

AN ORDINANCE OF THE CITY OF HUNTERS HOLLOW, KENTUCKY ESTABLISHING REGULATIONS AND PROVIDING PROCEDURES FOR THE ISSUANCE OF LICENSES TO CONSTRUCT, INSTALL AND OPERATE LINES, WIRES, POLES, COAXIAL CABLE AND APPURTENANCES FOR ORIGINATING, RECEIVING, DISTRIBUTING AND SUPPLYING RADIO, TELEVISION AND OTHER CABLE COMMUNICATION SERVICES ALONG, ACROSS AND UPON THE PUBLIC STREETS, PUBLIC UTILITY EASEMENTS, WAYS, ALLEYS AND PLACES WITHIN SAID CITY OF HUNTERS HOLLOW, KENTUCKY.

ORDINANCE NO. 985-72

NOW THEREFORE, The City Counsel of Hunters Hollow, Bullitt County, Kentucky, does hereby ordain as follows:

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SECTION 2: DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in

the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number.

- (a) "City" shall mean the City of Hunters Hollow, a municipal corporation in the State of Kentucky.
- (b) "Council" shall mean the City Council of the City of Hunters Hollow, Kentucky.
- (c) "License Property" shall mean all property owned, installed or used under authority of this Ordinance by Licensee.
- (d) "Street" shall mean the surface, the air space above the surface and the area below the surface of any public street, communications or public utility easement, or other public rights-of-way or public places.
- (e) "Licensee" shall mean any person or entity to whom a License is granted pursuant to this Ordinance and any lawful successor or assignee of the original Licensee.
- (f) "Subscriber" shall mean any person or entity receiving service from a licensed Cable Television System in the City.
- (g) "Cable Television System" or "Cable System" shall mean the signal reception, processing and distribution system used by Licensee in the construction, operation and maintenance of the Cable System in the City.
- (h) "License" means the non-exclusive right and authority to construct, maintain and operate a Cable Television System through use of the public street, public utility easements and other public rights of way or public places in the City.
- (i) "Person" means any natural person and all domestic and foreign corporations, close corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, businesses, common law trusts, societies and/or any other legal entity.
- (j) "Applicant" means any person that applies for a License under this Ordinance.
- (k) "FCC" means the Federal Communications Commission, or a designated representative.
- (l) "Gross Subscriber Receipts" shall mean the sums paid by Subscribers living in the City to Licensee for the supplying of regular subscriber services, that is, the fees for regular cable benefits including the distribution of broadcast signals and origination channels, if any. Such term shall not include revenues derived from

per-program or per-channel charges, leased channel revenues, advertising revenues, or any other income derived from the Cable System.

Such term shall also not include any taxes on services furnished by the Licensee imposed directly on any Subscribers or user by any City, State or other governmental unit.

- (m) "City Executive" shall mean the City Mayor, the City Clerk or other designation of the City Chief Executive Officer or any designee thereof.
- (n) In the event the meaning of any word or phrase not defined herein is uncertain, the definitions contained in FCC Rules and Regulations shall apply.

SECTION 3: AUTHORITY TO GRANT LICENSE

- A. By KRS 89.590, the Council is empowered to authorize the issuance of non-exclusive Licenses to install, construct, operate and maintain Cable Television Systems in streets, public places within the City as well as regulate these activities.
- B. No provision of this Ordinance shall be deemed or constructed to require the granting of a License.

SECTION 4: APPLICATION FOR LICENSE

- A. Each Applicant for a License to construct, operate or maintain any Cable Television System in this City shall be filed with the Council and shall contain, at a minimum, the following:
 - 1. The name, address and telephone number of the Applicant. If the Applicant is a partnership, the home and business address of each partner shall also be set forth. If the Applicant is a corporation, the application shall state the names and addresses of its directors, main officers, major stockholders and associates and the names and addresses of parent or subsidiary companies.
 - 2. A statement setting forth in its entirety any and all agreements and understandings, whether formal or informal, written, oral or implied, existing or proposed to exist between the Applicant and any Person who proposes to have an ownership interest with respect to the proposed License or to the proposed Cable Television operation. If a License is granted to a Person acting as a representative of another Person and such information is not disclosed in the original application, the License shall be deemed void and of no force and effect.

3. Financial statements, as determined by the Council, prepared by a certified public accountant, or person otherwise satisfactory to the Council, showing Applicant's financial status and financial ability to complete the construction and installation of the proposed Cable System and/or continue the operation of the existing Cable System.
 4. A statement describing the Cable System and specifying the type and capacity of the Cable System proposed to be constructed, installed, maintained or operated by the Applicant and the proposed or existing location of the Cable System.
 5. A description of all previous experience of the Applicant in providing Cable Television System service and in related or similar fields.
 6. Any other details, statements, information or references pertinent to the subject matter of such application which shall be required or requested by the Council, or by any provision of any other Ordinance of the City.
- B. Prior to the issuance of a License, the Council shall provide the holding of a public hearing following reasonable notice to the public, at which every Applicant and its proposals shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard. Proposed Licensees shall bear any publication costs.
- C. In making any determination hereunder as to any application, the Council shall give due consideration to the quality of the service proposed, experience, character, background and the financial responsibility of any Applicant and its management and owners, willingness and ability to abide by policy conditions, License limitations and requirements, and any other considerations deemed pertinent to the Council for safeguarding the interest of the City and the public. The Council, in its discretion, shall determine the award of any License on the basis of these considerations and without competitive bidding.

SECTION 5: ACCEPTANCE AND DURATION OF LICENSE

- A. Any License granted subsequent to this Ordinance shall become effective thirty (30) days after passage by the Council, provided that Licensee within thirty (30) days of passage of the License has filed with the City Clerk a written instrument addressed to the Council accepting the License and agreeing to comply with all provisions of this Ordinance.
- B. The term of the License shall be fifteen (15) years commencing on the effective date of the License as provided in paragraph A of this Section; provided, that upon written notice given by the City or Licensee to the other not less than one (1) year prior to the fifteenth (15th) anniversary of the effective date,

and after the holding of a public hearing affording due process, the License may be renewed for a reasonable term.

SECTION 6: LIMITATION UPON GRANT

- A. No privilege or exemption is granted or conferred by the issuance of a License pursuant to this Ordinance except those specifically prescribed in it.
- B. Any License granted pursuant to this Ordinance is a privilege personal to the original Licensee. It cannot in any event be sold, transferred, leased, assigned or disposed of as a whole or in part, or otherwise, without prior consent of the City expressed by Ordinance, and then only under such conditions as may be prescribed in the consenting Ordinance; provided, however, that no such consent shall unreasonably be withheld, and further provided, that no such consent shall be required for any transfer in trust, mortgage or other hypothecation, as a whole or in part, to secure an indebtedness accordance with that standard, and upon so doing shall submit to Licensee an itemized statement of the cost thereof. The Licensee shall, within thirty (30) days after receipt of the statement, pay to the City the entire amount thereof.

SECTION 7: CONSTRUCTION OF SYSTEM

The system shall be constructed, operated and maintained in a workmanlike manner so as to afford all reasonable safeguards to the public and so as not to interfere with public traffic. All initial construction on the system shall be completed within one hundred eighty (180) days of its beginning date. All later construction and repairs or maintenance shall be accomplished using due diligence and all deliberate speed.

SECTION 8: REPAIR OF STREETS AND PUBLIC WAYS

The company shall restore within thirty (30) days to their original condition the streets, roads, alleys, or other public thoroughfares which may be disturbed during any construction or maintenance.

SECTION 9: REMOVAL OR ABANDONMENT OF LICENSE PROPERTY

- A. In the event that (1) the use of any License Property is discontinued for any reason for a continuous period of twelve (12) months, (2) License Property has been installed in a street or other dedicated public right-of-way without complying with the requirements of this Ordinance, or the License has been terminated, canceled or has expired, Licensee at its expense, shall at the demand of the City remove promptly from the Street all License Property other than any which the City may permit to be abandoned in place. In the event of any such removal Licensee shall promptly restore to a condition the Street or other public places in the City from which License Property has been removed.

- B. License Property to be abandoned in place shall be abandoned in the manner prescribed by the City. Upon permanent abandonment of any License Property in place, Licensee shall deliver to the Municipal Executive an instrument transferring to the City the ownership of the License Property abandoned.

SECTION 10: CHANGES REQUIRED BY PUBLIC IMPROVEMENTS

Licensee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street, alley, or public place, or remove from any street, alley or public place, any License Property when required by the City by reason of traffic conditions, public safety, street vacation, freeway grade, installation of sewers, drains and tracts or any other type of structures or improvements including but not limited to placing such structures and improvements underground by governmental agencies when acting in a governmental or proprietary capacity; provided, however, that Licensee shall in all such cases have the privileges and be subject to the obligations to abandon License Property in place, as provided in Section 9.

SECTION 11: SYSTEM MAINTENANCE

The Licensee shall:

- A. Put, keep and maintain all parts of the Cable Television System in good condition throughout the entire period of the License.
- B. Render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Interruptions, insofar as possible, shall be preceded by notice given to subscribers twenty-four (24) hours in advance and shall occur during periods of minimum use of the Cable System.
- C. Upon request by the Council, the Licensee shall make a demonstration satisfactory to it that a signal is being delivered to any designated area which is of sufficient strength and quality to meet the standards set forth in the regulations of the FCC.

SECTION 12: LOCAL OFFICE - COMPLAINTS

Licensee shall maintain a local business office, or agent, which Subscribers may telephone during regular business hours without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the Licensee. Should a Subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his complaint with the City Executive who has primary responsibility for the continuing administration of the License and the procedures for resolving complaints, and therefore to meet jointly with a representative of the City and a representative of the Licensee within thirty (30) days to fully discuss and resolve such matters. The Licensee shall notify each Subscriber, at the time of initial subscription, to the

service of the Licensee, of the procedures for reporting and resolving such complaints.

SECTION 13: SPECIAL PROVISIONS

Licensee shall provide the following facilities and services:

- (a) When requested by the Council and providing the Cable System passes within 150 feet thereof, Licensee shall provide ~~one~~ (1) free outlet to the following facilities:
 - (1) Public schools and community colleges within the City and,
 - (2) Fire and police stations and other buildings owned and controlled by the City used for public non-residential purposes.
- (b) Licensee shall provide reasonable arrangements for inter-connections to Cable Systems operating in the City or in adjoining communities.
- (c) System Maps and Layout - The Licensee shall have, at all times, up-to-date route maps showing trunk and distribution lines. Licensee shall make all such maps available for review by the appropriate City personnel.
- (d) System Construction and Equipment Standards - The Cable System shall be installed and maintained in accordance with standard good engineering practices and shall conform, when applicable, with the National Electrical Safety Code and the Federal Communications Commission's Rules and Regulations as they apply.

SECTION 14: LINE EXTENSIONS

A. System Expansion, New Developments - Overhead Cable Construction

1. Licensee shall extend cable television service to any new development in the City at the standard rate if:
 - a. The new development to be served has a density of at least thirty five (35) residences per strand mile or trunk line cable installed;and
 - b. Thirty five percent (35%) of the residences within the new development to be served have requested service.
2. Any new development in the City not meeting any or all of the above requirements may be served at Licensee's discretion.

B. System Expansion, New Underground Developments

Licensee may, at the option of Licensee, extend energized or unenergized cable, or conduit, to all new residential developments in the City as they are constructed. Costs of trenching, conduit, pedestals and/or vaults and laterals as well as easements therefore required to bring service to the development shall be borne by the developer and/or landowner. All installations and construction by developer and/or landowner shall be to the specifications of the Licensee. Licensee need not provide cable television services to such a development until thirty five percent (35%) of the residential dwelling units to be served have agreed to subscribe or receive cable services.

C. System Expansion Limitation

1. No provision of this Ordinance shall require Licensee to extend in any twelve (12) month period, trunk and/or distribution lines to more than twenty percent (20%) of that portion of the City not having cable at the time of the adoption of this Ordinance. Requests for system extension in excess of this limitation may be deferred, at Licensee's option, to the next twelve (12) month period. Should Licensee elect to extend the system in excess of this limitation, credit for such extension shall be made against extension requirements in the next twelve (12) month period.
2. Upon petition by the Licensee, the Council may defer or indefinitely suspend any expansion required by this Ordinance after a showing by Licensee that such expansion would cause unreasonable financial hardship to Licensee. Such a showing shall be made by the City after a public hearing. The City Clerk shall publish a notice of any such hearing, setting forth a time and place when and where any persons having any interest therein may appear before the Council and be heard at least ten (10) days prior to the hearing in a newspaper of general circulation within the City. The City Clerk shall also cause a copy of such notice to be mailed to Licensee at least ten (10) days prior to the hearing.

D. Undergrounding of System

For any Cable System expansion in the City the Licensee shall place the Cable System underground in localities where both telephone and power lines are underground. For existing facilities, Licensee shall replace aerial facilities with underground facilities concurrently and in cooperation with similar programs of the telephone and power utilities. At no time shall the Cable System be the only aerial facility. When undergrounding is required, the Licensee shall have the option of sharing or not sharing utility trenches.

SECTION 15: LICENSE FEE

- A. Licensee shall pay to the City a License fee equal to three percent (3%) of the Gross Subscriber Receipts commencing on the effective date of this Ordinance, which License fee shall be levied as a tax upon the Licensee in lieu of all other License fees.
- B. The Licensee shall file with the City, within forty-five (45) days after the expiration of each calendar year this License is in force, a financial statement of the estimated Gross Subscriber Receipts of the preceding calendar year. It shall be the duty of the Licensee to pay to the City, within fifteen (15) days after the time for filing such statement, the sum hereinbefore prescribed or any unpaid balance thereof for the calendar year covered by such statement. At the request of the City, an adjustment based on a final annual financial statement prepared by a certified public accountant shall be submitted by Licensee and the amount due or the rebate authorized as a result thereof shall be paid by Licensee or City.
- C. Licensee shall furnish the City, upon reasonable request, such data as needed in accordance with generally accepted accounting principles.
- D. The City shall have the right to inspect the Licensee's records during normal business hours showing the Gross Subscriber Receipts from which its License payments are computed and the right of audit and the recomputation of any and all amounts paid under this License.
- E. Any willful neglect, omission or refusal of the Licensee to file said statement, or to pay said percentage in full, at the time or in the manner hereinbefore provided, which willful neglect, omission or refusal shall continue for more than thirty (30) days following written notice thereof to the Licensee from the City shall be grounds for the termination of this License as provided for in Section 18 hereof.

SECTION 16: INSPECTION OF PROPERTY

At all reasonable times Licensee shall permit examination by any duly authorized representative of the City of all License Property, together with any appurtenant property of Licensee situated within or without the City.

SECTION 17: LIABILITY AND INDEMNIFICATION

- A. The Licensee shall pay all damages and penalties which the City may legally be required to pay as a result of passage of this Ordinance.
- B. The Licensee shall pay all expenses incurred by the City in defending itself with regard to all damages and penalties

mentioned above, provided that the Council promptly notifies Licensee of the pendency of such damages, claims, actions or causes of action without limitation. The expenses shall include all out-of-pocket expenses, such as attorney's fees.

SECTION 18: TERMINATION

- A. The City may terminate any License granted subsequent to this Ordinance in the event of the willful failure, refusal or neglect by Licensee to do or comply with any material requirement or limitation contained in this Ordinance.
- B. The City may make written demand that the Licensee do or comply with any such reasonable requirement, limitation, term, condition, rule or regulation. If the willful failure, refusal or neglect of the Licensee continues for a period of thirty (30) days following such written demand, a request for termination of the License may be placed upon the Council meeting agenda. The City shall cause to be served upon such Licensee, at least ten (10) days prior to the date of such council meeting, a written notice of intent to request such termination, and the time and place of the meeting.
- ✓C. The council shall consider the request and shall hear any persons interested therein, and shall determine whether or not any willfull failure, refusal or neglect by the Licensee was with just cause.
- D. If such willful failure, refusal or neglect by a Licensee was with just cause, the council shall direct the Licensee to comply within such time and manner and upon such terms and conditions as are reasonable.
- E. If the council shall determine such willful failure, refusal or neglect by a Licensee was without just cause, then the Council may pass its Ordinance declaring that the License of such Licensee shall be terminated and forfeited unless there be compliance by the Licensee within such reasonable period as the Council may fix.
- F. The termination and forfeiture of any license shall in no way affect any of the rights of the City under the license or any provision of law.

SECTION 19: COMPLIANCE WITH RULES AND REGULATIONS OF FCC

Any of the provisions or terms of this Ordinance shall be amended by the Council and made consistent with any new or amended rule or regulation of the FCC if the new or amended rule or regulation of the FCC renders such provisions or terms prohibited or inconsistent. These amendments shall be made within one (1) year of the effective day of the FCC rule amendment or modification. Where amendment to FCC rules or other

regulatory standards requires modification of any license granted pursuant to this Ordinance, the modifications necessary to affect compliance with FCC standards shall be made within one (1) year of the effective date of the FCC rule change or at the time of renewal of the license, whichever occurs first.

SECTION 20: MISDEMEANORS

- A. It shall be unlawful for any person, firm or corporation to make any unauthorized connection whether physically, electrically, acoustically, inductively or otherwise, with any part of a licensed Cable System within the City, for the purpose of enabling himself or others to receive any television signals, radio signal, picture, program, or sound, without payment to the owner of said Cable System.
- B. It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cable wires or equipment used for distribution of television signals, radio signals, pictures, programs, or sounds of a licensed Cable System.
- C. It shall be a misdemeanor punishable by a fine of not to exceed Three Hundred Dollars (\$300.00), or by imprisonment for not to exceed three (3) months, or both, for any person to violate any of the provisions of this Section.

SECTION 21: NEW DEVELOPMENTS

It shall be the policy of the City liberally to amend this Ordinance, upon application of the Licensee, when necessary to enable the Licensee to take advantage of any developments in the field of distribution of communications signals which will afford it an opportunity more effectively, efficiently, or economically to serve its Subscribers.

SECTION 22: COSTS OF PUBLICATION

The Licensee shall assume the cost of publication of this Ordinance, as such publication is required by law and such is payable upon the Licensee's filing of acceptance of this License.

SECTION 23: SEVERABILITY

Should any section, clause, line, paragraph or part of this Ordinance be held unconstitutional or invalid for any reason, the same shall not affect the remainder of this Ordinance.

SECTION 24: CONFLICT

All ordinances or parts of ordinances in conflict with this Ordinance or any part of this Ordinance are repealed.

SECTION 25: CONFIDENTIALITY

All information of a financial or personal nature provided to the council for the purposes of this Ordinance under Section 4 or otherwise shall be used only for the purposes prescribed by this Ordinance and further shall not be published or provided orally or in writing to any Person, entity or agency, except the FCC.

SECTION 26: SUBSCRIBER RATES

- A. All rates and charges for services which the City is authorized to regulate shall be approved by the council before becoming effective and shall be so stated in the Licensing Ordinance.
- B. Said Rate Structure shall be on file with the City Clerk and remain a public record thereon. Increases in this Rate Structure may be made only with the approval of the Council after an appropriate public hearing affording due process. Council approval of subscriber rate changes shall not be unreasonably withheld, and failure of the council to issue a decision within thirty (30) days of the public hearing shall be deemed an approval of said increase. Notwithstanding anything herein to the contrary, at any time service is made available to residents of the City, monthly service charges set forth herein may be adjusted to reflect any increases in the Department of Commerce "Consumer's Price Index".
- C. Licensee may add to the basic monthly service charge any copyright fees required of Licensee and/or charges imposed upon the said service by any government body having authority to do so.

SECTION 27: FORECLOSURE -RECEIVERSHIP

Upon the foreclosure or other judicial sale of all or a substantial part of the CATV system, or upon the termination of any lease covering all or a substantial part of the CATV System, the Grantee shall notify the Mayor of such fact.

SECTION 28: SUNDRY PROVISIONS

- A. The Grantee will not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions, or privileges of employment because of race, creed, religion, national origin, sex, or age.
- B. Every direction, notice, or order to be served upon the Grantee shall be sent to its office, which shall be located within 5 airline miles of the city. Every notice to be served upon the Grantor shall be delivered, with registered letter by registry receipt, to the Mayor. The delivery or mailing of such notice, direction or order shall be equivalent to direct personal notice, direction or order, and shall be deemed to have been given at the time of delivery.

- C. All the provisions of this Ordinance shall apply to the Grantee, its successors and assigns.
- D. The rights and remedies reserved to the parties by this Ordinance are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the parties may have with respect to the subject matter of this Ordinance, and a waiver thereof at any time shall not affect rights, remedies and operations affected at any other time.
- E. No person may make an unauthorized connection with any part of the franchised CATV System within the City for the purpose of receiving television signals, radio signals, pictures, programs, or sound without the authorization or parment to the Grantee, or for the purpose of interfering with or damaging any part of said system.
- F. Upon termination of service to any subscriber, the Grantee shall promptly remove all of its facilities and equipment from the premises of such subscriber upon his request at the expense of the Grantee.
- G. The Grantee agress to provide, at a price no greater than the cost to the Grantee, to each subscriber who desires one, a suitable switch to be installed in the System in such a manner that the subscribed can switch to his own antenna whenever he wants.

SECTION 29: PUBLICATION


The City Clerk is directed to publish this Ordinance by causing same to be printed four (4) consecutive weeks in the Pioneer News, Shepherdsville, Kentucky and by posting at least ten (10) days in four (4) of the most public places in the City of Shepherdsville, Bullitt County, Kentucky.

Given first reading at a regular meeting of the City Council of the City of Hunters Hollow, Bullitt County, Kentucky, on the 18th day of May, 1993. Given second reading and passed at the regular meeting of the City Council of the City of Hunters Hollow, Bullitt County, Kentucky, on the 15th day of June, 1993.

Votes For 5; Votes Against 0; Not Voting 0.


LINDA PARKER, Mayor

ATTEST:


RECKA S. DANIELS, City Clerk