

ORDINANCE NO. 22
CABLE TELEVISION FRANCHISE ORDINANCE

SECTION 22-1. Incorporation of Provisions of State Law. [Amended 7-11-2022].

Any person who owns, leases, operates, controls, constructs or maintains a video service or cable television service shall comply at all times with the provisions herein when constructing, operating, or maintaining a video service or cable television service in the Village. The provisions of §§ 66.0420, 66.0421, 66.0422 and 100.209, Wis. Stats., and the rules promulgated by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Ch. ATCP 123, Wis. Adm. Code, and the Wisconsin Department of Financial Institutions under § DFI-CCS 20, Wis. Adm. Code are hereby incorporated as though fully set forth herein. The additional provisions of this chapter supplement those provisions of the state statutes and rules and constitute an expression of the Village's home rule authority.

SECTION 22-2. Police Powers. [Amended 7-11-2022].

Video service providers and cable operators are subject to the police power of the Village to adopt and enforce general ordinances necessary to the safety, health, and welfare of the public. The grant of a statewide video or cable franchise does not render or to any extent lose, waive, impair or lessen the lawful powers and rights, now or hereafter vested in the Village under the Constitution and statutes of the State of Wisconsin to regulate the use of streets and public ways or to regulate any matter affecting the safety, health and welfare of the public. The Village shall make the video service provider's and cable operator's history of compliance with such codes and ordinances available to the Department of Financial Institutions so that the Department may determine the provider's or operator's legal, financial, and technical qualifications to provide video services.

SECTION 22-3. Franchise Required. [Amended 7-11-2022].

No cable television system shall be allowed to occupy or use the Village of Friendship streets or rights-of-way, for system installation and maintenance purposes, or be allowed to operate without a franchise issued pursuant to Wis. Stat. 66.0420(3).

Section 22-4. Definitions. [Amended 7-11-2022].

- 1) Definitions. For the purpose of this Ordinance, terms, phrases, words and their derivations shall have the meaning given herein or the same meaning as those terms are defined in § 66.0420(2), Wis. Stats., which is incorporated by reference as though fully set forth herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meaning.
 - a. Street. The surface of and all rights-of-way and the space above and below any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the Village for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the Village which shall, within

their proper use and meaning, entitle the grantee to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a telecommunications system.

b. Village. The Village of Friendship, Adams County, Wisconsin.

SECTION 22-5. Design, Permits, Construction and Excavation. [Amended 7-11-2022].

Video service providers and cable operators shall comply with all applicable Village ordinances, including any zoning ordinance regarding height and use restrictions and shall pay any compensation required by the Village under § 66.0425, Wis. Stats., or, except as provided in a regulation under § 182.017(1r), Wis. Stats., any permit fee, encroachment fee, degradation fee or any other fee, for the occupation of or work within public rights-of-way. The Village may make the history of compliance with such codes and ordinances available to the Department of Financial Institutions so that the Department may determine the video service provider's or cable operator's legal, financial, and technical qualifications to provide video services.

SECTION 22-6. Compliance with Construction and Technical Standards. [Amended 7-11-2022].

The video service provider or cable operator shall construct, install, operate, and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, and FCC technical standards and specifically as follows:

- 1) Permit required for work. The video service provider or cable operator shall secure a permit from the Village for any improvements constructed in the public right-of-way in accordance with the Village Ordinance Chapter 6. All construction must conform to all Village policies and permit requirements. Pursuant to state law, permit applications to use any municipal right-of-way shall be deemed granted within 60 days if no action is taken by the Village, and the Village shall provide the reason for any denial to the video service provider or cable operator in writing.
- 2) Construction and maintenance practices. Construction, installation, and maintenance of the cable television system shall be performed in an orderly and workmanlike manner. All working facilities and conditions used during construction, installation and maintenance of the cable television system shall comply with the standards of the Occupational Safety and Health Administration.
- 3) Construction standards. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel, and bundled with due respect for engineering considerations.
- 4) Road cuts. The video service provider or cable operator shall not use road cuts, trenchless or subsurface methods for laying of cables or wires without the prior written approval of the Village Board. Said written approval shall be in the form of a permit issued by the Village as referenced in Subsection 1, above.
- 5) Compliance with applicable codes. The video service provider or cable operator shall at all times comply with the applicable:
 - a. National Electrical Safety Code (National Bureau of Standards);

- b. National Electrical Code (National Bureau of Underwriters);
 - c. Applicable FCC or other federal, state, and local regulations.
 - d. Antennas. Any antenna structure used in the cable television system or video service infrastructure shall comply with construction, marking, and lighting of antenna structures, required by the United States Department of Transportation.
- 6) Restoration to prior condition. In case of any disturbance of pavement, sidewalk, landscaping, driveway or other surfacing, the video service provider or cable operator shall, at its own cost and expense and in a manner approved by the Director of Public Works, replace and restore all paving, sidewalk, driveway, landscaping, and streets or alleys, including any subbase which was disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the Director of Public Works. The video service provider or cable operator must provide erosion control, backfilling and compaction, and restoration to meet Village specifications. After 30 days, if restoration measures are not performed to the reasonable satisfaction of the Director of Public Works, the Village may undertake remedial restoration activities, such activities to be performed at the video service provider's or cable operator's cost.

SECTION 22-7. Facilities in Rights of Way. [Amended 7-11-2022].

- 1) No interference with persons or improvements. The video service provider's or cable operator's system, poles, wires, and appurtenances shall be located, erected, and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable public convenience, health, safety, or welfare of property owners who adjoin any of the streets and public ways, or interfere with any improvements the Village may make, or hinder or obstruct the free use of the streets, alleys, bridges, easements or public property.
- 2) Location of cables in easement. In all areas of the Village where all cables, wires, and other like facilities of public utilities are placed underground, the video service provider or cable operator shall place its cables, wires and other like facilities underground. When all public utilities relocate their facilities from pole to underground, the video service provider or cable operator must concurrently do so.
- 3) Location and installation of poles. Erection and removal of poles shall be in accordance with the following:
 - a. Written Village Board approval required. No poles, other wire-holding structures or utility cabinets shall be erected by the video service provider or cable operator without prior written approval of the Village with regard to location, height, types, operation and any other pertinent aspect.
 - b. No interference with other utility facilities. No poles, other wire-holding structures or utility fixtures shall be erected by the video service provider or cable operator that interferes with any gas, electric, telephone, water hydrant, water main or other fixture.
 - c. Specific siting of poles and fixtures. All such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curb line, and those placed in alleys shall be placed close to the line of the lot abutting on such

alley in such a manner as not to interfere with the usual travel on the streets and public ways.

- d. Removal of poles. No location of any pole or wire-holding structure of the video service provider or cable operator shall be a vested interest, and such poles or structures shall be removed or modified by the video service provider or cable operator at its own expense whenever the Village determines that the public health, safety or welfare would be enhanced thereby.

4) Common use of poles.

- a. Use by other providers. Each video service provider or cable operator shall use existing poles whenever possible, providing mutually satisfactory agreements can be entered into, and shall not construct or install any new, different, or additional poles in the streets until the video service provider or cable operator obtains the Village Board's written approval.
- b. Use by the Village of Friendship.
 - i. The Village may require a video service provider or cable operator to permit Village use of the poles or other wire-holding structures of the video service provider or cable operator at a charge equal to the video service providers' or cable operators' costs with respect to the space occupied by the Village, where the Village's use:
 - 1. Is required by the public convenience and necessity;
 - 2. Will not result in irreparable injury to the video service provider, cable operator or any user of the poles or other wire-holding structures; and
 - 3. Will not result in substantial detriment to the services to be rendered by the video service provider, cable operator or any user of the poles or other wire-holding structures.
 - c. The Village of Friendship shall indemnify and hold harmless the video service provider or cable operator from any claim that might arise due to or as a result of the Village's use.

- 5) Relocation of facilities. If at any time during the period of the franchise the Village shall lawfully elect to alter, or change the grade of any street, alley or other public ways or alter or change the location or width of any street and/or any municipal underground facilities, the video service provider or cable operator, upon reasonable notice by the Village of Friendship, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

- 6) Tree trimming. Any removal or trimming of any portion of any tree within any street by the video service provider or cable operator shall only be in conformance with Village Ordinance 6, Section 6-7. The video service provider or cable operator shall provide notice to any affected residents at the same time that the video service provider or cable operator applies to the Village Director of Public Works for consent to perform tree trimming. The Village shall have the right to do the trimming requested by the video service provider or cable operator at the cost of the video service provider or cable operator. Regardless of who performs the work requested by the video service provider or cable operator, the video service provider or cable operator shall be responsible, shall

defend and hold the Village harmless from any and all damages to any tree as a result of the video service provider's or cable operator's trimming, or to the property surrounding any tree, whether such tree is trimmed or removed.

- 7) One-call system. The video service provider or cable operator or its designee shall contact the one-call system, in accordance with § 182.0175, Wis. Stats., before commencing any construction. The video service provider or cable operator acknowledges that private sanitary sewer, water and stormwater laterals are not part of the one-call system and will take necessary measures to have these located by the owner. The video service provider or cable operator shall be responsible for all damaged laterals and shall repair the laterals at its own expense.
- 8) Violation of these provisions. If any construction, installation or occupancy of video service provider or cable operator property in a street is in violation of the provisions of this section or any other Village ordinance, the video service provider or cable operator, upon reasonable notice by the Village of Friendship, shall remove and relocate its property in such a manner as to remedy such violation, at the video service provider's or cable operator's own expense.

SECTION 22-8. Fees. [Amended 7-11-2022].

- 1) Video service provider fee. Pursuant to the authority granted in Wis. Stat. 66.0420(7)(b)1, Video service providers and cable operators shall pay a video service provider fee to the Village of Friendship in an amount equal to 3% of the provider's gross receipts as that term is defined in Wis. Stat. 66.0420(2)(j).
- 2) Supporting documentation. Payment of the fees set forth in Subsection 1 above shall be accompanied by documentation verified by an agent or officer with the authority to legally bind the provider that is sufficient for the Village Clerk/Treasurer to verify the accuracy of the fees being paid by the provider.

SECTION 22-9. Public, Educational and Government Access (PEG) Channels. [Amended 7-11-2022].

- 1) PEG Channel Requirements. Pursuant to the authority granted in § 66.0420(5), Wis. Stats., a video service provider that provides video service in the Village of Friendship shall provide channel capacity for one public, educational or governmental (PEG) channel. The Village shall ensure that the requirements of § 66.0420(5)(c)3 are satisfied.
- 2) Procedure. Upon service of a copy of an application for a video service franchise that has been submitted to the Wisconsin Department of Financial Institutions pursuant to § 66.0420(3)(d), Wis. Stats., the Village Clerk/Treasurer shall, within 10 days, notify the applicant of the fee and the PEG channel requirements imposed in this chapter.

SECTION 22-10. Customer Service Standards. [Amended 7-11-2022].

Pursuant to § 66.0420(9), Wis. Stats., a video service provider shall comply with the customer service standards specified in 47 CFR 76.309(c) in its provision of video service.

SECTION 22-11. Nonenforcement by Village. [Amended 7-11-2022].

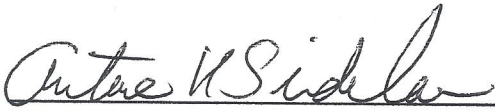
The provider shall not be relieved of any obligation by reason of any failure of the Village of Friendship to enforce prompt compliance with any provision of this chapter, the Wisconsin statutes, federal law, or any rules or regulations.

SECTION 22-12. Penalties. [Amended 7-11-2022].

Any person who shall violate any provision of this chapter shall, upon conviction thereof, forfeit not less than \$1.00 and not more than \$200.00, together with the costs of prosecution, provided no person shall forfeit an amount in excess of the maximum fine or forfeiture allowed in the Wisconsin Statutes for the same offense, where applicable. Where applicable in this Chapter, a separate offence shall be deemed committed during each day or part thereof during which a violation occurs or continues.

SECTION 22-13. Effective Date. This ordinance shall take effect and be in force from and after its passage and publication.

Adopted by the Village Board this 11th day of July, 2022.



Antone Sindelar, Village President

ATTEST:



Linda Hogan, Village Clerk/Treasurer

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