

VILLAGE OF EDWARDSBURG

ORDINANCE NO. 119

COMMUNITY ANTENNA TELEVISION ORDINANCE

An ordinance to establish a Community Antenna Television System in the Village of Edwardsburg, Cass County, Michigan, and to grant a non-exclusive franchise to Integrated Cable Systems, Inc. for the establishment and operation thereof. Goshen, Indiana

The Village of Edwardsburg, Cass County, Michigan Ordains:

SECTION 1. DEFINITIONS

A. "Community Antenna Television System" "C.A.T.V.", or "System" shall mean any facility that receives over-the-air or by other means, and amplifies or otherwise modifies the signals broadcast by television or radio stations as well as signals containing other information, and distributes such signals by cable and/or other means to the public.

B. "Village" is the Village of Edwardsburg, Cass County, Michigan.

C. "Village Council" is the Board of Trustees of the Village of Edwardsburg, Cass County, Michigan.

D. "Company" shall mean Integrated Cable Systems, Inc. Goshen, In or anyone who succeeds the Company in accordance with the provisions contained herein.

E. "Public Ways" shall mean streets, avenues, highways, boulevards, concourses, public driveways, bridges, tunnels, waterways, alleys, all other public rights of way, and public grounds or waters within or belonging to the Village of Edwardsburg, except parks and parkways.

F. "Person" shall mean a person, firm, corporation, association, or any legally recognized entity.

G. "Subscriber" shall mean a purchaser of any service delivered over the system to an individual dwelling unit, where the service is not to be utilized in connection with a business, trade, or profession.

H. "Basic Service" shall mean the provision by the Company to television receivers of all signals of over-the-air television stations required by the Federal Communications Commission (hereafter "F.C.C.") public channels, and additional channels at the option of the Company.

ORDINANCE NO. 119 A

AN ORDINANCE APPROVING AND CONFIRMING TRANSFER AND ASSIGNMENT OF THE CABLE TELEVISION SYSTEM FRANCHISE WITHIN THE VILLAGE OF EDWARDSBURG, CASS COUNTY, MICHIGAN.

WHEREAS, pursuant to Ordinance No. 119 A ("the Ordinance") of the Village of Edwardsburg, Cass County, Michigan the right and authority was granted to Integrated Cable Systems, Inc. to construct, operate, and maintain a cable television system within the Village of Edwardsburg, Cass County, Michigan (the "Village"); and

WHEREAS, Integrated Cable Systems, Inc. has entered into an Offer to Purchase dated May 1, 1985, with Jerry Alexander and Fred Martin ("Buyers"), whereby Integrated Cable Systems, Inc. has agreed to sell its assets to the Buyers and the Buyers subsequently entered into an Assumption Agreement whereby they assigned all of their right, title and interest pursuant to the Offer to Purchase to Heritage Cablevision Associates, a Limited partnership; and

WHEREAS, the Assumption Agreement provides that upon the consummation of said sale, the interest of Integrated Cable Systems, Inc. pursuant to the Ordinance will be assigned and transferred to Heritage Cablevision Associates, a Limited Partnership ("Heritage");

WHEREAS, Integrated Cable Systems, Inc. has requested approval of the Village to the assignment and transfer by Integrated Cable Systems, Inc. of all of its rights under the Ordinance subject to the consummation of the transactions contemplated by the Offer to Purchase and Assumption Agreement to Heritage;

NOW, THEREFORE, BE IT ORDAINED, that the Village Council of the Village does hereby expressly consent to, and approve, the assignment and transfer by Integrated Cable Systems, Inc. to Heritage of its franchise and all of its rights to construct, operate, and maintain a community antenna television system in the Village pursuant to the Ordinance which assignment and transfer will result by reason of the sale of all of the assets of Integrated Cable Systems, Inc. to Heritage pursuant to the Offer to Purchase and Assumption Agreement, provided that should the transaction contemplated by said Offer to Purchase fail to be consummated, then Integrated Cable Systems, Inc. will continue as the legal and rightful franchisee under the Ordinance which Ordinance will continue unchanged and in full force and effect in all respects.

FURTHER ORDAINED, that upon the consummation of the transactions contemplated by the Offer to Purchase and Assumption Agreement,

Integrated Cable Systems, Inc. will have no further liability with respect to the Ordinance it being the intention and understanding of the Village Council of the Village that Heritage will be responsible for all continuing obligations of the franchisee under the Ordinance.

PASSED AND ADOPTED by the Village Council of the Village of Edwardsburg, Cass County, Michigan this 19 day of August, 1985.

VILLAGE OF EDWARDSBURG, CASS  
COUNTY MICHIGAN

BY Doroth E. Smith  
Village President

ATTEST;

Bernadine Hilbun  
Village Clerk

I. "Pay Service" shall mean the provision of television channels such as "Home Box Office" (HBO), which are not included in the "Basic Service".

J. "Company Channel" shall mean a channel on the system which is reserved for the carriage of program material originated by the Company or by another person.

K. "Franchise" shall mean the grant of authority to the Company to operate a C.A.T.V. system in the Village.

L. "Gross Revenues" shall mean the total revenues received by the Company from all services to the Village except sales tax.

## Section 2. GRANT OF FRANCHISE

A. There is hereby awarded to the Company a non-exclusive franchise for the occupation or use of the public ways within the Village for the construction, operation, and maintenance of a C.A.T.V. system.

B. This franchise shall remain effective for fifteen (15) years, plus a renewal option for five (5) years, unless sooner revoked as herein provided in Section 3 hereof.

C. Nothing in the franchise shall affect the right of the Village to grant to any other person a franchise to occupy and use the public ways for the construction, operation, and maintenance of C.A.T.V. or similar facilities, within the Village. The Village shall give the Company no less than two (2) weeks notice of the hearing date of any application for any additional franchise to another. Nothing contained in this franchise shall prohibit the Company from appearing before the Village Council and being heard on any application for any additional franchise to another.

## Section 3. REVOCAION OF FRANCHISE

A. The franchise granted herein shall be subject to the right of the Village to revoke an ordinance as regulated by the State statute upon the Village Council's determination that the Company has violated the terms or intent of the C.A.T.V. franchise ordinance. The Company will be notified in writing at least 30 days prior to any public hearing date being set by the Village Council.

B. Any franchise granted hereunder shall be subject to all applicable state and federal laws, including rules and regulations established by the F.C.C.

## Section 4. LIMITATION OF FRANCHISE

A. This franchise applies only to the operation of a C.A.T.V.

system as provided herein, and does not take the place of any other franchise, license or permit which might be required by federal, state and local law.

B. In the operation of its system, the Company shall not deprive an inhabitant of any building, by contract or otherwise, of any existing right to use an individual or master antenna for the purpose of receiving television signals.

Section 5. CHANGE OF OWNERSHIP

This franchise shall be deemed a privilege to be held in personal trust by Cable TV; and said franchise shall not be sold, transferred, leased, assigned or in any way disposed of by Cable TV without the prior consent of the Village. Said approval would not be unreasonably withheld. Cable TV shall give the Village of Edwardsburg first right of purchase.

Section 6. CONSTRUCTION AND INSTALLATION OF SYSTEM

Subject to the provisions and restrictions of this franchise and the resolution of the Village, the Company shall have the right;

A. to construct, erect, operate and maintain in, upon, along, across, above, over and under the public ways, poles, cables, underground conduits, manholes and other conductors and fixtures necessary for the maintenance and operation of a C.A.T.V. system in the Village; and

B. to lease, rent or in any other lawful manner, obtain the use of towers, poles, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises within the limits of the Village, including, but not limited to Fruit Belt Electric Co-op., Michigan Power, General Telephone Company, or others, and to use same on such terms as agreed upon. Existing poles used for the Company's distribution system shall be those erected and maintained by any of the above said companies, or the Village, where and when applicable, providing mutually satisfactory rental arrangements can be entered into with said utilities or Village.

Section 7. CONDITIONS ON PUBLIC WAY OCCUPANCY

A. All transmissions and distribution structures, lines, and equipment erected by the Company within the Village shall be so located as to cause no interference with the rights and reasonable convenience of property owners who adjoin any of the said public ways.

B. In case of disturbances of any public way or paved area, the Company shall at its own cost and expense replace and restore

such public way or paved area in as good a condition as it was, or better than before the work involving such disturbance was done.

C. If at any time during the period of this franchise, the Village shall lawfully elect to alter or change the grade of any public way, the Company, upon reasonable notice by the Village, shall remove and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

D. Any poles or other fixtures placed in any public way by the Company shall be placed in such a manner as not to interfere with travel on such public way.

E. Upon approval of the Village Council, the Company shall, upon request of any person holding a building-moving permit issued in the Village, raise or lower its wires to permit the moving of buildings. The expense of such temporary raising or lowering of wires shall be paid by the person requesting the same upon the further approval of the Village Council; and the Company shall have the authority to require such payments in advance. The Company shall be given not less than 48 hours advance notice to arrange for such temporary wire changes. The Village or any other non-profit organization, including historical societies, shall be exempt from any charges.

F. The Company shall, after giving notice to the Village, have the authority to trim trees upon and hanging over public ways and places in the Village so as to prevent the branches of such trees from coming in contact with the wires and cables of the C.A.T.V. system.

G. In all sections of the Village where all existing cable or other like facilities of utility companies are presently or subsequently placed underground, the Company shall place its cables or other like facilities underground.

H. The Company shall notify the Village Clerk in writing 24 hours prior to any excavation in the Village.

#### Section 8. SAFETY REQUIREMENTS

A. The Company shall at all times employ ordinary care, and shall install and maintain in use, commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The Company shall install and maintain its cables, fixtures, and other equipment in accordance with all applicable federal, state and local laws, ordinances, codes, rules and regulations, and in such manner that they will not interfere with any installations of the Village or of a public utility serving the Village.

C. All structures and all lines, equipment, and connections in, over, under and upon the public ways or places in the Village wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition and in good order and repair.

Section 9. ERECTION, REMOVAL AND COMMON USE OF POLES

A. Poles or other wire-holding structures shall be erected by the Company only with prior approval of the Village.

B. Where a public utility serving the Village desires to make use of the poles or other wire-holding structures of the Company, but agreement therefore with the Company cannot be reached, the Village may require the Company to permit such use for reasonable and just compensation, provided that such use would not unduly interfere with the Company's operation.

Section 10. RIGHTS RESERVED TO THE VILLAGE

A. The Village shall have the right to install and maintain free of charge upon the poles and cables of the Company any wire and pole fixtures necessary for a police or fire alarm system, on the condition that such wire or pole fixtures do not interfere with the C.A.T.V. operation of the Company, and that such installations shall be installed in a safe manner, in conformance with the state and Village regulations.

B. At the expiration of this franchise or upon its revocation, as provided for herein, the Village shall have the right to require the Company to remove at its own expense, all portions of the C.A.T.V. system from all public ways and places within the Village.

Section 11. MAPS, PLATS AND REPORTS

A. The Company shall, on or before the first day of April of each year, file with the Village Clerk, true and accurate maps or plats, showing the location of all existing cables, whether leased or owned outright. Attached to such maps or plats shall be a list by address of current subscribers.

Section 12. CARRIAGE OF SIGNALS

A. The Company shall comply with all rules and regulations of the F.C.C. with respect to the reception, carriage, and distribution of signals.

B. Minimum channel complement shall include all V.H.F. channels significantly viewed, public, community, and education channels as required by the F.C.C.

C. The Company shall transmit and deliver over Village Channels the signals designated therefore by the Village.

Section 13. SIGNAL QUALITY REQUIREMENTS

A. The Company shall operate facilities capable of distributing color television signals, free from ghost images, interferences, or

distortions, and accompanied with proper sound, to produce good pictures on state-of-the-art television sets in good repair without interfering with other electrical or electronic systems.

B. For purposes of this section, the standards to be applied in determining whether or not the Company is producing a good picture or transmitting signals of adequate strength to produce same are those acceptable standards as set forth in the rules and regulations of the F.C.C. relative to C.A.T.V. systems.

C. The Company shall demonstrate by instruments or otherwise to subscribers, upon request, that a signal of adequate strength and quality is being delivered. Such demonstration shall be made by taking a standard production state-of-the-art television set with a screen of sufficient area as to demonstrate clearly the relative merit of the delivered signal.

D. INTERFERENCE. Cable TV further promises and agrees that the installation and maintenance of the C.A.T.V. system shall be such that no interference in excess of the standards defined and permitted by the F.C.C. will be caused to existing properly operating communication systems or direct off-the-air television signals.

Section 14. OPERATION AND MAINTENANCE OF SYSTEM

A. The Company shall maintain an office in the area which shall be open during all normal business hours, have a listed local telephone, and be so operated that complaints and requests for repairs or adjustments may be received at any time, 24 hours per day.

B. The Company shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as is possible, shall be preceded by notice, and shall occur during periods of minimum use of the system.

C. The Company shall limit system failures to a minimum by locating and correcting malfunctions promptly, but in no event, longer than twenty-four (24) hours after receiving notice of same, except as provided herein:

Should it be impossible or impractical to correct any system malfunctions within 24 hours or less, then each subscriber whose television's reception is so disrupted shall receive a rebate from the Company in the amount of one-thirtieth of such subscriber's monthly charge for every additional 24 hour period that said subscriber's television reception is so disrupted.

D. Any rebate made to any subscriber under this section, in any month, shall not exceed said subscriber's normal monthly fee paid to the Company.

E. Complaint procedures shall be given to each new subscriber by the Company at the time of initial subscription to the C.A.T.V.



system. In the instance of existing subscribers, changes in complaint procedures shall be included with the next monthly billing.

Section 15. RATES

A. The rates and charges for television and radio signals distributed shall be as follows:

- 1. "Basic Service" ..... \$10.25 per mo.
- 2. Installation charges for Basic Service ..... 20.00
- 3. Each additional outlet ..... 2.00 per mo.  
per outlet
- 4. At no time shall a one-time installation charge for "Basic Service" exceed \$20.00
- 5. Re-connection within 30 days after disconnection due to non-payment by subscriber ..... 10.00
- 6. Premium Package ..... 9.75 per mo.
- 7. Family Package ..... 9.65 per mo.

B. If, in the future, the State of Michigan regulates the rates of the Company for the services provided under this franchise, those portions of this section so regulated by the State of Michigan shall be of no effect during such State regulation to the extent of any conflict therewith.

C. Where an unusually difficult or abnormal installation is encountered or requested, the Company reserves the right, upon approval of the Village Council, to require additional charges to reasonably recover the Company's costs. Such charges may, at the subscriber's request, be added to the subscriber's monthly charges over a negotiable period of time.

D. The rate schedule set forth above shall not be increased without the prior approval of the Village Council.

Section 16. CAPACITY AND COMMENCEMENT OF SYSTEM

A. The Company shall extend the installation of cables, amplifiers, and related equipment throughout the Village as rapidly as is practicable.

B. Within one (1) year from the approval of pole agreements with the utilities, the Company shall be capable of providing "Basic Service" on a regular basis to those residents where density is at least 40 homes per cable mile contiguous with the existing system.

C. There shall be not less than twelve (12) active channels at turn-on, with future capability to expand to 35 or more channels as technology permits.

D. The Company shall provide "Basic Service" to one outlet on each floor of all existing or future police and fire stations, the

Village building and all public and private schools located within 300 feet of the Company's cables within the Village, without any charge therefore.

E. In the event of an emergency situation, the Village may interrupt signals otherwise being distributed by the Company for the delivery of signals necessitated by such emergency.

Section 17. LIABILITY INSURANCE AND INDEMNIFICATION

A. The Company shall maintain throughout the term of its franchise, liability insurance insuring the Village and the Company with regard to all damages for which the Village and/or the Company may be liable, including, but not limited to, damages arising from the installation, operation, maintenance or removal of the Company's C.A.T.V. system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise. A copy of said policy naming the Village as an insuree shall be filed with the Village Clerk prior to commencement of installation or any exercise of any rights under this franchise.

B. The liability insurance referred to in this section shall be in the following amounts:

1. \$500,000.00 for personal injury or death to any one person, with a limit of \$1,000,000.00 for personal injury and property damage combined resulting from any one accident;
2. \$500,000.00 for property damage resulting from any one accident, with a limit of \$1,000,000.00 for personal injury and property damage combined resulting from any one accident;
3. \$500,000.00 for all other types of liability.

C. The Company shall save the Village harmless from any and all liability arising out of or by granting of this franchise or the operation of the system hereunder. The Company shall pay for all expenses incurred by the Village in defending itself with regard to all damages and penalties which the Village may be required to pay as a result of this franchise, including, but not limited to, all reasonable investigation, witness and attorney fees.

Section 18. ANNUAL FRANCHISE FEE

A. Commencing one year from the effective date of this ordinance, and each year thereafter, the Company shall pay to the Village Treasurer a franchise fee equal to three percent (3%) of the Company's gross revenues derived from all cable services within the incorporated areas of the Village served by the Company's cable system.

B. The Company shall make available to the Village Clerk within 90 days after the close of the Company's fiscal year a statement from a Certified Public Accountant verifying the gross annual income derived from the Village of Edwardsburg, and their gross income payment.

MOTION TO ADOPT ORDINANCE

Moved by James Slager and supported by JoAnn Mackling  
that the foregoing Ordinance be adopted.

Vote:           Yeas 6  
                  Nays 0

Ordinance declared adopted at a regular meeting of the Edwardsburg  
Village Council on August 15, 1983. To become effective  
20 days after adoption September 4, 1983.

CERTIFICATION

I hereby certify that the foregoing is a true copy of a Village  
Ordinance duly adopted by the Village of Edwardsburg, Ontwa  
Township, Cass County, Michigan on August 15, 1983.  
Effective date: 20 days after adoption September 4, 1983,  
and a notice of adoption published in the Edwardsburg Argus, on  
August 25, 1983.

Seal:

Otis Montgomery  
Otis Montgomery  
Village President

Patricia Kraus  
Patricia Kraus  
Village Clerk