE TO CONDOR CABLE OF MICHIGAN FOR THE ESTABLISHMENT AND OPERATION THEREOF.

THE VILLAGE OF LAKEVIEW HEREBY ORDAINS:

SECTION 1. DEFINITIONS:

“COMMUNITY ANTENNA TELEVISION SYSTEM”, “C.A.T.V.”, or “SYSTEM” shall mean any facility that receives over the air or by other means, and amplifies or otherwise modifies the signals broadcast by television or radio stations as well as signals containing other information, and distributes such signals by cable and/or other means to the public.

“VILLAGE” is the Village of Lakeview, Michigan.

“VILLAGE COUNCIL” is the council of the Village of Lakeview.

“COMPANY” shall mean Cablevision of Lakeview or anyone who succeeds the Company in accordance with the provisions contained herein.

“PUBLIC WAYS” shall mean streets, avenues, highways, boulevards, concourses, driveways, bridges, tunnels, parks, and public grounds of waters within or belonging to the Village of Lakeview.

“SUBSCRIBER” shall mean the provision by the Company to television receivers of all signals of the over-the-air television stations required by the Federal Communications Commission (hereby F.C.C.), public channels and additional channels at the option of the Company.

“VILLAGE CHANNEL” shall mean a channel on the system which is reserved for use by the Village or public access.

“COMPANY CHANNEL” shall mean a channel on the system which is reserved for the carriage of program material originated by the Company or by another person.

“FRANCHISE” shall mean the grant of authority to the Company to operate a C.A.T.V. system in the Village.

“GROSS REVENUES” shall mean the total revenues received by the Company from all services to the Village.

SECTION 2. GRANT OF FRANCHISE

I. There is hereby awarded to the Company a non-exclusive franchise for the occupation or use of the public ways within the Village for the construction, operation, and maintenance of a C.A.T.V. system.

II. This franchise shall remain effective for fifteen (15) years, unless sooner revoked as herein provided in Section 3 hereof.

III. Nothing in the franchise shall affect the right of the Village to grant to any other person a franchise to occupy and use the public ways for the construction, operation, and maintenance of C.A.T.V. or similar facilities within the Village. The Village shall give the Company no less than two (2) weeks' notice of the hearing date of any application for any additional franchise to another. Nothing contained in this franchise shall prohibit the Company from appearing before the Village council and being heard on any application for any additional franchise to another.

SECTION 3. REVOCATION OF FRANCHISE

I. The franchise granted herein shall be subject to the right of the Village to revoke an ordinance as regulated by State statute upon the Village council's determination that the Company has violated the terms or intent of the C.A.T.V. franchise ordinance. The Company will be notified in writing at least 30 days prior to any public hearing date set by the Village Council.

II. Any franchise granted hereunder shall be subject to all applicable provisions of Village ordinances, any amendments thereto.

III. Any franchise granted hereunder shall be subject to all applicable state and federal laws, including rules and regulations established by the F.C.C.

SECTION 4. LIMITATION OF FRANCHISE

I. This franchise applies only to the operation of a C.A.T.V. system as provided herein, and does not take the place of any other franchise, license or permit which might be required by federal, state and local law.

II. In the operation of its system, the Company shall not deprive an inhabitant of any building, by

contract or otherwise, of any existing right to use an individual or master antenna for the purpose of receiving television signals.

SECTION 5. CHANGE OF OWNERSHIP

Should the Company sell, assign or transfer its system or any right under this franchise to another, written notice of such sale, assignment, or transfer, shall be given to the Village not less than thirty (30) days prior thereto shall be conditioned upon the vendee, assignee, or transferee, filing with the Village an instrument duly executed, reciting the fact of such sale, assignment, or transfer, and containing an acceptance of the terms of this franchise and agreeing to perform all requirements hereof.

SECTION 6. CONSTRUCTION AND INSTALLATION OF SYSTEM

Subject to the provisions and restrictions of this franchise and the ordinance of the Village, the Company shall have the right:

- I. To construct, erect, operate and maintain in, upon, along , across, above, over and under the public ways, poles, cables, underground conduits, manholes and other conductors and

fixtures necessary for the maintenance and operation of a C.A.T.V. system in the village; and

II. To lease, rent or in any other lawful manner, obtain the use of towers, poles, lines, cables and other equipment and facilities from any and all holders of public licenses and franchises within the limits of the Village including but not limited to, Consumers Power Company and General Telephone Company, and to use same on such terms as agreed upon. Existing poles used for the Company's distribution system shall be those erected and maintained by Consumers Power Company, General Telephone Company, or the Village, when and where applicable, providing mutually satisfactory rental arrangements can be entered into with said utilities or Village.

SECTION 7. CONDITIONS ON PUBLIC WAY OCCUPANCY

I. All transmissions and distribution structures, lines, and equipment erected by the Company within the Village shall be so located as to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said public ways.

II. In case of disturbances of any public way or paved area, the Company shall at its own cost and expense replace and restore such public way or paved area in as good a condition as it was in before the work involving such disturbance was done.

III. If, at any time during the period of this franchise, the Village shall lawfully elect to alter or change the grade of any public way, the Company, upon reasonable notice by the Village shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

IV. Any poles or other fixtures placed in any public way by the Company shall be placed in such manner as not to interfere with the usual travel on such public way.

V. The Company shall, on request of any person holding a building-moving permit issued in the Village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than 48 hours advance notice to arrange for such temporary wire changes. The Village, or any other non-profit organization, including historical societies, shall be exempt from any charges.

VI. The Company shall, after giving notice to the Village, have the authority to trim trees upon and hanging over public ways and places in the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the C.A.T.V. system.

VII. In all sections of the Village where all existing cable or other like facilities of utility companies are presently or subsequently placed underground, the Company shall place its cables or other like facilities underground.

SECTION 8. SAFETY REQUIREMENTS

I. The Company shall at all times employ ordinary care, and shall install and maintain in use, commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

II. The Company shall install and maintain its cables, fixtures, and other equipment in accordance with all applicable federal, state, and local laws, ordinances, codes, rules and regulations, and in such manner that they will not interfere with any installations of the Village or of a public utility serving the Village.

III. All structures and all lines, equipment, and connections in, over, under, and upon the public ways or places in the Village, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition and in good order and repair.

SECTION 9. ERECTION, REMOVAL AND COMMON USE OF POLES

I. Poles or other wire holding structures shall be erected by the Company only with prior approval of the Village Council.

II. Where a public utility serving the Village desires to make use of the poles or other wire holding structures of the Company, but agreement therefore with the Company cannot be reached, the Village may require the Company to permit such use for reasonable and just compensation, provided that such use would not unduly interfere with the Company's operation.

SECTION 10. RIGHTS RESERVED TO THE VILLAGE

I. 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 C.A.T.V. operation of the Company, and that such installations shall be installed in a safe manner, in conformance with state and Village regulations.

II. At the expiration of this franchise or upon its revocation, as provided for herein, the Village shall have the right to require the Company to remove at its own expense all portions of the C.A.T.V. system from all public ways and places within the Village.

SECTION 11. MAPS, PLATS, AND REPORTS

The Company shall, on or before the first day of April of each year, file with the Village Clerk, true and accurate maps or plats, showing the location of all existing cables, whether leased or owned outright. Attached to such maps or plats shall be a list by address of current subscribers.

SECTION 12. CARRIAGE OF SIGNALS

I. The Company shall comply with all rules and regulations of the F.C.C. with respect to the reception, carriage, and distribution of signals.

II. Minimum channel complement shall include all V.H.F. channels significantly viewed, public, community, and education channels as required by the F.C.C.

III. The Company shall transmit and deliver over Village channels the signals designated therefore by the Village council.

SECTION 13. SIGNAL QUALITY REQUIREMENTS

I. The Company shall operate facilities capable of distributing color television signals, free from ghost images, interferences, or distortions, and accompanied by with proper sound, state of the art television sets in good repair without interfering with other electrical or electronic systems.

II. 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 art those acceptable standards as set forth in the rules and regulations of the F.C.C. relative to C.A.T.V. systems.

III. The Company shall demonstrate by instruments or otherwise to subscribers, upon request, that a signal of adequate strength and quality is being delivered. Such determination shall be made by taking a standard production state-of-the-art television set with a screen of sufficient area as to clearly demonstrate the relative merit of the delivered signal.

SECTION 14. OPERATION AND MAINTENANCE OF SYSTEM.

I. The Company shall maintain an office in the area which shall be open during all normal business

hours, having a listed local telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time, 24 hours per day.

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

III. 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, except as provided herein.

IV. Should it be impossible or impractical to correct any malfunctions within twenty-four (24) hours or less, then each subscriber whose television reception is so disrupted shall receive a rebate from the Company in the amount of one-thirtieth of such subscriber's monthly charge for every additional twenty-four hour period that said subscriber's television reception is so disrupted, unless said disruption in service was entirely beyond its control.

V. Any rebate made to any subscriber under this section, in any month, shall not exceed said subscriber's normal monthly fee paid to the Company.

VI. Complaint procedures shall be given to each new subscriber by the Company at the time of initial subscription to the C.A.T.V. system. In the instance of existing subscribers, changes in complaint procedures shall be included with the next monthly billing.

SECTION 15. RATES

I. The rates and charges for television and radio signals distributed shall be as follows:

2. "Basic Service" \$7.95 per month

3. Installation charge for "Basic Service" \$20.00

4. Each additional outlet \$2.00 per month outlet

5. At no time shall a one-time installation charge for "Basic Service" exceed \$20.00

6. Reconnection within 30 days after disconnection due

to subscriber non-payment: \$10.00

VII. If, in the future, the State of Michigan regulates the rates of the Company for the services provided under this franchise, those portions of this section so regulated by the State of Michigan shall be of no effect during such State regulation to the extent of any conflict therewith.

VIII. Where an unusually difficult or abnormal installation is encountered or requested, the Company reserves the right to require additional charges to reasonably recover the Company's costs. Such charges may, at the subscriber's request, be added to the subscriber's monthly charges over a negotiable period of time.

SECTION 16. CAPACITY AND COMMENCEMENT OF SYSTEM

I. The Company shall extend the installation of cables, amplifiers, and related equipment throughout the Village as rapidly as is practicable.

II. Within one (1) year from the date of certification from the F.C.C., the Company shall be capable of providing "Basic Service" on a regular basis to at least twenty-five (25%) of the Village residences.

III. Initial channel capacity of the system shall be no less than thirty-five (35) channels.

IV. The Company shall provide "Basic Service" to one outlet on each floor of all existing or future police and fire stations, the Village Hall, and all public and private schools located within 300 feet of the Company's cables within the Village without any charge therefore.

V. In the event of an emergency situation, the Village may interrupt signals otherwise being distributed by the Company for the delivery of signals necessitated by such emergency.

SECTION 17. LIABILITY INSURANCE AND INDEMNIFICATION

I. The Company shall maintain throughout the term 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 from the installation, operation, maintenance or removal of the Company's C.A.T.V. system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise.

II. The liability insurance referred to in this section shall be in the following amounts:

3. \$500,000 for bodily injury or death to any one person, with limit of \$1,000,000. For bodily injury resulting from any one accident;

4. \$500,000. for property damage resulting from any one accident;

5. \$500,000. for all other types of liability.

VI. The Company shall save the Village harmless from any and all liability arising out of or by granting of this franchise or the operation of the system hereunder. The Company shall pay for 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 this franchise, including, but not limited to, all reasonable investigation, witness and attorney fees.

SECTION 18. ANNUAL FRANCHISE FEE

Commencing one year from the effective date of this ordinance, and each year thereafter, the Company shall

pay to the Village treasurer a franchise fee equal to three percent (3%) of the Company's gross revenues derived from all cable services within the Village, or \$250.00, whichever is greater.

SECTION 19. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 20. EFFECTIVE DATE

This ordinance shall be effective on the date ratified by the Company in writing after having been awarded by the Village Council in accordance with applicable law.

Adopted by the Village Council of Lakeview, Michigan, on April 13, 1981.

H.R. Ule, Clerk

I, H.R. Ule, Clerk of the Village of Lakeview, do hereby certify that the foregoing ordinance # 50 was duly adopted at a regular meeting of the Village Council of the Village of Lakeview held on the 13th day of April, 1981 in said Village of Lakeview.