

Chapter 10B
Franchise for Cable Television

Sections:

- 10b-1 Definitions
- 10b-2 Grant of authority
- 10b-3 Non-exclusive Grant
- 10b-4 Term of franchise
- 10b-5 Conditions of street occupancy
- 10b-6 Safety requirements
- 10b-7 System construction and extension
- 10b-8 Operational standards.
- 10b-9 Local office; Complaints
- 10b-10 Rates
- 10b-11 Franchise payments
- 10b-12 Indemnification of City
- 10b-13 Procedures
- 10b-14 Procedure upon termination
- 10b-15 Approval of transfer
- 10b-16 Miscellaneous provisions
- 10b-17 Compliance with applicable Laws and ordinances
- 10b-18 Violations; penalties
- 10b-19 Line severing
- 10b-20 Separability
- 10b-21 Effective date

Section 10b-1 Definitions

When used in this ordinance, unless the context otherwise requires, the following terms and their derivatives shall have the meaning herein given (and when not inconsistent with the contest, words used in the present tense include the future, words in the plural number include the singular, and words in the singular number include the plural):

- a. City: means the City of Grantsville.
- b. Council: means the governing body of the City.
- c. Grantee: means Community Television of Utah, Inc. its successors and assigns, the grantee of right under this ordinance.
- d. Person: means any natural person, company or entity of any kind.
- e. Franchise area: means that area that is within the corporate limits of the City as no or hereafter constituted.
- f. Street: means the surface of and the space above and below any public street, way, place, right of way, road, highway, freeway, bridge, tunnel, lane path, bike-path, alley, court, sidewalk, parkway, drive, communications or utility easement, by whatever name called, now or hereafter existing as such within the franchise.
- g. Property of Grantee: means all property owned, installed or used by the Grantee in the conduct of CATV business in the City.
- h. CATV: means a cable television system.
- i. Cable Television system: means a system composed of, without limitation, antenna, cables, wires, lines, towers, wave guides, or any other conductors, converters equipment or facilities, designed, constructed, or wired, for the purpose of producing, receiving, amplifying and distributing by coaxial cable, radio,

television other electronic or electrical signals to and from persons, subscribers and locations in the franchise area.

- j. Basic CATV Service: means the distribution of broadcast television signals by the Grantee.
- k. Subscriber: means any person or entity receiving and paying for basic CATV service.
- l. Basic Subscriber Revenues: means all remuneration received directly by the company from subscribers in payment for regularly furnished basic CATV service, but shall not include any taxes on services furnished by the Grantee imposed on any subscriber or user by any government, governmental unit, political subdivision, agency or instrumentality, and collected by the Grantee.

Section 10b-2. Grant of Authority.

There is hereby granted by the City to the Grantee the right and privilege to engage in the business of operating and provided a CATV system in the City, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain, in, on, over, under, upon, across and along any street or streets laid out or dedicated and all extensions thereof and additions thereto in the franchise area, such poles, wires, cable, conductors, ducts, conduit, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system; and in addition, so to uses, operate, and provide similar facilities or properties rented or leased from other person, including but not limited to any public utility or other grantee franchised or permitted to do business in the City. Provided however that prior to Grantees taking any action with respect to the street or streets of the City, Grantee shall submit all plans to the City and obtain prior approval for any such action.

Section 10b-3. Non-exclusive Grant.

The right to use and occupy said streets for the purpose herein set forth, shall not be exclusive to the Grantee.

Section 10b-4. Term of Franchise.

The franchise and rights herein granted shall commence thirty (30) days from the final passage hereof and shall continue in force and effect for fifteen (15) years after said effective date. Upon application by the Grantee to the City, the franchise may be renewed for subsequent fifteen (15) year periods.

Section 10b-5. Conditions of Street Occupancy.

- a. All Transmission and distribution structures, poles, lines, and equipment installed or erected by the Grantee within the franchise area shall be so located as to cause minimum interference with the proper use of streets and with the rights and reasonable convenience of property owners who adjoin any of said streets. The CATV system shall be constructed and operated in compliance with applicable City and State construction and electrical codes. The City reserves the right to reject any proposed installation of any of Grantees property on its streets and any decision of the City is final.
- b. In case of disturbance of any street or paved area, the Grantee shall, at its expense and in a manner approved by the City, replace and restore such street or paved area in as good condition as theretofore, and Grantee may be required to post such bonds as are required by the applicable provision of the Grantsville City code.
- c. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the Grantee when lawfully required by the City by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes; but, the Grantee shall in all cases have the right of abandonment of its property, provided that said

abandonment shall not cause any health or safety hazard.

- d. The Grantee shall, on the request of any person holding a building permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided; (I) such use by the city does not interfere with the use by the Grantee; and (II) the city holds the Grantee harmless against and from all claims, demands, causes of action, suits actions, proceedings, damages, or liabilities of every kind and nature, arising out of such use of said poles or conduits.

Section 10b-6. Safety requirements.

- a. The Grantee 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. All structures and all lines, equipment and connections in, over, under and upon all streets of the franchise that are allowed by the City, shall be kept and maintained in a safe and suitable condition and in good order and repair.

Section 10b-7. System construction and extension.

The Grantee is hereby authorized to extend the system within the franchise area to the extent that such extensions may become technically and economically feasible.

Whenever the Grantee shall have received written request for service from at least fifteen (15) subscribers within 400 cable meters (1300 cable feet) of its aerial trunk line, or from at least twenty-five (25) subscribers within 400 cable meters (1300 cable feet) of its underground trunk cable, it shall extend its system to such subscribers solely for the usual connection and service fees for all subscribers solely for the usual connection and service fees for all subscribers provided that such extension is technically and economically feasible. The 400 meters shall be measured in extension length of Grantee's cable required for service located within the public way or easement and shall not include length of necessary drop to the subscriber's home or premises.

No person in the Grantee's service area shall be arbitrarily refused service; but in recognition of the capital costs involved in unusual circumstances, including, without limitation, instances when the disturbance from distribution cable to connection of service to subscribers is more than 45 meters (150 cable feet) or when a subscriber density exists less than the density specified herein above, service may be made available on the basis of costs of materials, labor and easements, in order to prevent inequitable burdens on cable subscribers in more densely populated areas.

For all residential structures hereinafter erected which are to be serviced by underground utilities, the developer of the subdivision or development may acquire CATV systems in such new development: Developer shall perform all trenching service, including furnishing of any imported backfill material required, and will furnish and install for the Grantee any necessary distribution conduit and substructures, including pedestals, required in accordance with the Grantee's plans and specifications. Developer may enter into a written agreement with the Grantee whereby such costs may be reimbursed to the developer by Grantee at the rate of fifty percent (50%) of basic subscriber revenues generated from CATV service supplied within the development over a period not to exceed three (3) years.

In addition to providing plans and specifications to the developer, the Grantee shall inspect the facilities required hereunder, and certify to the City prior to final approval of the subdivision or development that the facilities required herein are properly installed. The City shall have the right to review and require its approval of the maps and specifications provided by the Grantee. The cost of that portion of an extension to a subdivision or development from the Grantee's existing facilities in excess of 60 meters (200 feet) outside the boundaries of

the subdivision or development shall be borne by the developer. Facilities installed hereunder shall be owned, operated, and maintained by Grantee.

Section 10b-8. Operational standards.

The Grantee shall operate and maintain its cable television system in full compliance with the standards set forth by the Federal Communications Commission.

Section 10b-9. Local office; Complaints.

The Grantee shall maintain a local business office or agent which subscribers may telephone during regular business hours without incurring added message or toll charges so that complaints regarding Cable Television operations may be promptly reported to the Grantee.

Section 10b-10. Rates.

The Grantee shall maintain on file with the City recorder a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including connection and service charges. Notice of charges shall be filed with the City Recorder at least thirty (30) days in advance of the effective date thereof.

Section 10b-11. Franchise payments.

The Grantee shall pay the city, on or before each March 31st, a franchise fee of five per cent (5%) of basic subscriber revenues received for cable television operations in the City for the preceding calendar year, and no other fee, charge or consideration. Sales tax or other taxes levied on a per subscription basis and collected by the Grantee shall be deducted from the gross annual basic subscriber revenues in computing any sums due the City. The Grantee shall provide an annual summary report showing gross annual basic subscriber revenues received during the preceding year.

Section 10b-12. Indemnification of City.

The Grantee shall at all time protect and hold the City harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, and reasonable attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Grantee in the operation or maintenance, ownership, construction, repair, replacement or conduct of said cable television system and by reason of any license, copyright, property right or patent of any article or system used in the construction or use of said system, provided the City give the Grantee prompt notice of any such claims, actions, and suits, without limitation, in writing. The Grantee shall maintain in full force and effect during the life of any franchise, public liability and property damage insurance for an amount of at least three hundred thousand dollars (\$300,000.00) single limit liability from the time of commencement of construction of the CATV system, and provide to the City evidence of such insurance whenever requested. All such insurance may contain reasonable deductible provisions not to exceed one thousand dollars (\$1,000.00) for investigation of claims made by any person against the City arising out of any use or misuse of privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee may bring it's an obligations to carry any insurance required hereby

within the coverage of any so-called blanket policy or policies of insurance now or hereafter carried, by appropriate amendment, endorsement or otherwise, provide, however, the interests of the City shall be a fully protected thereby as if the Grantee had obtained individual policies of insurance.

Section 10b-13. Procedures.

- a. Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the City in regard to the operations of the Grantee's cable television system, shall be taken only after thirty (30) days written notice to the Grantee of such action or proposed action, and the Grantee has been given an opportunity to respond in writing as at any hearing may be specified by the City.
- b. The notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed, and such other procedures as may be specified by the City. If a hearing is to be held, the notice shall give the date and the time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The company shall be necessary party to any hearing conducted in regard to its operations.

Section 10b-14. Procedure upon termination.

If Grantee shall fail or refuse to comply with the provisions of this ordinance, and if after a hearing as provided in Section 10a-13 herein, the city determines that Grantee's franchise should be terminated or upon expiration of the Franchise of Grantee, Grantee shall discontinue its operation of the CATV system as defined in this ordinance, and shall have the right to enter upon the streets or other property of the City, for the purpose of removing therefrom any or all of its property or otherwise. In so removing said property, the Grantee shall refill, at its expense, and excavation that it shall make and shall leave said streets in as good condition as that prevailing prior to the Grantee's removal of its property.

Section 10b-15. Approval of transfer.

The grantee shall not sell or transfer its plant or system to another, other than a person controlling, controlled by or under common control with the Grantee, not transfer any rights under this franchise to another without Council approval. No sale or transfer of the Grantee's assets used in the performing of this franchise shall be effective until the vendee, assignee or lessee has filed in the office of the City Recorder an instrument duly executed reciting the effect of such sale, assignment or lease, accepting the terms of the franchise and agreeing to perform all the conditions thereof. Such council approval shall not be unreasonably withheld, but may withhold approval if it determines that the vendee, assignee or lessee is incapable of maintaining or continuing to provide the services as specified in this ordinance. Neither this section nor other Sections of this franchise shall preclude the mortgaging, hypothecating, or assigning of rights in the system, or the pledge of stock by the Grantee for the sole purpose of financing.

Section 10b-16. Miscellaneous provisions.

- a. The Grantee shall provide without charge one outlet of basic CATV service to each governmental office building, fire station, police offices, and public school buildings that are passed by its cable. The distribution of the cable facility inside such buildings and extent thereof shall be at the option, duty and expense of the building owner.

- b. In case of any emergency or disaster, the Grantee shall, upon request of the City make available its facilities to the City for emergency use during the emergency or disaster period.
- c. When not otherwise prescribed herein, all matters herein required to be filed with the City shall be filed with the City Recorder.

Section 10b-17. Compliance with applicable laws and ordinances.

The Grantee shall at all times during the life of this franchise be subjects to all lawful exercise of the municipal and police powers of the City. The City reserves the right to adopt from time to time in addition to the provisions herein contained such ordinances as may be necessary to the exercise of its municipal and police powers.

Section 10b-18. Violations; penalties.

- a. From and after the effective date of this Ordinance, it shall be unlawful for any person to construct, install or maintain within any public street in the City, or within any other public property of the City, or within any privately-owned area within the City which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the city, any equipment or facilities for distributing any television signals or radio signals through a CATV system, unless a franchise authorizing such use of such street or property or area has been first obtained, and unless such franchise is in full force and effect.
- b. It shall be unlawful for any person to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with an part of the franchisee CATV system within this City for the purpose of enabling anyone to receive any television signal, radio signal, picture, sound, or other transmission, without payment to the Grantee.
- c. It shall be unlawful for any person, without the consent of the owner, willfully to tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, sound or other transmission.
- d. Any person violating or failing to comply with any provisions of this ordinance shall be guilty of a misdemeanor and for each day of violation or failure to comply may be punished by a fine not to exceed three hundred dollars (\$300.00); imprisonment for a term of not to exceed six (6) months in the county jail or both.

Section 10b-19. Line severing.

If at any time the Grantee's cable and/or other equipment is disturbed, damaged, or severed the cost of repair shall be paid by the party responsible for the time and materials expended for repair of said damage. The City will cooperate with the Grantee to assist in enforcing any charge or penalty arising from cable severing or other damage to Grantee's property.

Section 10b-20. Separability.

If any part of this ordinance is for any reason held invalid by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions.

Section 10b-21. Effective Date.

This ordinance shall become effective 30 days after passage and upon posting in three public places within Grantsville City.

Ordained by the Grantsville City Council of Grantsville City, State of Utah, this 15th

day of October 1980.

UPDATED 11/04