

Chapter 90

CABLE TELEVISION

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[HISTORY: Adopted by the Village Board of the Village of Albany 5-11-1992 as Title 9, Ch. 3 of the 1992 Code. Amendments noted where applicable.]

GENERAL REFERENCES

Streets and sidewalks -- See Ch. 232.

Cable communications franchise -- See Ch. A274.

§90-1. Title.

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

§90-2. Purpose.

The purpose of this chapter is to allow cable television companies to use village roads, streets and property in order to offer their services to the residents of the village while ensuring a minimum level of service at a reasonable fee without undue interference with the rights of residents to use village roads, streets and property and to otherwise regulate the cable television industry in the village.

§90-3. Applicability.

This chapter shall apply to all cable television companies offering services in the village.

§90-4. Definitions and word usage.

A. Definitions. For the purpose of this chapter, the following terms, phrases and words and their derivations shall have the meanings specified herein:

CABLE TELEVISION NETWORK -- Any network of cables, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmission of electrical impulses of television, radio and other intelligences, either analog or digital, for sale or use by the inhabitants of the village. "CATV" is the abbreviation for cable television network.

COMMENCE OPERATION -- Operation will be considered to have commenced when sufficient distribution facilities have been installed so as to permit the offering of full network services to at least 50% of the dwelling units located within the initial service area of the village.

FCC -- The Federal Communications Commission and any legally appointed or elected successor.

GRANTEE -- All persons and organizations, including but not limited to subsidiaries, parent or affiliate companies, associations or organizations having any rights, power, privileges, duties, liabilities or obligations under this chapter and also includes all persons having or claiming any title to or interest in the system, by interest in the subsidiary, parent or affiliate company, association or organization or by any subcontract, transfer, assignment, management or operating agreement, or otherwise arising or created.

REASONABLE NOTICE -- The provision of notice of contemplated action delivered at least 48 hours prior to such action.

SALE -- Any sale, exchange or barter.

SERVICE, ADDITIONAL -- A subscriber service provided by the grantee for which a special charge is made based on program or service content, time or separate space usage.

SERVICE AREA -- That geographical area within the limits of the village specified in the permit.

SERVICE, BASIC -- All subscriber services provided by the grantee, including the delivery of broadcast signals and programming originated over the cable system. Covered by the regular monthly charge and paid by all subscribers.

SERVICE, FULL NETWORK -- All basic services and additional services offered by the grantee.

STREET -- All streets, roadways, highways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, public parking areas, easements, rights-of-way or other public ways in the village which have been or may hereafter be dedicated and open to public use or such other public property so designated by law.

SUBSCRIBER -- Any person, firm, company, corporation or association receiving either basic service or additional service from the grantee under the schedule of charges filed with and approved by the village.

SUBSCRIBER TERMINAL -- The cable television network's cable terminal to which the subscriber's equipment is connected. Separate terminals may be provided for delivery of cable television signals, FM broadcast or other signals of differing classifications.

SUBSTANTIALLY COMPLETED -- Operations will be considered substantially completed when sufficient distribution facilities have been installed so as to permit the offering of full network service to at least 90% of the dwelling units in the service area to which access is legally and reasonably possible.

VILLAGE -- The Village of Albany, its officers and employees, unless otherwise specifically designated, as well as the area within the corporate limits of the village as from time to time existing.

VILLAGE BOARD -- The Village of Albany and any legally appointed or elected successor.

B. Word usage. When not inconsistent with the context, words used in the present tense include the future, and words in the singular number include words in the plural number.

§90-5. Franchises; permits; general provisions.

A. Grant of franchise and permits.

(1) A nonexclusive franchise may be awarded to the successful applicant to install, maintain and operate a cable system for the distribution of television signals, frequency modulated radio signals and closed circuit television programs for a term not exceeding 15 years; providing conditions, limitations and requirements; stipulating protective and indemnity provisions; providing for certain payments to the village; providing for charges and rates; providing for acceptance by the grantee of the applicant; imposing duties on the grantee or applicant at the expiration of this franchise; prohibiting assignments, subleases and encumbrances; and providing for the extension of franchise to newly annexed territories. The successful applicant for a franchise shall secure special use permits when required.

(2) In accepting a franchise, the applicant or grantee acknowledges that its rights are subject to the police power of the village to adopt and enforce ordinances necessary to the health, safety and welfare of the public; and it agrees to comply with all applicable general and specific laws enacted by the village pursuant to such power.

B. Grant of franchise. A franchise shall be granted by the Village Board only when the benefits of granting such franchise outweigh the disadvantages or risks, considering the following:

- (1) The cable services offered.
- (2) The charges for such services.
- (3) The financial status of the applicant.
- (4) The experience of the applicant.

(5) The equipment to be utilized by the applicant in relation to that used by the industry in general in similar markets.

- (6) The operating record of the applicant in the village and other locations.
- (7) The interruption of public use of roads, streets and other village property.
- (8) The effect of network use on village roads, streets and property.
- (9) Any erosion or runoff which may be created by network use of village roads, streets or property.
- (10) Such other and further factors as are relevant to the determination that the benefits to be received are significantly greater than the costs, financial or otherwise, to the village and its residents.

C. Duration of use permit. Upon filing by the grantee of the property acceptance, the performance bond and the required insurance, the permit shall take effect and shall be for a term of 15 years, unless a lesser period is specified in the permit.

D. Franchise reviews.

(1) The Village Board may review any franchise as necessary, but where the grantee has filed application for renewal of the franchise, the Village Board shall review the franchise at least six months prior to the expiration of the franchise.

(2) A public hearing shall be held and the grantee given an opportunity to be heard.

(3) In addition to the matters set forth in §90-6, the Village Board shall consider the grantee performance, services, plans, rates, the level and variety of services being generally offered in the industry in markets and other matters relevant to the grantee's operation in the village.

(4) Following such reviews, the village shall determine whether to renew or terminate the franchise and the terms and conditions upon which it will be renewed or continued.

E. Permits nonexclusive. Any permit granted hereunder by the village shall not be exclusive, and the village may grant similar permits whenever it determines that it is beneficial to the village or its residents to do so.

F. Authority granted. Any use permit granted hereunder shall give the grantee the right to construct, erect, operate and maintain in, upon, along, above, over and under village roads, streets and property, towers, antennas, poles, cables, electronics equipment and other network appurtenances necessary for the operation of a cable television network, subject to the further restrictions of §90-13.

G. Transfer of permit. Any permit granted hereunder shall be a privilege to be held for the benefit of the public by the grantee. Such permit shall not be sold, transferred, leased, assigned or disposed of, in whole or in part, either by forced or voluntary sale, merger, consolidation, trust, receivership or any other means, without the prior consent of the village expressed by a Village Board resolution, and then only under such conditions as the Village Board may establish. Each potential transferee shall be considered according to the criteria of Subsection B.

H. Change of control. A transfer shall be considered to have occurred where ownership or control of more than 20% of the voting stock of the grantee is to be acquired by a

person or group of persons acting in concert, none of whom already own or control 20% or more of such right of control, singularly or collectively. A change of control from a subsidiary to a parent corporation or vice versa shall not be considered as a transfer. A transfer shall also be considered to have occurred for all changes in ownership or control by a person or group of persons acting in concert, who already own or control more than 20% of the voting stock, singularly or collectively. These same provisions shall apply to a partnership.

I. Conflict with laws. If any valid law, rule or regulation of any governing authority or agency having jurisdiction, including but not limited to the Federal Communications Commission, contravenes the provisions of this chapter subsequent to its adoption, then the provisions hereof shall be superseded by any such valid law, rule or regulation to the extent that the provisions hereof are in conflict and contrary to such law, rule or regulation.

J. FCC denial. If the Federal Communications Commission or state denies permission to operate any system for which a permit is granted under this chapter, the permit shall be null and void. Applications for a permit shall be reopened. The applicant whose request for permission to operate has been denied may reapply for a permit.

K. Amendment of ordinance. The granting of any permits pursuant to this chapter shall not prevent the Village Board from amending the chapter as it deems necessary. All cable television companies holding permits shall be given written notice of hearings concerning amendments of this chapter.

L. Inspection. The village may inspect and supervise all construction or installation work performed subject to the provisions of any permit.

M. Effective date of permits. Use permits shall be effective upon payment of fees, filing of a certificate of issuance required under §90-7, filing of the performance bond required under §90-8 and the issuance of the permit by the Village Clerk.

N. Fees. In consideration of the granting of cable television permits to the grantee, the grantee shall pay to the village during the life of the franchise a percentage of its gross annual receipts in an amount determined by the Village Board, which shall mean to include gross receipt of whatever nature derived either directly or indirectly from such cable television operation, except initial installation charges and such other exemptions as may be granted by the Village Board. This fee shall be paid by the grantee to the village in January of each year. An independent auditor shall certify the amount of the grantee's revenues from all cable services in order to verify the fee paid pursuant hereto. Sales taxes or other taxes levied directly on a per-subscription basis and collected by the grantee shall be deducted from the local annual gross revenues before computation of sums due the village is made. The percentages designated in this section may be amended no more than once a year by the Village Board, consistent with increased costs for municipal facilities and supervision and applicable rules of other regulatory agencies. Acceptance of payments by the village shall not be construed as a release or satisfaction of any claims the village shall have for further or additional sums payable hereunder or for any other performance or obligation required of the grantee.

§90-6. Applications.

Application for a permit shall be filed with the Village Clerk, in accordance with any filing instructions promulgated by the Village Board, and shall contain the following written information:

- A. Proposal bond and filing fee. The proposal bond required in §90-8 and payment of a nonrefundable filing fee to the village of \$250 shall be filed and paid concurrently with the filing of an application.
- B. Name and address. The name and address of the applicant, date of application and signature of the applicant or appropriate corporate officer(s).
- C. Operation. A general description of the applicant's proposed operation, including but not limited to business hours, operating staff and maintenance procedures beyond those required in this chapter.
- D. Use of village property. A description of what village property would be used and how the property would be used, including a description of all excavations and construction anticipated.
- E. Services provided. A statement of the television and radio services to be provided, including both off-the-air and locally originated signals. The statement shall also specify the initial area to be served under the permit which is subject to the requirements of §90-9 (Time for performance) and a statement describing the grantee's plan, if any, for extension of the service area beyond the initial service area.
- F. Special services. A statement setting forth a description of the automated services proposed, as well as a description of production facilities, if any, to be made available by the grantee for the public, municipal and educational channels.
- G. Programming assistance. A statement establishing any additional funding facilities or equipment beyond those required elsewhere to be designated for programming the public, educational and governmental access channels, if any.
- H. Schedule of charges. The applicant's proposed schedule of charges as required by the provisions of §90-10.
- I. Corporate organization. A statement detailing the corporate or partnership organization of the application, if any, including the names and addresses of its officers and directors or partners and the number of shares held by each officer and director or partnership shares.
- J. Stockholders. A statement identifying the number of authorized and outstanding shares of the applicant corporation's stock, including a current list of the names and addresses of its shareholders holding 5% or more thereof.
- K. Intracompany relationships. A statement describing all intracompany relationships of the applicant corporation, including parent, subsidiary or affiliated companies.
- L. Agreements and understandings. A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other person, firm, group or corporation with respect to any permit awarded hereunder and the conduct of the operation thereof existing at the time of proposal submittal.
- M. Financial statement. If the applicant is a corporation, audited financial statements for the two previous years. If the applicant is a partnership, copies of the United States Partnership Return of Income (IRS Form 106) for the two previous fiscal years. If the applicant is

a sole proprietorship, copies of the United States Individual Income Tax Return (IRS Form 1400) for the two previous fiscal years.

N. Financial projection. A five-year operations pro forma, which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets and annual levels of subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this chapter, but shall be separately identified in the pro forma.

O. Financing. Suitable written evidence from a recognized financing institution, addressed both to the applicant and to the village, advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to the applicant if it is awarded a permit. If the planned operation is to be internally financed, a Board resolution shall be submitted authorizing the expenditure of all funds which may be required to construct, install and operate a cable television network authorized by the permit, if granted.

P. Technical description. A technical description of the type of system proposed by the applicant, including but not limited to system configuration (i.e., hub, dual cable), system capacity and two-way capability.

Q. Convictions. A statement as to whether the applicant or any of its officers or directors or holders of 5% or more of its voting stock has in the past 10 years been convicted of or has charges pending for any crime other than a routine traffic offense and the disposition of each such case. If a partnership, the above applies to all partners.

R. Operating experience. A statement detailing the cable television network's prior experience of the applicant, including that of the applicant's officer, management and staff to be associated with the proposed operation.

S. Permit renewal information. If an application is for renewal of a permit, the proposal shall include, in addition to the information required in Subsections A through R above:

(1) A summary of the technical, financial and programming history of the network since the granting of the original permit.

(2) A statement and timetable that outlines all proposed changes, expansion or improvements in the system as to services, programming or technical specifications during the coming five years.

T. Additional requirements. The application for permit shall respond specifically, and in sequence, to Subsections A through S above, and shall be bound separately from any additional information preoffered by the applicant.

U. Supplements to applications. The village may require such additional information it deems reasonably necessary for its determinations.

§90-7. Indemnification; insurance.

A. Indemnification. All grantees shall defend and save the village, its agents and employees harmless from all claims, damages, losses and expenses, including attorney's fees,

sustained by the village on account of any suit, judgment, execution, claim or demand whatsoever arising out of:

(1) The enactment of this chapter and the award of a permit thereunder, except as may arise from the process or action of selection of a grantee for awards provided herein.

(2) The installation, operation or maintenance of the cable television network, except for acts of the village, its agents or employees.

B. Liability insurance. All grantees shall maintain throughout the term of the permit a general comprehensive liability insurance policy naming as the additional insured the village, its officers, boards, commission, agents and employees, in a company approved by the Village Board and in a form satisfactory to the Village Attorney, protecting 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 amount of:

(1) For bodily injury or death to any one person: \$500,000; within the limit, however, of \$1,000,000 for bodily injury or death resulting from any one accident.

(2) For property damage resulting from any one accident: \$500,000

C. Notice of cancellation or reduction of coverage. The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the grantee under the terms of this chapter and shall contain the following endorsement:

It is hereby understood and agreed that this policy may not be canceled nor the amount of coverage reduced until 30 days after receipt by the Village Clerk by registered mail of two copies of a written notice of such intent to cancel or reduce the coverage.

D. Evidence of insurance. All policies of insurance or certified copies thereof and written evidence of payment of required premiums shall be filed and maintained with the Village Clerk during the term of any permit granted hereunder or any renewal thereof.

§90-8. Bonds.

A. Proposal bond. Each applicant for a use permit hereunder shall submit with the filing fee required under this section a proposal bond in a form acceptable to the Village Clerk for a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the village in an amount of \$1,000.¹

B. Forfeit of proposal bond. Should the applicant fail or refuse to accept a permit as set forth herein within 30 days of the award of a permit by the village, such applicant will be considered to have abandoned its proposal bond or to retain the proceeds of the certified check.

C. Return of proposal bond. Proposal bonds or certified checks received in lieu thereof from applicants whose proposals are not accepted by the village shall be returned to the applicant within five days after the application is rejected by the village. Proposal bonds shall also be returned to the applicant upon completion of the cable television network system.

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

D. No waiver of performance. Neither the provisions of this chapter nor any insurance accepted by the village pursuant hereto, nor any damages recovered by the village thereunder, shall be construed to excuse faithful performance by the grantee or limit the liability of the grantee under any permit issued hereunder or for damages either to the full amount of the bond or otherwise.

§90-9. Time for performance.

A. Permit application. Within 90 days of the effective date of a use permit granted hereunder, the grantee shall file with the appropriate regulatory authorities and utilities all identical agreements and applications necessary to comply with the terms of this chapter.

B. Construction. Within 60 days of the effective date of FCC registration, the use permit grantee shall initiate construction and installation of the cable television network system. Such construction and installation shall be pursued with reasonable diligence and shall be substantially completed within 240 days of FCC registration.

C. Operation. Within 180 days of the effective date of FCC registration, the use permit grantee shall "commence operation" within the meaning set forth in §90-4A of this chapter and, within 270 days of registration, shall offer basic service to 100% of the dwelling units in the service area specified in the application to which access is reasonably available.

D. Extension of time. The time requirements in Subsections B and C may be extended by the Village Board where the delays are not due to the negligence of the grantee.

§90-10. Operation of cable television network.

A. Office and phone. All cable companies operating in the village shall maintain an office, have a local listed telephone number and be so operated that complaints and requests for repairs or adjustments may be received at least 40 hours per week.

B. Subscriber's antennas. Cable companies shall not require the removal, or offer to remove or provide any inducements for removal, of any potential or existing subscriber's antenna as a condition of provision of service.

C. Antenna switch. Cable companies, upon request from any subscriber, shall install, at a reasonable one-time charge therefor, a switching device so as to permit a subscriber to continue to utilize his own television antenna as he chooses.

D. Charges for services. All grantee charges for services shall be subject to Village Board approval. The charges shall be for the following services:

(1) The grantee may make a charge to subscribers, private or commercial, for installation, connection and reconnection to its cable television network system and a fixed monthly charge for basic service as defined in §90-12.

(2) If a subscriber with one or more aboveground utility drops requests a buried service drop to his residence, the grantee shall bury such drop upon the payment of a reasonable fee for such service.

E. Other charges. The grantee may establish charges for services not specified in Subsection D above, subject to the approval of the FCC. However, all such charges, including but not limited to additional service, leased channel, discrete channel, production and advertising rates, shall be published at least 30 days before the effective date in the official newspaper of the village, and the schedule of charges, as originally established and thereafter modified, shall be filed with the Village Clerk.

F. Subscriber refunds. If any subscriber of less than 30 days terminates service because of the grantee's failure to render service to such subscriber of a type and quality provided for herein; or if service to the subscriber is terminated by the grantee without good cause; or if the grantee ceases to operate the cable television network authorized herein for any reason, the grantee shall refund to such subscriber an amount equal to the installation and connection charge paid by such subscriber in accordance with the then existing schedule of charges.

G. Schools and public buildings. All permit grantees shall provide free of charge within the village at least one connection and monthly basic service to each public school facility used for instructional purposes and to such other public buildings in the village as designated by the Village Board.

H. Extension of network.

(1) Across system boundaries. Before any potential subscriber located outside the limits of the village is allowed to connect to the cable television network system, the grantee shall be capable of furnishing service to a substantially completed system for village residents within the area specified in the permit. A waiver of this section may be granted by the Village Board. A written waiver request shall be made 30 days before connections across village boundaries. Such waiver request shall take into consideration the costs of such an extension and who is to bear such costs.

(2) Interconnection. Nothing in this chapter shall be construed so as to prohibit the grantee from interconnecting its network with other similar contiguous networks either in the village or in other municipalities, counties or states, except as otherwise provided in this section.

§90-11. Technical requirements.

A. General requirements. All operations of cable television networks in the village shall conform to standards set by the federal government or the village in force from time to time.

B. Modifications. Notwithstanding the fact that the network may be in compliance with all the standards set forth herein, the village may after a hearing require a higher level of performance in any area to resolve signal quality or interference problems.

C. Additional tests and inspections. The village reserves the right to:

(1) Require additional tests at specific terminal locations.

(2) Conduct its own inspections of the CATV system on its own motion at any time during normal business hours.

D. Report of measurements. Copies of reports of measurements required by the FCC or other regulatory agencies shall be filed with the village.

E. Shielding. All cable television companies operating in the village shall, at all times, keep their cable and other equipment shielded in such manner that there will be no interference with signals received by private receivers.

§90-12. Service standards.

A. Service response and rebate. All cable television networks shall provide reasonable service response five days a week for all complaints and requests for repairs or adjustments. The grantee shall credit 1/30 of the monthly charge for basic service to each subscriber for each 24 hours following report of loss of service to the grantee beginning 48 hours after the report of loss of service. The rebate provisions of this section shall be waived by the Village Board where the loss of service is caused by an act of God or other act not due to the negligence of the grantee and the Village Board finds that the grantee cannot reasonably restore service within the time specified.

B. Service interruptions and notification. Whenever it is necessary to interrupt service over a cable television for the purpose of network maintenance, alteration or repair, the cable television network shall do so at such time as will cause the least amount of inconvenience to subscribers, and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to the affected subscribers. Upon filing to resume service within 36 hours, cable television networks shall credit 1/30 of the monthly charge for basic service to each subscriber for each 24 hours following the interruption of service.

C. Upgrading the facilities, equipment and service. All use permit grantees shall reasonably upgrade their facilities, equipment and service so that their networks are equal to those in the cable television industry in general in similar markets.

§90-13. Use of village roads, streets and property.

A. Approval of proposed construction. A use permit grantee shall obtain the approval of the village prior to commencing construction or excavation on the roads, streets, alleys, public grounds or places of the village. The grantee shall make application for approval on a form provided by the village at least 30 days prior to construction.

B. Changes required by public improvements. A use permit grantee shall, at its expense, protect, support, temporarily disconnect or relocate in the same road, street or other public place, or remove from the street or other public place, any property of the grantee when required by the street vacation, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, village-owned power or signal lines and any other type of public improvement.

C. Use of existing poles or conduits. Nothing in this chapter or any permit granted hereunder shall authorize a grantee to erect new poles where existing poles are servicing the area. All poles or other fixtures placed in a street shall be placed as specified by the village.

D. Facilities not to be hazardous or interfere. No wires, conduits, cable and other property and facilities of any grantee shall be so located, constructed, installed and maintained as to endanger or unnecessarily interfere with the usual and customary trade, traffic and travel upon the roads, streets and public places of the village. The grantee shall keep and maintain all its property in good condition, order and repair. All grantees shall keep accurate maps and records as are requested by the village. No grantee shall place equipment where it will interfere with the

rights of reasonable convenience of adjoining property owners or with any gas, electric or telephone fixtures or with any water hydrants or mains.

E. Method of installation.

(1) All wires, cables, amplifiers and other property shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundles, with due respect for engineering and safety considerations. All installations shall be underground in the areas of the village where public utilities providing both telephone and electric service are underground at the time of installation.

(2) In areas where either telephone or electric utility facilities are aboveground at the time of installation, the grantee may install its service aboveground. However, when those facilities are placed underground, the use permit grantee shall likewise place its services underground. Any other grantee shall apply at that time for a use permit. Use permits shall be granted under the same circumstances and procedures set forth in §90-5.

F. Protection of facilities. Nothing contained in this section shall relieve any person, company or corporation from liability arising out of the failure to exercise reasonable care to avoid insuring the grantee's facilities while performing any work connected with grading, regrading or changing the line of any street or public place or in the construction or reconstruction of any sewer or water system.

G. Notice of village improvements. The village shall give the use permit grantee reasonable notice of plans for street improvements where paving or resurfacing of a permanent nature is involved. The notice shall give the grantee sufficient time to make any additions, alterations or repairs to its facilities as it deems necessary in advance of the actual commencement of the work, so as to permit the grantee to maintain continuity of service.

H. Authority to trim trees. The use permit grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and other 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 company. All trimming is to be done under the supervision and direction of the village after explicit prior written notification to the village and the property owner and written approval from the village. The grantee may contract for such services. However, any firm or individual so retained shall receive village approval prior to commencing such activity.

I. Restoration or reimbursement. In the event of disturbance of any road, street or village property by a grantee, it shall, at its own expense and in a manner approved by the village, replace and restore such road, street or village property. If the grantee fails to perform such replacement or restoration, the village shall have the right to do so at the expense of the grantee. Payment by the grantee to the village or the owner for such replacement or restoration shall be immediate, upon demand by the grantee. All requests for replacement or restoring of such streets or private property as may have been disturbed shall be in writing to the grantee.

J. Office and records. All grantees shall furnish the village a current map or set of maps and sepia tracings, drawn to a scale, showing cable television network system equipment installed and in place in roads, streets and other public places in the village.

K. Alternate routing of plant. If continued use of a street is denied to the use permit grantee by the village for any reason, the grantee will make every reasonable effort to provide service over alternate routes.

§90-14. Unauthorized connections or modifications.

A. Unauthorized connections prohibited. No firm, person, group, company, corporation or governmental body or agency, without the expressed consent of the grantee, shall make or possess any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of a cable television network system for any purpose whatsoever. However, this section shall not be construed to apply to any signal receptions by unmodified television sets.

B. Removal or destruction prohibited. No firm, person, group, company, corporation or governmental body or agency shall willfully interfere, tamper, remove, obstruct or damage any part, segment or content of a cable television network system for any purpose whatsoever.

§90-15. Subscriber privacy.

A. Use of data from subscriber. No cable television network shall initiate or use any form, procedure or device for procuring information or data from cable subscribers' premises by use of the cable system without prior written valid authorization from each subscriber. Such authorization shall be for a specified period of time not to exceed one year and shall not have been obtained from the subscriber as a condition of service. Further, it shall be prohibited for a cable television network, without such authorization, to activate or utilize any cable television channel in any manner from the subscribers' premises. In any case, the subscriber shall have the right and opportunity to deactivate the return path from his premises.

B. Identifying subscribers. Neither the village nor a cable television network shall, without prior written valid authorization from each subscriber so affected, provide any data identifying subscribers' names or addresses to the village or any other party. The right of the village to examine records of a cable television network, as provided in §90-17, shall not include the subscriber lists.

C. Procurement of information. No firm, person, group, company, corporation, governmental body or agency shall procure information or data from cable subscribers' premises by use of the cable system without prior written authorization from each subscriber so affected. Valid authorization shall mean written approval from a subscriber for a period of time not to exceed one year and shall not have been obtained as a condition of any other binding agreement.

D. Specific authorization. No authorization for procurement or dissemination of subscriber identifiable information or data shall be valid unless it specifies the types of information or data covered and the parties authorized to collect, receive, store, record, transmit or otherwise convey this information or data. Further, all authorization shall specify the maximum period of time that any subscriber identifiable information or data shall be preserved in any manner or form.

E. Subscriber copy required. A written copy of all subscriber identifiable information or data which is retained or disclosed and the disposition of this information or data, together with any explanation necessary to make it understandable to the subscriber, shall be provided to the affected subscriber within 30 days of request by the subscriber.

§90-16. Termination.

A. Grounds for termination. The village may revoke any permit and rescind all rights and privileges associated with the permit in the following circumstances:

(1) If the grantee should violate the terms of its permit or this chapter and fails to cure any violation within 30 days after receipt of written notice of the violation from the village. However, it shall not be a violation where the grantee's failure to perform is due to the unavailability of vital equipment, where the grantee can show that maintaining spare equipment of the type needed would be unreasonably burdensome based on the cost of the item, its normal failure rate and the effect of failure on the system. Where the grantee has satisfied the Village Board of the unavailability of the equipment, the grantee shall have 20 days following the receipt of the equipment to perform its obligations.

(2) Multiple violations of the terms of the permit of this chapter are also grounds for termination of any permit.

(3) If any grantee should fail to provide or maintain in full force and effect the performance bond or the liability and indemnification coverage required in ~§90-7 and 90-8.

(4) If a petition is filed by or against the grantee under the Bankruptcy Act, or any other insolvency or creditors' rights law, state or federal, and the grantee shall fail to have it dismissed within 90 days of the date of filing.

(5) If a receiver, trustee or liquidator of the grantee is applied for or appointed for all or part of its assets.

(6) If the grantee transfers the permit without the required approval of the Village Board.

(7) If any court of competent jurisdiction, the FCC or any state regulatory body by rule, decision or other action determines that any material provision of the permit or this chapter affecting the quality of subscriber service is invalid of this permit.

(8) Loss of FCC permission to operate shall also be grounds for revocation of this permit.

B. Procedure prior to termination. Upon the occurrences of any of the events enumerated in Subsection A of this section, the Village Board shall hold a public hearing and provide the grantee an opportunity to be heard. Following such finding by the Village Board that the grounds for termination exist, the Village Board may terminate the permit or impose lesser sanctions.

C. Disposition of facilities. When a permit expires and has not been renewed, or when a permit is terminated pursuant to this section, and the network is not sold to another operator who has obtained a permit from the village within a reasonable period of time as determined by the village, the grantee, upon request of the village, shall promptly remove all its plant structures and equipment. In determining whether to grant a permit to an applicant wishing to use the existing network or to any other application, the village shall use the criteria set forth in §90-5D(3).

D. Restoration of property. In removing its plant, structures and equipment, the grantee shall refill at its own expense any excavation that shall be made by it and shall leave all public ways and places in as good condition as that prevailing prior to the company's removal of its equipment and appliances, without adversely affecting electric or telephone cables, wires or

attachments. The village shall inspect and approve the condition of all private and public ways and private and public places, cables, wires, attachments and poles after removal. Liability insurance and indemnity provided in §90-7 and the performance bond in §90-8 shall continue in full force and effect during the period of removal.

E. Restoration by village. In the event of a failure by the grantee to complete any work required by Subsection D above, or any work required by village ordinance within the time established and to the satisfaction of the village, the village may cause such work to be done, and the grantee shall reimburse the village the costs thereof within 30 days after receipt of an itemized list of such costs, or the village may recover such costs as provided in §90-13.

F. Lesser sanctions. The village may impose lesser sanctions or censures than termination for violations of provisions of this chapter, including the shortening of the permit period for substantial and repeated violations.

§90-17. Reports and records.

The village may require at any time that a cable television network file any of the following records with the Village Clerk:

- A. Report to stockholders. The report of stockholders, if any.
- B. Income statement. An income statement revealing all revenues and expenses applicable to its operations.
- C. Asset statement. An asset statement revealing all assets and liabilities devoted to network operations, together with an itemization of its investment in each of such assets on the basis of original cost, less depreciation. These reports shall include existing financing arrangements and such other reasonable information as the village may request and shall be signed by a certified public accountant.
- D. Facilities report. A facilities report setting forth the total physical miles of plant operation and a map showing the location of the same.
- E. Service report. A service record report detailing all complaints received and network downtime experienced during the previous 12 months, and shall include all complaints, their disposition and response time.
- F. Operations report. An operations report listing.
 - (1) A current list of all officers and directors with their addresses.
 - (2) Copies of all pertinent agreements or contracts, including pole-use agreements, entered into by the grantee during the fiscal year in the conduct of its business under the permit granted hereunder.
 - (3) The names and business and residential addresses and phone numbers of the cable television network resident manager and engineer.
 - (4) A copy of all types of subscriber agreements as set forth in §90-15 hereunder. Copies of individual subscribers' agreements are not to be filed with the village.

G. Engineering plans. Engineering plans for the network.

§90-18. Violations and penalties.

Any person who shall violate any provision, rule or regulation of this chapter, upon conviction thereof, shall be subject to a penalty as provided in §90-16.