

Providing for the Licensing and Regulation of a Community Antenna
Television System.

The Town Board of the Town of Medary, La Crosse County, Wisconsin, does ordain as follows:

Section 1. Statement of Purpose. The purpose of this ordinance is to provide for the orderly installation and operation of "Community Antenna Television Systems", also known as "Cable Television Systems".

Section 2. Definitions. For the purpose of this ordinance, the following terms or phrases shall have the following meanings:

"Licensee" shall mean any person, firm, partnership or corporation obtaining a license under this ordinance;

"Town" shall mean the Town of Medary, La Crosse County, Wisconsin;

"Board" shall mean the Board of Supervisors of the Town of Medary;

"Applicant" shall mean any person, firm, partnership or corporation applying for a license hereunder;

"Subscriber" shall mean any person receiving for any purpose the Community Antenna Television Service;

"Community Antenna Television System" shall be referred to as "CATV".

Section 3. Grant of Authority. A licensee shall have the non-exclusive right and privilege to construct, erect, operate and maintain a cable television system in, on, upon, above and under the streets, alleys, public ways and places now laid out or dedicated, and any extensions thereof. All poles, wires, cables, underground conduits, manholes and television conductors and fixtures which are necessary for the maintenance and operation of said system are also included. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall be granted to the licensee during the term of the license.

Section 4. Compliance with Laws and Ordinances. All persons who are granted licenses hereunder shall at all times during the life of the license be subject to all lawful exercise of the police power of the Town and to such reasonable regulations as the Town by resolution or ordinance provides. The Town reserves the right to amend or change any of the provisions of this ordinance. In addition, such persons shall be subject to all the laws of the State and all ordinances and resolutions of the Town not in conflict herewith.

Section 5. Application for License. Prior to the commencement of any construction of a CATV System within the Town, or prior to soliciting of subscribers, any person proposing to construct such system shall obtain a license from the Town. Such license shall be applied for in the following manner:

- A. All persons applying for licenses to operate a CATV System shall make written application to the Town Clerk prior to the date on which such person desires to commence operations. If the applicant be an individual, he shall list his name, address, occupation, number of other community antenna systems owned or operated by him or in which he has any interest, and shall include a detailed explanation of the nature, extent and scope of operation of the system in which applicant proposes to operate and shall further include a complete financial statement of the applicant.
- B. If the applicant be a partnership or any unincorporated association, the application shall state the names of the partners or members of the association, and contain all the information required by Subsection A above. All general and limited partners shall be so set forth.
- C. If the applicant be a corporation, the applicant shall list the names and degree of financial interest of each stockholder in said corporation and, in addition, shall contain all the information required by Subsection A above.
- D. The application shall be accompanied by cash or a certified check in the amount of \$250.00, which sum shall be the fee required by any license granted under this section. The application fee shall be returned to the applicant if his application be not granted.

Section 6. Approval by Town Board. Upon the filing of an application in proper form with the Town Clerk, and upon receipt of the application fee, the Clerk shall refer the application to the Town Board for issuance or denial. At the next regular Board meeting, the Board shall hear any interested persons, or their attorneys, or any citizen of the Town of Medary in favor of or against the said application. The meeting may be adjourned from time to time, but shall be decided upon within sixty (60) days after referral of said matter to the Board, within which period the Board shall reject or grant the application and, if the application be granted, direct the Town Clerk to issue a license to the applicant.

Section 7. Conditions and Restrictions on Operation.

Any person granted permission to install cables and equipment for the transmission of television signals in the operation of a CATV System within the Town shall be subject to the following restrictions and conditions:

- A. Use of Streets. All transmission and distribution structures, lines and equipment erected by the licensee within the Town shall be located on, or in, present distribution systems of the La Crosse Telephone Corporation or Northern States Power Company. If it becomes necessary in the operation of the CATV System to construct or erect poles, or underground installations, over and above those owned by the aforementioned public utilities, such poles or underground installations shall be located as to cause minimum interference with the proper use of the streets, alleys and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of the property owners who adjoin any of the said streets, alleys or other public ways and places, and may only be erected or constructed upon written application to the Town Board, whose decision as to whether or not permission shall be granted, and the location of poles, shall be final.

B. Restoration of Streets. In case of any disturbance of pavement, sidewalks, driveways, boulevards or any other public ground, the licensee shall, at its own cost and expense, and in a manner approved by the Board, replace and restore all paving, sidewalks, driveway or surface of any street or alley disturbed, or any boulevard, in as good condition as before said work was commenced, and shall maintain the restoration in an approved condition for a period of one (1) year.

C. Alteration of Streets. In the event at any time during the period the CATV System is licensed under the provisions of this ordinance the Town shall elect to alter or change the grade of any street, alley or other public way, the licensee, upon reasonable notice by the Town, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and any other fixtures at its own expense.

D. Interference with Utilities. Under no circumstances shall the licensee be permitted to place poles or other fixtures where the same will interfere with any gas, electric, or telephone fixtures, water hydrant or main, and all poles or other fixtures permitted to be placed in any street shall be as prescribed and directed by the Town Board.

E. Moving of Buildings. Licensee shall, upon the request of any person holding a building-moving permit issued by the Town, temporarily raise or lower its lines or disconnect or take down to permit the moving of buildings. The expense of such removal, raising or lowering of wires, shall be paid by the person requesting same, and the licensee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.

F. Installation of Cables. Cables shall be installed only on such streets and on such poles at such height and such location in such manner as shall be approved by the Town Board.

G. Town's Right to Use Licensee's Poles. The Fire Department, or any other department of the Town, shall have the specific right to use any pole placed by any licensee under the terms and conditions of this ordinance for the installation of fire alarm cables, wires or equipment without any charge to the Town.

H. Forfeiture of Franchise. In addition to all other rights and powers pertaining to the Town by virtue of this franchise or otherwise, the Town reserves the right to terminate and cancel this franchise and all rights and privileges of the licensee hereunder in the event that the licensee:

- (1) Violates any provision of this franchise or any rule, order or determination of the Town made pursuant to this franchise, except where such violation, other than of Subsection 2 below, is without fault or through excusable neglect;
- (2) Becomes insolvent, unable or unwilling to pay his debts and taxes or is adjudged a bankrupt;
- (3) Attempts to evade any of the provisions of this franchise or practices any fraud or deceit upon the Town or any citizen of the Town;
- (4) Fails to have in operation a CATV System with at least fifty (50) subscribers within one (1) year of the date of issuance of Certificate of Compliance of the Federal Communications Commission. Termination or cancellation of this license shall be by ordinance of the Town adopted after thirty (30) days written notice to licensee, and it shall in no way affect any of the Town's rights under this license or

any provisions of law. In the event that such termination and cancellation depends upon a finding of fact by the Town Board, the license shall not be terminated or cancelled unless the licensee is provided with an opportunity to be heard before the Town Board.

I. Commencement of Service. As a condition to applicant's retaining any license granted hereunder, applicants shall, within a period of sixty (60) days from date of issuance of any license, initiate test procedures to determine what television signal service will be available, and shall inform the Town Clerk at the completion of such tests what signals appear to be reasonable available to residents of the Town. Eleven (11) viewing channels shall be furnished by licensee to its subscribers as a minimum.

J. Limitations on Licensee's Business. No licensee shall engage in the business of selling, renting or repairing of any television sets, but licensee may make repairs to its own equipment. The provisions herein shall apply whether directly or indirectly done by the licensee.

Section 8. Licensee to Promulgate Rules. The licensee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the licensee to exercise its rights and to perform its obligations under this ordinance, and to assure an uninterrupted service to each and all of its customers. Such rules shall not be in conflict with this or any other ordinance or resolution of the Town, or in conflict with any Federal or State laws or regulations. Such company rules shall be filed with the Town Clerk, and such rules shall be open to public inspection.

Section 9. Area of Service. The licensee shall provide service within the limits of the Town of Medary, as they now exist or shall exist in the future, during the term of the license, where economically feasible under ordinary business standards.

Section 10. Customer Rates. All rates and charges exacted by the company shall be fair, reasonable, just and uniform. Normal maximum installation charge to a customer shall not exceed the sum of Twenty-five Dollars (\$25.00). The aforesaid sum shall include all charges for such installation including, but not limited to, cost of labor, parts and taxes. Monthly service rate charge to a subscriber shall not exceed Five Dollars (\$5.00) per month for a single outlet residential installation. The licensee may increase the monthly rate, but only if done in the following manner and procedure:

The company shall notify the Town in writing by registered mail of the proposed rate change in the single outlet monthly rate. Within twenty (20) days of the receipt of the registered letter by the Town, the Town must arrange a between the company and the Town to discuss the proposed rate change. If the Town does not agree with the company regarding the rate increase within fifteen (15) days of the first meeting with the company, then a Board of Arbitrators shall be selected. The Board of Arbitrators shall be composed of three (3) members; one (1) to be selected by the Town Chairman; one (1) to be selected by the company; and the third to be selected by the two (2) aforementioned representatives on the Board of Arbitrators. Said Board of Arbitrators are to render a decision for or against a rate change after fifteen (15) days from the date of their appointment to said Board. A decision made by such Board of Arbitrators shall be in writing and a copy thereof, duly authenticated, shall be delivered on the day said decision is rendered to both the company and the Town, and shall be binding upon all parties concerned.

Section 11. Period of License. A license shall be issued for a maximum term of fifteen (15) years and is renewable only by following the application procedure set forth in this ordinance.

Section 12. Abandonment of Service. Licensee may not abandon his operations and license either formally or informally, unless done with permission of the Town Board. If the licensee desires to abandon his license and discontinue operations, he must notify the Town Board -in writing of his intentions to do so. Upon receipt of said notification, the Town Board shall either at a regular or special meeting hold a public hearing on said abandonment. The Board shall not unreasonably refuse to allow licensee to abandon his license, and if abandonment is approved the Board may prescribe reasonable rules for phasing out of operations.

Section 13. Service Standards. The licensee shall maintain its service with reasonable standards regarding uniformity of transmission, noise levels and channel signal voltages. The licensee's distribution systems shall conform to the requirements of the Federal Communications Commission^ particularly with respect to freedom from spurious radiation. The antenna and receiving equipment shall be installed and maintained so as to give a reasonable noise-free picture on each channel. The installation and maintenance of equipment shall also be such that no unreasonable intermodulation distortion will occur.

Licensee shall, as reasonably as possible, considering the current state of technology, provide clear and uninterrupted, service. Licensee shall provide for a reasonable method of processing and resolving complaints of subscribers and shall keep a record of each subscriber complaint lodged and the resolution, if any, of the problem. This record shall be open to inspection by the Town Board, or the Town Clerk, at reasonable times during business hours. Complaints shall be handled by licensee in a courteous and efficient manner at all times.

Section 14. Supervision and Inspection. The Town and its designate shall have the right to supervise all construction or installation work performed, subject to the provisions of this Ordinance, and to make such inspections as it shall find necessary -to insure compliance with the ordinances of the Town, applicable State laws, the National Electrical Code and regulations of the Federal Communications Commission.

Section 15. Signing of Contract. Upon the granting of a license, the licensee shall enter into a written agreement incorporating by reference the terms of this Ordinance.

Section 16. Indemnification. The licensee shall indemnify, protect and save harmless the Town from and against losses and physical damages to property, and bodily injury or death to persons, including payments made under any Workmen's Compensation law, which may arise out of or be caused by the erection, maintenance, presence, use or removal of said attachments on poles within the Town, or by any act of licensee, his agents, or employees. The licensee shall carry insurance to protect the parties hereto from and against all 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. The amounts of such insurance against liability due to physical damage to property shall not be less than Twenty-five Thousand Dollars (\$25,000) as to any one accident and not less than Two Hundred Thousand Dollars (\$200,000) aggregate in any single policy year; and against liability due to bodily injury or to death of persons not less than One Hundred Thousand Dollars (\$100,000) as to any one person and not less than Three Hundred Thousand Dollars (\$300,000) as to any one accident. The company shall also carry such insurance as it deems necessary to protect it from all claims under any Workmen's Compensation laws in effect that may be applicable to the company. All insurance required by this agreement

shall be and remain in full force and effect for the entire life of the license. Said policy, or policies, of insurance, or a certified copy or copies thereof, shall be made available to the Town upon demand.

Section 17. Transfer of Licenses. No licensee shall sell, transfer or assign its plant, system or equipment to another, nor transfer any rights granted under this ordinance to another without approval of the Town Board. Any proposed transferee, licensee or assignee must make application for a license as provided for above. The Town shall be notified of any change of corporate ownership unless the stock is publicly held.

Section 18. Severability. If any change in State or Federal law renders any part of this ordinance invalid, or if any Court renders a portion of this ordinance invalid, those portions not directly affected by such amendment or decision shall remain in ' full force and effect, binding upon the Town and licensee. If the State or Federal governments by legislation pre-empt the field of regulation of CATV Systems, this ordinance shall automatically be repealed and any agreements entered into pursuant to this ordinance shall likewise be automatically repealed and rendered null and void. In case of such pre-emption, the Town shall not be responsible for any pecuniary harm caused by such pre-emption.

Section 19. Fees. In further consideration of the granting of a license under this ordinance, the licensee shall pay, in addition to those sums set forth for an application fee, the following sums to the Town of Medary:

- A. For the first 100 paying subscribers \$10 per month?
- B. For the next 400 paying subscribers \$30 per month;
- C. For the next 500 paying subscribers \$30 per month;
- D. For the next 1,000 paying subscribers and for each additional 1,000 paying subscribers \$50 per month.

Licensee shall report the number of paying subscribers to the Town Clerk semi-annually, commencing six (6) months after the issuance date of its license, and payments shall be made to the Town by the licensee on the 15th day of each month after the issuance of the license.

Section 20. Violation of Ordinance. Violation of this ordinance by licensee shall cause an immediate rescinding of any contract between licensee and Town at the option of said Town.

Section 21. Effective Date. This ordinance shall take effect and be in force from and after its passage by the Town Board, and publication.

Passed this 22 day of January, 1973.
Published this 25 day of January, 1973.
Edward Oertel, Town Chairman
APPROVED:
Ernest Kowal, Town Clerk

AMENDMENT TO ORDINANCE NO. 14.01

"Licensing and Regulating Community Antenna Television Systems"

The Town Board of the Town of Medary, La Crosse County, Wisconsin, does ordain as follows:

Section 1. Ordinance 14.01, dated January 22, 1973, is hereby amended by the addition of the following paragraph to Section 13 - Service Standards of said ordinance: "The Town Board will hear complaints which the licensee or franchisee and citizens have been unable to resolve, and will adopt such additional procedures for the investigation and resolution of complaints as may prove necessary." A clause to this effect shall be a part of any license or franchise issued by the Town.

Section 2. Except as altered herein, Ordinance No. 14.01 is ratified and confirmed in all respects.

Section 3. This amendment shall take effect and be in full force upon its passage and publication.

Passed: January 14, 1974. Published: January , 1974.

TOWN OF MEDARY

Stanley W. Peterson, Chairman

ATTEST:

Ernest Kowal, Clerk

ORDINANCES NO. 14.011

An Ordinance Amending the Licensing and Regulation of Community Antenna Television System (Ordinance No. 14.01)

The Town Board of the Town of Medary, La Crosse County, Wisconsin, does ordain as follows:

Section 1. Section 10, Customer Rates, Section 11, Period of License, and Section 19, Fees, are hereby revoked and recreated to read as follows:

Section 10. Customer Rates. Rates charged by the franchise licensee hereunder shall be based on efficient and economical management, and shall be fair, just, and reasonable. Before any television signal is sold or transmitted to any customer of any franchise licensee, the franchise licensee's schedule of rates shall be filed with the Town Clerk. Subsequent additions or amendments to rates and service charges shall likewise be filed in writing sixty (60) days prior to change in rates with the Town Clerk.

Section 11. Period of License. A license shall be issued for a maximum term of twenty-five (25) years and may be renewed for two (2) ten (10) year renewal periods unless there be failure of the franchise holder to abide by the terms of the franchise herein granted by the Town.

Section 19. Fees. In further consideration of the granting of a license under this ordinance, the licensee shall pay the following sum to the Town of Medary, one and one half per cent (1.5%) of gross basic subscriber revenues per year. Payment shall be made by the licensee on the 15th day of each month after the issuance of the license.

Section 2. Said Ordinance No. 14.01 is confirmed and ratified, in all other respects.

Section 3. The amending ordinance shall take effect and be in force upon its passage and publication.

Passed: February 27, 1978 Published: March 9, 1978

TOWN OF MEDARY

"V/V Person, Chairman ATTEST;

Kowal, Clerk