

# ***Bunker Hill City Code Chapter 5 – Cable Television Code***

## **CHAPTER 5**

### **CABLE TELEVISION**

#### **5-1-1 Grant and Acceptance of Franchise Renewal**

(A) The City hereby grants the Grantee, its successors and assigns a nonexclusive franchise renewal and the right to erect, install, construct, reconstruct, replace, remove, repair, maintain, operate in or upon, under, above, across and from the streets, avenues, highways, sidewalks, bridges, and other public ways, easements, and rights-of-way within the Franchise Area as now existing and all extensions thereof, and additions thereto, in, belonging to, or under the jurisdiction of the City, all necessary poles, wires, cable, coaxial cables, transformers, amplifiers, underground conduits, manholes and other television and/or radio conductors and fixtures for the sole purpose of the ownership, maintenance and operation in the Franchise Area of a cable television system and such audio/video broadband telecommunications system as may be effective in the better delivery of the cable telecommunications system, all in strict accordance with the laws, ordinances and regulations of the United States of America, the State of Illinois, and the City of Bunker Hill, as now existing or hereafter adopted or amended.

(B) Grantee hereby accepts the franchise renewal and warrants and represents that it has examined and agrees to comply with all of the provisions of the original City of Bunker Hill Cable Television Ordinance, and this Agreement. Where there is any direct conflict between the City of Bunker Hill Cable Television Ordinance and this Agreement, the Agreement shall be controlling. In the event the Grantee claims there is a conflict between said Ordinance and this Agreement, the alleged conflict shall be resolved by the City after consultation with Grantee. The decision of the City as to any and all alleged conflicts shall be in writing. No changes or additions made to the Ordinance or the Agreement by the City shall be binding upon the Grantee without the Grantee's express written acceptance.

(C) During the term of this Agreement, Grantee shall be liable for the acts or omissions of its agents, employees, contractors or subcontractors while such parties are involved directly or indirectly in the construction, installation, maintenance, sale, or operation of Grantee's cable television system as if the acts or omissions of such parties were the acts or omissions of Grantee.

#### **5-1-2 Definitions**

Unless the context clearly indicates that a different meaning is intended, for purposes of this Agreement all terms, phrases, words or their derivations shall be defined as set forth in the Ordinance or as follows; provided, however that the terms, phrases, words or their derivations not defined herein or in the Ordinance shall be given their common and ordinary meanings:

**"Franchise Area"** means the area within the boundaries of the City of Bunker Hill, Illinois, and any areas that may be annexed thereto.

**"Gross Basic Subscriber Revenues"** shall include any and all compensation or receipts derived by Grantee from the annual Gross Basic Subscriber Revenue for basic cable television service rendered to customers located within the City of Bunker Hill, but shall

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not include any refunds or credits made to subscribers. Nor shall it include revenue from “ancillary” or “auxiliary” services, which include, but are not limited to advertising, leased channels and programming supplied on a per program or per channel basis, if any. **“Resident”** means any individual(s) or family which uses as its own domicile a legally zoned or legally non-conforming dwelling unit within the Franchise Area.

### **5-1-3 Commitment by Grantee.**

The Grantee agrees to use its best efforts, at its expense, to actively and diligently conduct the processing of all registration documents to the FCC or other government regulatory bodies necessary to verify the franchise renewal under this Agreement and to meet requirements set by the FCC.

### **5-1-4 Rights Reserved by the City.**

In addition to the rights reserved by the City in the Ordinance, the franchise renewal is subject to the right of the City:

- (A) To establish reasonable standards of service and quality of products, and to prevent unjust discrimination in service.
- (B) To require continuous and uninterrupted service to the public throughout the entire period thereof and to require technical service quality of the system.
- (C) To control and regulate the use of its streets, alleys, bridges, and rights-of-way, public places and property, and the space above and beneath them.

### **5-1-5 Franchise Fee**

- (A) Grantee shall pay to the City a franchise fee of **five percent (5%)** of the Gross Basic Subscriber Revenues derived from the operation of its cable television system in the Franchise Area during the franchise renewal term.
- (B) Grantee shall continue to maintain its system headquarters within the City of Staunton.
- (C) Payment shall be due and payable no later than **sixty (60) days** following the end of the period for which franchise fees have accrued.
- (D) The franchise fee shall be based on the Gross Basic Subscriber Revenues generated between **January 1** and **December 31** of any year.

### **5-1-6 Other Fees and Special Taxes**

The Grantee shall pay all fees necessary to obtain all Federal, State and local licenses, permits and authorizations required for the construction, installation, maintenance or operation of its cable television system; provided, however, that no special tax shall be imposed upon Grantee or its subscribers by the City in connection with the provision or receipt of cable television services, and provided further that no special fee shall be imposed on Grantee by the City for any such license, permit or authorization and that no additional fee shall be imposed on Grantee by the City for inspections relating to the construction or maintenance of the Grantee’s cable lines or the installation of individual service drops and further, that no special fees will be imposed on the Grantee as the sole member of any class of business.

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### **5-1-7 Term and Effective Date of Agreement.**

(A) The term of this Agreement and the franchise renewal granted hereunder shall be **twenty (25) years** from the original expiration date of the Franchise Ordinance. The terms of this Agreement, then, will conclude on **December 18, 2022**.

(B) Nothing in this Agreement or the Franchise Ordinance shall be deemed to limit or restrict in any way the rights or obligations of the City of Bunker Hill and the Grantee under federal and state law governing the renewal of cable television franchises.

(C) The effective date of this Agreement shall be the date on which both the City and Grantee have executed the Agreement. All obligations and rights contained within this Agreement shall be in full force on the Effective Date.

### **5-1-8 Territorial Extent of Franchise**

The Grantee is authorized to operate in the Franchise Area, as the same may or in the future exist.

### **5-1-9 System Design**

(A) Additional bandwidth is contemplated to be reserved for new programming services as they are developed and new technological advancements when technically and economically feasible.

(B) Grantee agrees to utilize whatever technology is then considered state-of-the-art in cable systems of comparable size, serving comparable communities in the State of Illinois. Nothing herein shall be construed to prohibit Grantee from increasing the capability of the cable television system or constructing the same in accord with the more advanced technological standards then herein proposed, nor shall anything herein require Grantee to perform or effect any upgrade or rebuild during the Agreement Term except as hereinabove described.

(C) Grantee will not be liable for delays to the schedule in subsection (A) above which are caused by labor disputes, disputes with utilities, acts of war, weather conditions precluding construction activities or other causes beyond the Grantee's reasonable control.

### **5-1-10 Technical Performance and Standards.**

(A) Grantee shall construct, operate and maintain its cable television system so as to at all times meet or exceed the technical standards established by the FCC.

(B) Grantee shall conduct its technical performance tests in accordance with the procedures set forth in the latest edition of the FCC technical standards. Grantee shall, at a minimum, maintain the system in accordance with the standards set forth in Sections 5-1-4 and 5-1-9 above.

(C) System monitor test points shall be maintained at or near the output of the last amplifier, or its equivalent, in the longest feeder line, at or near trunk line extremities.

### **5-1-11 Construction Schedule.**

Grantee shall within **one hundred eighty (180) days** prior to the commencement of construction to upgrade its system, furnish the City with a complete construction schedule and map. Such construction schedule shall indicate the approximate amount of

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plant mileage within the Franchise Area to be constructed and activated on a quarterly basis and the scheduled date for completion of construction of all major facilities.

### **5-1-12 Construction Requirements and Standards.**

(A) Grantee shall construct, install, maintain and operate its cable television system in a safe, orderly and workmanlike manner utilizing only materials of good, durable quality with due respect for engineering considerations and in accordance with applicable federal, state and local laws and regulations.

(B) Grantee shall, at its cost and expense, repair, replace or restore any street, sidewalk, alley, public way or any other property disturbed or damaged or in any way injured by or on account of its activities to as good condition as before the work involving such disturbance was done and agreed to do so as soon as practicably possible after completion of such work causing such disturbance or damage. In the event Grantee fails to perform the replacement or restoration, the City shall have the right to do so at the sole cost and expense of the Grantee, provided, however, that Grantee shall first be given written notice of its default and **sixty (60) days** to cure same. Upon written demand for reimbursement for the cost of replacement or restoration of damaged property, Grantee shall promptly remit to the City.

(C) All installations shall be underground in those areas of the Franchise Area where public utilities providing telephone and electric service are both underground at time of installation. In areas where either telephone or electric utility facilities are aboveground at the time of installation, the Grantee may install its service aboveground, providing that at such time as both telephone and electric utility facilities are required to be placed underground by the City or are placed underground, the Grantee shall likewise place its service underground without additional cost to the City or to the individual subscriber so served within the franchise area.

(D) The City will provide Grantee with any and all maps and engineering assistance concerning the location and condition of all utilities known to City.

### **5-1-13 Programming Services and Fees.**

(A) Grantee shall provide to subscribers in the Franchise Area broad categories of programming as follows:

children's programming	family programming
religious programming	educational programming
news/public affairs programming	entertainment programming
sports and recreational programming	business programming
cultural programming	music programming

Grantee shall also make available to subscribers a parental guidance lockout device for an additional fee.

(B) Grantee shall have the authority and right to change specific program offerings and will notify the subscribers affected thereby of the planned changes.

(C) Grantee shall impose its then prevailing monthly service and installation rates without discrimination and without regard for age, race, sex, sexual orientation, ethnic origin, marital status, or creed. Grantee reserves the right to offer special promotional discounts to certain groups (a promotional discount is defined as any special offer on equipment, service or installation of a duration of not more than a year), and to offer discounts based

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on financial need or disability. A copy of the current rates and charges for all services provided by Grantee as of September 1, 1993.

(D) Grantee shall have the authority and right to change and establish installation and monthly service charges upon thirty (30) days prior written notice to the City and the subscribers affected thereby.

(E) Grantee shall provide each subscriber the equipment necessary for the receipt of all services to which he or she subscribes. Grantee may collect at the time of installation a deposit from subscribers to insure the protection and return of the converter equipment. At the termination of service, the subscriber shall receive a refund in full of his/her security deposit(s) upon the return of the equipment in good condition, excluding normal wear, to the Grantee. In the event the equipment is not returned to the Grantee, the Grantee may retain the security deposit and/or further charge the subscriber the actual replacement cost of the equipment, plus any reasonable costs or penalties. In the event the equipment is returned other than in good condition, excluding normal wear, the Grantee may retain from the security deposit, and/or further charge the subscriber the actual replacement cost of the equipment or the actual cost of repair, whichever is less.

(F) If the installation of a service connection requires a drop in excess of one hundred twenty-five (125) feet, Grantee may charge the subscriber for that portion in excess of one hundred twenty-five (125) feet including labor and materials. Grantee shall provide the subscriber a written statement of the charges for installing an extra-long drop and obtain such subscriber's written consent prior to any installation of such costs provided, however, that Grantee may require an advance payment of such costs for such subscriber as a condition of performing the requested installation.

(G) If a subscriber requests a non-standard installation for aesthetic purposes, either internal or external, including concealed wiring or routing from the tap to the dwelling unit that differs from the standard route, or an elective underground drop, which results in greater costs, Grantee may charge the subscriber at its then prevailing charges for such non-standard installation. Grantee shall provide the subscriber a written statement of the charges for such installation and obtain the subscriber's written consent prior to any such installation; provided, however, that Grantee may require an advance payment of such costs from such subscriber as a condition of performing the requested installation.

### **5-1-14 Services to the City**

The Grantee shall, provide to the City upon its written request:

(A) One (1) free installation and free service for Basic Service to any building which houses a City agency or state-certified school within the Franchise Area. Where such institution includes more than one (1) location or building, only one connection to the system will be provided at no charge under this paragraph. Where the location to be served requires (1) an aerial drop of more than one hundred twenty-five (125) feet, (2) a non-standard installation, (3) underground installation or (4) installation of multiple outlets, Grantee may charge its actual installation costs to the institution beyond the cost of the standard aerial installation for one (1) connection. Grantee will, where technically feasible, connect its service to the input of a compatible master antenna system. Grantee may charge additional monthly service charges for any connections beyond the single drop to each location.

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(B) The capability to present emergency information regarding life threatening circumstances by duly designated public and law enforcement officials of the City. Such information shall be provided on an emergency basis, under reasonable procedures established by the City and Cablevision. The City will indemnify and hold Grantee harmless from any damages, lawsuits, liabilities, penalties or refunds resulting from acts or omissions created by the usage of such emergency alert system by the City; and will take every reasonable precaution to safeguard access and limit usage to reports on life-threatening situations.

### **5-1-15 Maintenance and Customer Service**

(A) During the term of this Agreement, Grantee shall maintain its cable television system in good working condition.

(B) Grantee shall maintain an office in the City and provide personnel, telephone service and other equipment, as needed, to ensure timely, efficient and effective service to consumers. Grantee shall accept telephone inquiries twenty-four (24) hours a day, **seven (7) days a week**. All business offices of the Grantee shall have a locally listed telephone number or 800 toll-free number. A walk-in cable center will, at a minimum, be open during the hours of 8:00 A.M. through 5:00 P.M. Monday through Friday.

(C) Grantee shall operate the cable television system continuously, with operating personnel available on call twenty-four (24) hours per day with a locally listed telephone number to receive complaints and requests for repairs or service. Grantee shall render efficient service, locate and repair malfunctions promptly and accept subscriber service complaints twenty-four (24) hours a day. Under normal conditions, investigative action shall be initiated in response to all subscriber service complaints not later than the next business day if at all possible. Appropriate records shall be made of service calls showing when and what corrective action was completed. Such records (in an aggregated form and absent personally identifiable information) shall be available to the City during normal business hours with one (1) week notice and shall be retained by the Grantee for not less than one (1) year. All actions taken hereunder shall be in compliance with the privacy provisions of the Cable Communications Policy Act of 1984.

(D) Grantee shall maintain service capable of locating and correcting major outages promptly which shall be available at all hours to correct such major outages. Grantee shall maintain records of all major outages.

(E) Grantee shall not interrupt system service for planned maintenance and/or repair after 7:00 A.M. and before 1:00 A.M. except for good cause and for the shortest time possible. Service may be interrupted between 1:00 A.M. and 7:00 A.M. for all routine maintenance or repair.

### **5-1-16 Miscellaneous Provisions.**

(A) **Governing Law.** This Agreement shall be construed pursuant to the laws of the federal government, the State of Illinois and the City of Bunker Hill, Illinois.

(B) **Descriptive Headings.** Section headings are descriptive and used merely for the purpose of organization and where inconsistent with the text are to be disregarded.

(C) **No Inducement.** Grantee acknowledges that it has made no promise or inducement, oral or written, to any City employee, representative or advisor regarding the receipt or award of the franchise renewal granted hereunder. Grantee further acknowledges that it

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has not been induced to accept this franchise renewal by any promise, oral or written, made by or on behalf of the City or by any third person regarding any term or condition set forth in the original Ordinance of this Agreement.

(D) **Severability.** If any provision of this Agreement or any portion of any provision hereof is deemed invalid under any applicable ordinance or rule of law, such provision shall be, to the extent invalid, deemed omitted and all remaining provisions shall remain in full force and effect to the extent they fulfill the intent of this Agreement.

(E) **Landlord/Tenant Relations.**

(1) Neither the owner of any multiple unit residential dwelling, condominium, cooperative or townhouse, or his agent, representative or board shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of cable service to the dwelling unit occupied by a tenant or resident requesting service.

(2) Neither the owner of any multiple unit residential, dwelling, condominium, cooperative or townhouse, nor his agent, representative or board shall penalize, charge, or surcharge a tenant or resident, or forfeit or threaten to forfeit, any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable service from a Grantee operating under a valid and existing franchise issued by the City.

(3) Nothing in this Section shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(4) Nothing in this Section shall prohibit a person from requiring the Grantee to agree to indemnify the owner, or his agents or the installation, operation, maintenance or removal of cable television facilities.

### **5-1-17 Approval of Transfer and Rights of Acquisition.**

Approval of Transfer and Rights of Acquisition of the City. The Grantee shall not sell or transfer its systems to another, nor transfer any rights under the Ordinance of this Agreement to another, except upon written notice to the City not less than thirty (30) days before such transfer or sale and further provided, that no sale or transfer shall be effective until the vendee, assignee, or lessee has filed with the appropriate official of the City an instrument duly executed, reciting the fact of such sale, assignment or lease, accepting the terms of the Ordinance and this Agreement and agreeing to perform all conditions herein.