

## Chapter 196

### CABLE TELEVISION

**[HISTORY: Adopted by the Village Board of the Village of Spring Green as Ch. 21 of the Village Code. Amendments noted where applicable.]**

#### **§ 196-1. Short title.**

This chapter shall be known and may be cited as the "Cable Television Franchise Ordinance."

#### **§ 196-2. Grant of franchise.**

This chapter allows the Village of Spring Green to grant a franchise grantee, its successors and assigns a nonexclusive license to install, maintain and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted over a fiber-optic and/or coaxial cable network and closed-circuit television programs for a term not to exceed 15 years, provided that the franchise grantee conforms to the conditions, limitations and requirements of this chapter. This chapter may be amended from time to time by the Village through the enactment of amendments thereto.

#### **§ 196-3. Definitions and word usage.**

For the purpose of this chapter, the following terms, phrases, words and their derivations shall have the meaning given 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.

**CABLE** — Coaxial and/or fiber-optic cables, wave guides or other conductors and equipment for providing television or other services by cable through its facilities as herein contemplated, and including closed-circuit special event programs and educational television.

**FRANCHISE** — A license to install, maintain and operate a cable television system for the distribution of television signals, frequency-modulated radio signals and any other electronic signals.

**FRANCHISE AREA** — The existing corporate limits of the Village of Spring Green.

**GRANTEE** — A person or entity to whom or to which a franchise under this chapter is granted by the Village, along with the lawful successors or assigns of such person or entity.

**GROSS REVENUES** — Any revenue derived directly or indirectly by a grantee, its affiliates, subsidiaries, parents and any persons or entities in which a grantee has a financial interest of 5% or more from or in connection with the provision of cable television service for the Village of Spring Green cable system, including but not limited to basic or extended basic subscriber service monthly fees, pay cable fees, and installation and reconnection fees. The term does not include any taxes on services furnished by a grantee and imposed directly upon any subscriber or

used by the Village, state or other governmental unit and collected by a grantee on behalf of said governmental unit.

**NORMAL BUSINESS HOURS** — Those hours during which the Village office is open to serve citizens (9:00 a.m. to 5:00 p.m. Monday through Friday).

**NORMAL OPERATING CONDITIONS** — Those conditions affecting service within the control of the grantee. Those conditions presumed to be outside normal operating conditions include natural disasters, human-caused disasters and civil disturbances, power or telephone outages, and severe or unusual weather conditions where such condition limits the grantee's ability to provide service. Those conditions presumed to be within normal operating conditions include special promotions, pay-per-view events, rate increases, regular peak and seasonal demand periods and maintenance, rebuild or upgrade of the cable system.

**STREET** — The surface of and space above and below any public street, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the Village.

**SUBSCRIBER** — Any person or entity legally receiving for any purpose the services of a grantee herein.

**VILLAGE** — The Village of Spring Green, County of Sauk, State of Wisconsin, in its present incorporated form or in any later recognized, consolidated, enlarged or reincorporated form.

**VILLAGE BOARD** — The present governing body of the Village or any future body constituting the legislative body of the Village.

**§ 196-4. Renewal.**

- A. To the extent applicable, federal law shall govern the procedures and standards for renewal of any franchise awarded pursuant to this chapter.
- B. To the extent federal law is not applicable, the Village shall, in its sole judgment and discretion, have the right to grant or deny renewal, provided that, at a minimum, the grantee provides written notice of its intent to seek renewal at least 30 months but no more than 36 months prior to the expiration of the applicable franchise term.

**§ 196-5. Termination or expiration.**

- A. A franchise granted under this chapter may be terminated by the Village for just cause, which may include, but not be limited to, a material breach of the provisions of this chapter or a franchise agreement issued under this chapter or other violation of local, state or federal law. The Village shall not terminate a franchise without notice to the grantee, reasonable opportunity to cure (not to exceed 90 days), and a public proceeding offering the grantee and other interested parties the opportunity to comment.
- B. Should a grantee's franchise be terminated or expire and there is no judicial or administrative review of the termination or expiration taking place, the grantee shall, at the grantee's sole expense, begin removal, within 90 days of termination or expiration, of any or all property owned by the grantee and placed on a public right-of-way, unless permitted by the Village to abandon said property to the Village or to a purchaser.

**§ 196-6. Transfer procedure.**

All of the rights and privileges and all the obligations, duties and liabilities created by this chapter shall pass to and be binding upon the successors of the Village and the successors and assigns of the grantee. The franchise shall not be assigned or transferred by the grantee without written approval of the Village hereunder, which approval shall not be unreasonably withheld without a showing of good cause; provided, however, that this section shall not prevent the assignment or pledge of a franchise or system by a grantee as security for debt without such approval, and provided further that transfers or assignments of a franchise between any parent and subsidiary corporation or between entities of which at least 51% of the beneficial ownership is held by the grantee or any parent corporation shall be permitted without the prior approval of the Village. The sale, transfer or assignment of a material portion of the tangible assets of a grantee to an unrelated third party shall be considered an assignment subject to the provisions of this section.

- A. The parties to the sale or transfer of a franchise shall make a written request to the Village for its approval of a sale or transfer of the franchise.
- B. The Village shall reply in writing within 30 days of the request with a written notification of any information it needs to evaluate the request, unless both parties agree that more time may be granted. Within 30 days of such information being provided, the Village shall indicate approval of the request or its determination that a public hearing is necessary.
- C. If a public hearing is deemed necessary, the Village shall conduct such hearing within 30 days of such determination. Notice of any such hearing shall be given at least 14 days prior to the hearing by publishing notice thereof once in a newspaper of general circulation in the areas being served by the franchise. The notice shall contain the date, time and place of hearing and shall briefly state the substance of the action to be considered by the Village.
- D. Within 60 days after the public hearing, the Village shall approve or deny the sale or transfer request and notify the grantee in writing of its decision.
- E. The parties to the sale or transfer of a franchise only, without the inclusion of a cable communication system in which at least substantial construction has commenced, shall establish to the Village of Spring Green that the sale or transfer of a franchise only will be in the public interest.
- F. The new holder of a sold or transferred franchise shall, within 30 days of the sale or transfer, file with the Village a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by the grantee. The new holder shall within the same period file with the Village any and all required bonds, proofs of insurance and certifications and accept in writing all responsibilities relating the cable franchise and system.

**§ 196-7. Franchise territory.**

The franchise territory shall be the corporate limits of the Village of Spring Green.

- A. The grantee shall extend cable service therein to new subdivisions or other land divisions within the Village of Spring Green when either of the two following criteria is met:

- (1) When there exists a density of at least 20 homes per plant mile or portion thereof measured from the nearest existing plant from which service can be reasonably provided; or
  - (2) When the subdivision or other land division is within 300 feet of an existing cable plant and the grantee has a reasonable opportunity to install cable facilities at the time other utilities such as electric and telephone are installed. In this context, the grantee shall be deemed to have reasonable opportunity when given sufficient notice to acquire the necessary materials for the installation and when the grantee is not unfairly discriminated against by the developer and/or other utility companies involved with respect to cost sharing on the project.
- B. For residents requesting service which does not meet the criteria set forth in Subsection A(1) and (2) above the grantee shall reasonably cooperate with such residents in reaching a cost-sharing agreement providing that the grantee pay the cost of the first 300 feet and 60% of the cost of the extension beyond 300 feet, up to a maximum of 600 feet, and the resident pay 40% of the cost. Beyond 600 feet the resident shall pay the actual cost of extending the grantee's plant.

**§ 196-8. Subscriber privacy.**

- A. No monitoring of any authorized terminal connected to the system shall take place without specific written authorization by the user of the terminal in question on each occasion and written notice to the Village, except as may be required for normal maintenance of the system.
- B. A grantee shall not, except as required by governmental action, provide any data concerning specific subscribers or users or their use of subscriber services without first securing written authorization from the subscribers or users as required in the Cable Communications Policy Act of 1984.
- C. Subscribers and users shall retain the right to deactivate their terminals but shall continue to be responsible for charges until the grantee is notified to terminate service.

**§ 196-9. Technical performance.**

The cable system shall be operated to comply with or exceed all guidelines and standards set by the FCC for signal quality and leakage. The Village reserves the right to test the system or any part thereof and independently measure the signal quality. The grantee shall provide reasonable access to its facilities and any assistance necessary for such testing. The system shall comply at all times with the applicable National Electrical Code of the National Fire Protection Association.

**§ 196-10. Open books and records.**

A grantee shall manage all of its operations in accordance with the policy of totally open books and records vis-a-vis the Village. The authorized officers or agents of the Village shall have the right to inspect, upon notice, during normal business hours, all books, records, maps, plans, financial statements, service complaints logs, performance test results, records of request for

service and other like materials of the grantee that relate to the operation of the franchise.

**§ 196-11. Subscriber service.**

- A. A grantee shall be required to provide a location convenient to the Village open during normal business hours to receive customer payments.
- B. A grantee shall provide access to a local or toll-free number for programming questions and service requests. The number shall be either staffed or provided with answering capabilities 24 hours a day.

**§ 196-12. Description of system.**

- A. A Village of Spring Green cable system shall be at least 750 MHz in bandwidth when newly built, rebuilt or significantly upgraded.
- B. A grantee shall, upon request of the Village, provide a complete written description and map of the cable system in the Village of Spring Green. Such map and written description may include computer linkage to the existing Village mapping system and shall be upgraded as changes are made.

**§ 196-13. Rates.**

- A. Rates which are charged by a grantee for service hereunder shall be fair and reasonable. Before any service is sold to any customer, the grantee shall file with the Village Clerk-Treasurer its schedule of rates for installation, monthly service charges and any other charges related to the operation of the cable system, together with a statement of the rights and obligations of subscribers.
- B. Subsequent additions or amendments to rates and service charges shall likewise be filed with the Village Clerk-Treasurer at least 30 days before the same become effective.
- C. The Village reserves the option to regulate rates for cable service, should such power be allowed under federal and state law.

**§ 196-14. Conditions on street occupancy.**

- A. Use. All transmission and distribution structures, lines and equipment erected by a grantee within the Village shall be located so as not to cause interference with the use of streets, alleys and other public ways and places and not to cause interference with the rights of or reasonable convenience of property owners who adjoin any of the streets, alleys or other public ways and places.
- B. Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the grantee shall first give notice to the Village Clerk-Treasurer of any contemplated disturbances of pavement, sidewalk, driveway or other surfacing and shall, at its own cost and expense and in a manner approved by the Village Board, replace and restore all pavement, sidewalk, driveway or other surface of any street or alley disturbed in as good condition as before such work commenced. The grantee shall otherwise comply with the

Village ordinances relating to street openings.<sup>1</sup>

- C. Relocation. If, at any time during a franchise, the Village shall elect to alter or change the location or grade of any street, alley or other public way, the grantee shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. The Village shall notify the grantee of potential Village changes affecting the grantee's facilities as soon as plans allow and give the grantee at least 30 days' advance notification for nonemergency relocations. If any construction by the grantee is in violation of the provisions of relevant Village ordinances, the grantee will likewise, upon reasonable notice by the Village, remove, relay and relocate its property in such a manner as to remedy such violation at its own expense.
- D. Placement of fixtures. The grantee shall not place poles or other fixtures where the same will interfere with any gas, electric, telephone or sewer line or other fixture, water hydrant or main. All such poles or other fixtures placed in any street shall be placed between the outer edge of sidewalk and the curblin where such boundaries exist, 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, alleys and public ways. However, nothing in this chapter shall prohibit the use by the grantee of existing public utility poles where practical, providing mutually satisfactory rental agreements can be entered into with the grantee.
- E. Underground service. The grantee shall install underground service in areas where electric and phone services are underground. Unless a greater depth is required, the minimum depth for underground cable service at the time of initial installation shall be 12 inches.
- F. Temporary removal of wire for building moving. A grantee shall, on the request of any person holding a building moving permit issued by the Village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary raising or lowering of the wires shall be paid by the person requesting the same, and the grantee may require such payment in advance. The grantee shall be given notification at the time a building moving permit is issued by the Village, in no case receiving less than five working days' advance notice, to arrange for such temporary wire changes.
- G. Tree trimming. The grantee, to the same extent that the Village has such authority, may trim trees that overhang streets, alleys, sidewalks and public places of the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee. The grantee must apply to the electric utility and/or Village Board or its designee for a permit before trimming trees.

**§ 196-15. Indemnification and insurance.**

- A. Indemnification. The grantee shall defend and save the Village, Village Board, Village officers and its agents and employees harmless for all claims, damages, losses, and expenses, including attorney fees, sustained by the Village on account of any suit, judgment, execution, claim or demand whatsoever arising out of:

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1. Editor's Note: See Ch. 342, Streets and Sidewalks, § 342-7.

- (1) The enactment of this chapter and granting of a franchise thereunder.
  - (2) The installation, operation or maintenance of the cable system, except for acts of the Village, its agents or employees, unless said acts are at the request of the grantee.
- B. Notification and filing. The grantee shall furnish to the Village, before any franchise becomes effective, satisfactory evidence in writing that the grantee has in force and will maintain in force during the term of the franchise public liability insurance. The Village shall notify the grantee within 10 days after the presentation of any claim or demand, either by suit or otherwise, made against the Village on the part of the grantee.
- C. Liability insurance.
- (1) A grantee shall maintain throughout the term of the permit a general comprehensive liability insurance policy naming as additional insured the Village, Village Board, its officers, commissions, agents and employees, in a company approved by the Village and in a form satisfactory to the Village Attorney. The policy shall protect the Village and its agencies and employees against liability for loss or damage for personal injury, death or property damage occasioned by the operations of the grantee under any franchise granted hereunder, in the amounts of \$1,000,000 for bodily injury or death to any person, with the limit however of \$2,000,000 for bodily injury or death resulting from any one accident and \$1,000,000 for property damage resulting from any one accident. The Village shall be named as an additional insured under such insurance and a copy of the current in-force policy shall be deposited with the Village Clerk-Treasurer.
  - (2) On every third-year anniversary of the granting of a cable franchise, the Village shall have the power to reasonably increase the amount of liability insurance required, and the grantee shall have 60 days after notification to file proof of such increased coverage.

**§ 196-16. Bond; violations and penalties.**

- A. Bond. During the construction or substantial rebuild of a cable system, the grantee shall file with the Village a performance bond in the amount of \$50,000. The bond shall be released when the grantee certifies to the Village that the construction or substantial rebuild is complete and the Village accepts such certification as proven.
- B. Failure to comply. Any violation by a grantee, its vendor, lessee or successor of the provisions of a franchise or any material portion or portions thereof or the failure promptly to perform any of the provisions thereof shall, after 30 days' written notice and opportunity to cure is given to the grantee, cause the grantee to be fined up to \$100 a day commencing after said thirty-day notice period from the security fund until proper correction is made. The Village also reserves the right to terminate the franchise and cancel all rights hereunder. A grantee is not responsible for failure to provide adequate service when that failure is caused by acts of God, strikes, governmental or military action, or other conditions beyond its control, including the unavailability of material or parts.

**§ 196-17. Agreement for use of streets; waiver of franchise fee.**

The Village hereby agrees to the use of the streets and other facilities of the incorporated area of the Village for the operation of the cable communications system, and in lieu of any franchise fee the grantee shall provide one connection of free cable television and one free high-speed cable modem to the following locations: public and private nonprofit schools; the public library; all Village buildings within 150 feet of the grantee distribution lines; the office of the Police Chief; and the Chamber of Commerce.

**§ 196-18. Additional regulations; use of poles for alarm system; inspections.**

- A. The Village hereby reserves the right to adopt, in addition to the provisions contained in this chapter and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of its police powers. Such regulations, by ordinance or otherwise, shall be reasonable and not be in substantial conflict with the rights granted in this chapter and not be in conflict with the laws of the state.
- B. The Village may, during the term of a franchise, free of charge where aerial construction exists, maintain upon the poles of the grantee within the Village limits wire and pole fixtures necessary for a police and fire alarm system, such wires and fixtures to be constructed and maintained to the satisfaction of the grantee and in accordance with its specifications.
- C. The Village may inspect all construction or installation work during such construction or installation, or at any time after completion thereof, in order to ensure compliance with the provisions of this chapter and all other governing ordinances.

**§ 196-19. Waiver of charges.**

- A. During a franchise, a grantee shall provide one free outlet and allow distribution within that building in accordance with FCC rules for basic and expanded basic cable service to each municipally owned or leased building passed by the cable system and used substantially for municipal purposes, as well as to any and all schools, whether private or public, within the franchise territory.
- B. The grantee shall be required to provide one dedicated, noncommercial access channel, including wiring and insertion equipment needed to connect to the cable system, but not equipment needed to allow the generation or playback of programming.
- C. Upon 270 days' notice by the Village, the grantee shall, at the option of the Village, be required to add an additional access channel, including wiring and insertion equipment needed to connect to the cable system, at a location chosen by the Village, passed by the cable system and within the franchise territory.
- D. The Village shall have sole authority to administer the community access channels unless it chooses to delegate such authority. A grantee shall not be responsible for the equipment or operating costs for community access channels, except as provided for in a franchise agreement.

**§ 196-20. Severability.**

Should any word, phrase, clause, sentence, paragraph or portion of this chapter and or a franchise



thereunder be declared to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of this chapter and/or the franchise as a whole but shall only affect the portion thereof declared to be invalid, and the Village hereby expressly states and declares that it would nonetheless have passed this chapter and/or granted the franchise had it known that any such word, phrase, clause, sentence, paragraph or portion in said chapter and/or franchise was invalid.

**§ 196-21. Acceptance by grantee.**

A franchise granted under this chapter shall be effective upon written acceptance of the franchise being filed with the Clerk-Treasurer of the Village. The filing must take place with 30 days of the granting of the franchise being made by the Village.

**§ 196-22. Incorporation of amendments.**

This chapter and a franchise granted hereunder may be amended to incorporate amendments to the statutes, rules and regulations of the federal government as they are promulgated by the federal government. Any provisions therein in conflict with or preempted by said rules, regulations or statutes shall be suspended.

**§ 196-23. Protection of nonsubscribers.**

A grantee shall at all time keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the grantee's service.

**§ 196-24. Grantee rules.**

A grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the grantee to exercise its rights and perform its obligations under the franchise and to assure uninterrupted service to all its subscribers. However, such rules, regulations, terms and conditions shall not be in conflict with the provisions of this chapter or the laws of the state or federal government.

**§ 196-25. Waiver of objection.**

By the adoption of this chapter, the Village expressly waives all objections it has or may have to the legal rights of the grantee to attach its cables, equipment and transmission lines to the poles of the Village, pursuant to an agreement.

**§ 196-26. Grantee without recourse.**

- A. A grantee shall have no recourse whatsoever against the Village for any loss, cost or expense, or damage arising out of any provisions or requirements of a franchise or because of the enforcement thereof by the Village or for the failure of the Village to have authority to grant all or any part of the franchise.
- B. The grantee expressly acknowledges that in accepting a franchise it does so relying on its own investigation and understanding of the power and authority of the Village to grant the

franchise.

- C. By accepting a franchise, a grantee acknowledges that it has not been induced to enter into the franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the Village or by any other third person concerning any term or condition of the franchise not expressed herein. The grantee further acknowledges by acceptance of the franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all the risks of the meeting of such terms and conditions.

**§ 196-27. Work performed by others.**

- A. A grantee shall give prior notice to the Village specifying the names and addresses of any entity, other than the grantee, that performs substantial services pursuant to the franchise; provided, however, that all provisions of the franchise remain the responsibility of the grantee. All personnel of the grantee or its subcontractors shall carry and display if requested a photo identification identifying them as representatives of the grantee when performing services at subscriber locations in the Village.
- B. All provisions of a franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the franchise.

**§ 196-28. Contest of validity.**

The grantee agrees by acceptance of a franchise that it will not at any time set up against the Village in a claim or proceeding any condition or term of the franchise as unreasonable, arbitrary or void, or that the Village had no power or authority to make such term or condition, but shall be required to accept the validity of the terms and conditions of the franchise in their entirety.

**§ 196-29. Customer service standards.**

The grantee shall maintain resources sufficient and near enough to the franchise territory to provide the necessary facilities, equipment and personnel to comply with this section and other provisions of this chapter.

- A. Service standards. The grantee shall render efficient service, make repairs promptly and interrupt service between the hours of 7:00 a.m. and 1:00 a.m. only for good cause and for the shortest possible time. Service may be interrupted between 1:00 a.m. and 7:00 a.m. for routine testing, maintenance and repair, except on nights commencing on Saturday and Sunday and on holidays. Scheduled or predictable service interruptions, except for weekly routine maintenance, insofar as possible shall be preceded by notice, which may be provided across the cable system. The interruptions shall occur during periods of minimum use of the system to the extent practicable. The grantee shall maintain a written log or an equivalent capable of access and reproduction of all service interruptions and requests for service, which log shall be available for Village inspection during the franchise period.
- B. Telephone lines. The grantee shall provide local toll-free or collect call telephone access to its subscribers within the franchise territory. Calls should be answered by a customer service representative during normal business hours; calls outside this period may be answered by an automated response mechanism, but such calls should be processed by a

grantee's representative within 12 hours. The grantee shall provide sufficient phone answering capabilities to the Village. Customer calls will be answered on average within 30 seconds 90% of the time, and provided that customers receive a busy signal not more than 3% of the time.

- C. Installation. The grantee shall complete requests for subscriber installations within seven business days of order placement when the installation is within 150 feet of the existing cable system. Installation requests required to be honored under this chapter beyond the one-hundred-fifty-foot standard must be completed within 14 days. If the grantee fails to meet these standards, the grantee shall provide the subscriber with a free month of the requested service. The grantee may request the Village toll these periods for reasonable circumstances beyond its control.
- D. Repair standards. The grantee shall maintain a repair force capable, under normal operating circumstances, of responding to service interruption and degradation complaints made during normal business hours within four hours. For complaints made outside normal business hours, the grantee must respond within 16 hours. For the purpose of this subsection, "response" shall mean at a minimum contacting the subscriber by phone or in person. Where a grantee misses either of these deadlines, the grantee must provide the subscriber with one free month's service. The grantee may request the Village toll the repair period for reasonable circumstances beyond its control.
- E. Service call scheduling. When the grantee needs to arrange a service appointment at a subscriber's location, the grantee must offer the subscriber a service window not to exceed four hours in duration. The grantee may not cancel a service window without the subscriber's consent. Where a grantee misses a service window, the grantee must provide the subscriber with one free month's service. The grantee may request the Village toll the service period for reasonable circumstances beyond its control.
- F. Service interruptions and significant degradation. When the grantee has failed to provide a subscriber with appropriate service due to service outage or significant audio or video degradation not due to the subscriber's equipment or action, the subscriber may request a rebate of any fees paid for the affected service(s) under the following schedule, and the grantee must provide such rebates. For the purpose of this section the outage or degradation period shall begin when the subscriber provides notice to the grantee of the outage or degradation. The Village shall waive or modify the rebate provisions for reasonable circumstances beyond the control of the grantee. Outages for initial construction, upgrading and normal maintenance shall be exempt from this section.
  - (1) For periods at least four hours long but under 24 hours, a rebate of 1/30 of the monthly fee for affected services for each instance.
  - (2) For periods of at least 24 hours, a rebate of 1/10 of the monthly fee for affected services for each twenty-four-hour period or portion thereof.