

Waltonville Village Code

CHAPTER 8

CABLE TELEVISION

8-1-1 TITLE. This Agreement shall be known and may be cited as the "Community Antenna Television Agreement".

8-1-2 DEFINITIONS. For the purpose of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not consistent 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 shall include the plural number. The word "shall" is always mandatory and not merely directory.

"Cable Service" means the transmission of telecommunications signals including the retransmissions of broadcast and satellite received signals, and the origination of the programming by the Grantee.

"Grantor" is the _____.

"Council" is the _____.

"Grantee" is MW1 Cablesystems, Inc., a Delaware Corporation.

"Cable Television System" or "Cable System" or "System", for purposes of this Agreement, is a system utilizing certain electronic and other components which deliver to subscribing members of the public various communications services.

"Cable Television Reception Service" means the delivery by the Grantee to television receivers (or any other suitable type of electronic signals) and other communications services carried over said system.

"FCC" shall mean the Federal Communications Commission.

"Person" is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

"Subscriber" means those persons contracting to receive cable television reception services furnished under this Agreement by Grantee.

8-1-3 GRANT OF NON-EXCLUSIVE AUTHORITY.

(A) There is hereby granted by the Grantor to the Grantee, and to its successors, assigns or designees, the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public places, and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other fixtures and equipment necessary for the maintenance and operations of a cable television system, for the purpose of transmission and distribution of audio, visual, electronic and electric impulses in order to furnish television and radio programs and various other communications services by what is commonly called a Community Antenna Television System, for a period of **twenty (20) years**, commencing from and after the effective date of this Agreement.

(B) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive.

8-1-4 COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

The Grantee shall, at all times during the life of this regulatory ordinance be subject to all lawful exercise of the police power by the Grantor and to such reasonable regulation as the Grantor shall hereafter by resolution or ordinance provide. The construction, operation, and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and in regulations of the Federal Communications Commission, the Grantor or any other agency of the State or the United States which may hereafter acquire jurisdiction of the operations of the company authorized in this Code.

8-1-5 COMPLIANCE – NATIONAL ELECTRICAL SAFETY CODE. All facilities and equipment of the Grantee shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code and regulations of the Grantor affecting electrical installation, which may be presently in effect, or change by future ordinances.

8-1-6 COMPLIANCE – FCC RULES AND REGULATIONS. The Grantee shall, at all times, comply with the rules and regulations of the FCC governing CATV operations.

8-1-7 MODIFICATION OF FCC RULES. Consistent with the requirements of Rule 76.31(a)(6) of the FCC, any modification of Rule 76.31 resulting in

amendment thereto by the FCC, shall automatically be incorporated in this Code by specific amendments thereto and by lawful action of the Grantor, within **one (1) year** from the effective date of the FCC's amendment.

8-1-8 TERRITORIAL AREA INVOLVED. This Agreement relates to the present territorial limits of the Grantor and to any area that may be added thereto during the term of this Agreement. Grantee may, but shall not be required to serve areas or individual homes adjoining, but outside the Grantor's limits, that may be served from its existing facilities. Grantee may negotiate directly with such customers the amount to be charged for the bringing of the service to the customer.

8-1-9 LIABILITY AND INDEMNIFICATION. Grantee shall, at all times, keep in effect the following types of insurance coverage:

(A) Grantee shall carry Workmen's Compensation Insurance with statutory limits, and Employers' Liability Insurance with limits of not less than **One Hundred Thousand Dollars (\$100,000.00)**, which shall cover all operations to be performed by Grantee as a result of this Code.

(B) The amounts of insurance to be carried for liability due to property damage shall be **One Hundred Thousand Dollars (\$100,000.00)** as to any one occurrence and against liability due to injury or death of persons, **One Hundred Thousand Dollars (\$100,000.00)** as to any **one (1) person** and **Five Hundred Thousand Dollars (\$500,000.00)** as to any one occurrence.

(C) Grantee's Workmen's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the State. Grantee agrees to furnish Grantor with certificates of insurance of said policies.

Grantee shall indemnify, protect, and save harmless the Grantor from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Worker's Compensation law which may arise out of the erection, maintenance, presence, use or removal of said attachments or poles, or by any act of Grantee, its agent or employees. Grantee shall carry insurance in the above described claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Grantee shall also carry such insurance as it deems necessary to protect it from all claims under the Worker's Compensation law as in effect that may be applicable to Grantee.

All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. Insurance certificates evidencing such insurance shall be deposited with and kept on file by the Grantor.

These damages or penalties shall include, but shall not be limited to, damages arising out of copyright, infringements, and all other damages arising out of the installation, operation or maintenance of Cable Television System authorized herein, whether or not any act of omission complained of is authorized, allowed or prohibited by this Agreement.

8-1-10 GENERAL SYSTEM SPECIFICATIONS.

(A) The facilities used by the Grantee shall have a minimum capacity of **forty-two (42) channels.**

(B) The Grantee shall provide, upon construction of the cable system, an "as built" construction drawing.

8-1-11 TECHNICAL STANDARD. Grantee shall at all times be governed by technical standards as may be established by the FCC.

8-1-12 OPERATION AND MAINTENANCE OF SYSTEM. During the term of this Agreement, a toll-free telephone number shall be provided by the Grantee to receive complaints regarding quality of service, equipment malfunctions, and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, Monday through Friday.

(A) The Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible.

(B) All non-emergency service requests and complaints shall be responded to within **five (5) days** of receipt.

(C) All emergencies and/or system outages will be responded to within **twenty-four (24) hours.**

(D) The Grantee shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address, and toll-free telephone number of the company.

(E) The equipment installed by the Grantee in the subscriber's home shall remain the property of the Grantee and shall be subject to reasonable inspection and service by the Grantee at reasonable hours, and removal upon non-payment or termination of the service.

8-1-13 RATES AND CHARGES.

(A) Except as otherwise provided the Company shall have the right, privilege and authority to charge the rates and charges fixed in this Section to its subscribers for its services.

(B) At system turn on, single-user rates and charges may be as follows:

Installation – not to exceed \$50.00 per standard installation.

Super Basic Service Charge – Initial Outlet – Not to exceed \$24.95 monthly

Super Basic Service Charge – Additional Outlets Each – Not to exceed \$3.00 monthly

8-1-14 EMERGENCY USE OF FACILITIES. In the case of any emergency or disaster, the Grantee shall upon request of the Grantor, make available its facilities for emergency use during the emergency or disaster. If the Grantor wishes to operate a Civil Emergency Alert System on a plan that is mutually acceptable to the Grantor and Grantee and provides Grantee with the necessary equipment for such a system, Grantee will allow the system to be used on the cable system.

8-1-15 SAFETY REQUIREMENTS. The Grantee shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

8-1-16 LIMITATIONS ON RIGHTS GRANTED.

(A) All transmission and distribution structures, lines and equipment erected by the Grantee shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places and said poles and towers shall be removed by Grantee whenever the Grantor reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places.

(B) The Grantee shall have the authority to trim trees upon the overhanging streets, alleys, sidewalks and public ways and places so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. The work will be done with good forestry practices.

(C) The Grantee shall, in the case of disturbance of any street, sidewalk, alley, public way or paved area at the Grantee's expense, restore same to its original condition.

8-1-17 GRANTOR RIGHTS.

(A) **Grantor Rules.** The right is reserved by the Grantor to adopt, in addition to the provisions contained in this Agreement, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this Agreement, and shall not be in conflict with the applicable laws of the State or the United States, or any FCC regulations.

(B) **Liability.** The Grantor shall not be liable for any damage occurring to the property of the Grantee caused by employees of the Grantor in performance of their duties. The Grantor shall not be liable for the interruption of service by actions of Grantor employees in the performance of their duties, nor shall the Grantor be held

liable for the failure of the Grantee to be able to perform normal services due to other factors beyond the control of the Grantor.

(C) **No Property Right.** Nothing in this Agreement shall grant to the Grantee any right of property in the Grantor owned property.

(D) **Construction Approved by the Grantor.** The Grantor shall have the right to inspect the construction, operation and maintenance of the cable television system by the Grantee.

(E) **Correction of Defects.** In the event the Grantee should violate any of the terms of this regulatory agreement, the Grantor shall immediately give to the Grantee, **sixty (60) days** written notice to correct such violation and in the event the Grantee does not make such correction within **sixty (60) days** from the receipt of such written notice, the Grantor may make such correction itself and charge the cost of same to the Grantee, and the Grantee shall pay such charges.

8-1-18 OWNERSHIP AND REMOVAL OF FACILITIES. All cable and passive equipment for cable television reception service installed by Grantee at a subscribers location shall remain in the property of Grantee and Grantee shall have the right to remove said cable and equipment. Upon termination of its above ground facilities, said equipment may be removed from the premises of said subscriber upon his/her request.

8-1-19 CONSTRUCTION SCHEDULE. The Grantee shall start engineering and construction within **three (3) months** of the acceptance of this Agreement and shall finish construction within **six (6) months** of all necessary approvals, including but not limited to all Utility, State and Federal approvals.

8-1-20 GRANTOR SERVICE. The Grantee shall provide, upon request and without charge, service, excluding SHOWTIME, to any municipal buildings owned and operated by the Grantor and to any public elementary or secondary school if located in the town where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

8-1-21. TRANSFER OF AGREEMENT. Upon construction of said cable system, the Grantee may assign this Agreement to another person or corporation, but only after written notice has been given to the Grantor.

8-1-22 DURATION AND RENEWAL OF AGREEMENT. The rights granted to Grantee herein shall, except as provided in this Section, terminate **twenty**

(20) years from the effective date of this Agreement which Agreement shall be subject to renewal pursuant to the provisions of the Cable Communications Policy Act of 1984, Section 626, applicable to new ordinances that are in the nature of a franchise. Pending final completion of renewal proceedings, the Agreement shall remain in effect even if the original **twenty (20) year** term has expired. If this Agreement is not renewed or if it is revoked for cause by Grantor, the transfer of Grantee's system shall be governed by Section 627 of the Cable Communications Policy Act of 1984.

8-1-23 MODIFICATIONS OF OBLIGATIONS. In addition to any other remedies provided by law or regulations, Grantee's obligations under this Agreement may be modified, at its request, in accordance with Section 625 of the Cable Communications Policy Act of 1984 as it now exists, or as hereafter amended.

8-1-24 SEVERABILITY. If any section, subsection, sentence, clause, phrase or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction or is superseded or preempted by FCC regulations, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

8-1-25 ACCEPTANCE. This Agreement is subject to acceptance by MW1 Cablesystems, Inc.

8-1-26 FRANCHISE RENEWAL. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

8-1-27 MISCELLANEOUS. During the processing of this Agreement, any legal expenses incurred by either party shall remain the obligation of the respective party that incurred them. However, should the Grantee not construct the cable system within **six (6) months** after obtaining all necessary approvals, the Grantee will reimburse the Grantor for reasonable expenses.

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