

Ordinance 77-1

Centre Video Purchase

6/13/1977

ORDINANCE 77-1, 1977

AN ORDINANCE GRANTING A FRANCHISE TO CENTRE VIDEO CORPORATION, ITS SUCCESSORS, AND ASSIGNS TO CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE TOWNSHIP OF HOPEWELL, BEAVER COUNTY, PENNSYLVANIA, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE PROVIDING FOR TOWNSHIP REGULATIONS AND USE OF THE CABLE TELEVISION SYSTEM.

Section 1. DEFINITIONS. For the purpose of this Ordinance the following terms, phrases, words, abbreviations, and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

- (a) "Township" shall mean the Township of Hopewell.
- (b) "Board of Commissioners" shall mean the governing body of the Township.
- (c) "Company" shall mean the grantee of right under this Ordinance.
- (d) "Person" shall mean any person, firm partnership, association, corporation, company, or organization of any kind.
- (e) "Franchise area" shall mean that area within the corporate limits of the Township.
- (f) "Street" shall mean the surface of and the space below and above any public street, right of way, parkway, drive, court, road, highway, freeway, path, lane, alley, sidewalk, bridge, communications or utility easement, now or hereafter existing as such within the franchise area.

- (g) "Property of company." shall mean all property owned, installed, or used by the Company in the conduct of a CATV business in the Township.
- (h) "CATV" shall mean a cable television system as hereinafter defined.
- (i) "Cable Television System" shall mean a system composed of, without limitations, antenna, wires, cable, lines, towers, wave guides, or any other conductors, convertors, equipment of facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable audio and/or visual radio, television, electronic, or electronic signals to and from persons, subscribers and locations in the franchise area.
- (j) "Basic CATV Service" shall mean the distribution of broadcast television signals by the Company.
- (k) "Subscriber" shall mean any person or entity receiving CATV service.
- (l) "Gross Annual Basic Subscriber Revenues" shall mean any and all compensation and other consideration received directly by the Company from subscribers in payment for regularly furnished basic CATV service. Gross annual basic subscriber revenue shall not include taxes on services furnished by the company imposed directly on any subscriber or user by any township, state, or other governmental unit and collected by the Company for such governmental unit.

Section 2. GRANT OF AUTHORITY. Whereas the Township has approved the legal, character, financial, technical and other qualifications of the Company and the adequacy and feasibility of the Company's construction arrangements as part of a full public proceeding affording due process, including specific notice to members of the public of the line extension provisions of Section 7 hereof, there is hereby granted by the Township to the Company the right and privilege to engage in the business of operating and providing a CATV system in the Township, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, under, upon, across, on and along any public street, public way, and public place, now laid out or dedicated and all extensions thereof and additions thereto in the franchise area such as poles, wires, cables, conductors, ducts, conduit vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms, or corporations including but not limited to any public utility or other grantee franchised or permitted to do business in the Township.

Section 3. NON-EXCLUSIVE GRANT. The right to use and occupy said street, and other public ways for the purpose herein set forth shall not be exclusive, and the Township reserves the right to grant a similar use in said streets to any person.

Section 4. TERM OF FRANCHISE. The franchise and rights herein granted shall take effect and be in force 30 days from and after the final passage hereof or upon filing or acceptance by the Company shall continue in force and effect

for a term of 15 years after the effective date of this franchise. The franchise may be renewed, at the discretion of the Township Commissioners, for an additional fifteen year period following a full public proceeding affording due process.

Section 5. CONDITIONS OF STREET OCCUPANCY.

(a) All transmission and distribution structures, lines, and equipment erected by the Company within the franchise area shall be so located as to cause minimum interference with the proper use of streets, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said street or other public ways and places. The CATV system shall be constructed and operated in compliance with all Township, State, and National construction and elected codes and shall maintain its wires, cables, fixtures, and other equipment in such a manner that they will not interfere with any installations of the Township or of a public utility serving the Township.

(b) In case of disturbance of any street, public way, or paved area, the Company shall, at its own expense and in a manner approved by the Township, replace, and restore such street, public way, or paved area in as good a condition as before the work involving such disturbance was done.

(c) If at any time during the life of this franchise the Township shall lawfully elect to alter or change the grade of any street, alley, sidewalk, or other public way, the Company, upon reasonable notice by the Township, shall remove, relay, 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 the usual travel on such public way.

(e) The Company shall, on the request of any person holding a building moving permit issued by the Township, temporarily raise or lower its wires to permit the moving of a building. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Company shall have the authority to require such payment, in advance. The Company shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary wire changes.

(f) The Company shall have the authority to trim trees upon and overhanging streets and public ways and places of the franchise area so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company, except that at the option of the Township, such trimming may be done by it or under its supervision and direction at the expense of the Company.

(g) The Company shall, at its own 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 Company when required by the Township by reason of traffic conditions, public safety, street vacation, freeway and street conditions, change or establishment of street grades, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the Company shall in all such cases have the right and obligations of abandonment of property of the Company, subject to Township agreements.

(h) The Township shall have the right to make additional use, for any public or municipal-purpose, of any

poles, or conduits controlled or maintained exclusively by or for the Company in any street, provided such use by Township does not interfere with the use of the Company. The Township shall indemnify and hold harmless Company against and from any and all claims, demands, causes of actions, suits, actions, proceedings, damages, cost of liabilities of every kind and nature whatsoever arising out of such Company's poles or conduits.

Section 6. 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) All structures and all lines, equipment, and connection in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the franchise area, whatever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

Section 7. SYSTEM CONSTRUCTION AND EXTENSION.

(a) Company is hereby authorized to extend the system within the franchise area to the extent that such extension is or may become economically feasible and in accordance with the further provisions of this Section 7.

(b) Company, whenever it shall receive requests for service from at least fifteen (15) subscribers within 1320 feet of its aerial trunk cable, or at least twenty-five (25) subscribers within 1320 cable feet of its underground trunk cable, shall extend its system to such subscribers at no cost to the subscribers. The 1320 feet shall be measured in

extension length of Company's cable required for service located within the public way or easement and shall not include length of necessary service drop to the subscriber's home or premises.

(c) No person, firm or corporation in the Company's service area shall be arbitrarily refused service. However, in recognition of the capital costs involved, for unusual circumstances, such as requirement for underground cable or more than 150 cable feet of distance from distribution cable to connection of service to subscribers, or a subscriber density less than the density specified herein, in order to prevent inequitable burdens on potential cable subscribers in more densely populated areas, service may be made available on the basis of cost of materials, labor and easement.

(d) In the event additional adjacent territory is incorporated within the Township's limits, by annexation or otherwise, Company's rights and duties under this Ordinance shall be deemed to include such additional territory.

Section 8. OPERATIONAL STANDARDS. The Company shall operate and maintain its cable system in full compliance with the standards set forth by the Federal Communications Commission.

Section 9. LOCAL OFFICE; COMPLAINTS; PENALTIES.

The Company shall maintain an office or business or agent which subscribers may telephone, during regular hours, without incurring added message or toll charges, so that complaints regarding cable television operations may be promptly reported to the Company. Company must respond to subscriber complaints within twenty-four (24) hours.

Should a subscriber have an unresolved complaint regarding cable television operations, the subscriber shall be entitled to file his complaint with the Township Manager, who

has primary responsibility with the continuing administration of the franchise and the procedures for resolving complaints, and thereafter to meet jointly with a representative of the Board of Commissioners and a representative of the Company within thirty (30) days to fully discuss and resolve such matters. The Company shall notify each subscriber at the time of initial subscription to the service of the Company of the procedures for reporting and resolving complaints.

PENALTIES. In the event that the Company, after examining a subscriber's cable and television, informs the subscriber that the problem which is the basis of the complaint is the television, and said television is subsequently examined by a private repairman and proven to be in proper working order, the Company must reimburse the subscriber for the repairman's fee and promptly restore full service.

Unresolved subscriber complaints may be referred to the Board of Commissioners, or a committee thereof, under conditions as set forth herein, and a hearing scheduled between the Board, subscriber and Company to resolve said differences. All parties retain their right to seek redress in the Courts, if necessary.

Section 10. RATES. AS of the date of the execution of this Agreement and the passage of the Ordinance, the monthly subscribers rate for basic television to one television receiver in a single residential dwelling shall be \$5.50 and \$1.25 for each additional outlet. The Rate for connection, reconnection, relocation of cable and additional connections shall be \$10.00.

The Company shall maintain on file with the Township Manager a schedule setting forth all rates and charges to be made to subscribers for basic cable television service, including installation and service charges. Notice of changes of rates and charges shall be filed with the Township Manager at least thirty (30) days in advance of the effective dates thereof. If the Board of Commissioners of Hopewell Township, during this period, disputes

the necessity or reasonableness of the said rate increase, they shall be entitled to schedule a hearing, after proper notice, which shall be attended by appropriate representatives of the company.

Should the Board of Commissioners not act within this thirty (30) day period, the requested rate increase becomes effective at the expiration period. Should the Board of Commissioners, after hearing, decide that the rates request is reasonable, the increase shall go into effect thirty (30) days after originally requested. Should the Board of Commissioners, after hearing, dispute the necessity for a rate increase, it shall, within thirty (30) days, set forth in detail, in writing, its reasons therefore and its basis for the denial of the rate increase. Should this written rationale not be prepared and forwarded to the company within thirty (30) days, the rate increase shall be effective at the expiration of this period. The Board of Commissioners hereby agrees that it will not unreasonably withhold requests for subscriber rate increases. Company hereby agrees that it will not indiscriminately seek rate increases and further agrees to document each requested increase as thoroughly as possible.

Section 11. PREFERENTIAL OR DISCRIMINATORY PRACTICES

PROHIBITED. The Company shall not, as to rates, charges, service facilities, rules, regulations or in any other respect make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage, provided that nothing in this franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming to within such classification would be entitled, and provided further that connection and service may be waived or modified during

promotional campaigns of Company.

Section 12. FRANCHISE PAYMENTS. The Company shall pay to the Township, on or before March 31st of each year, a 3%* franchise fee based on gross annual basic subscriber revenues received for cable television operations in the Borough for the preceding calendar year. No other fee, charge or consideration shall be imposed. Sales tax or other taxes levied directly on a per subscription basis and collected by the company shall be deducted from the gross annual subscriber revenues before computation of sums due the Township is made. The company shall provide an annual summary report showing the gross annual basic subscriber revenues received during the preceding year.

Section 13. INDEMNIFICATION OF TOWNSHIP.

(a) The Company will at all times protect and hold harmless the Township from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, attorney fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Company in the ownership, construction, repair, replacement, maintenance and operation of said cable television system and by reason of any license, copyright, property right or patent of any article or system used in construction or use in said system. Township shall give the Company prompt notice of any such claims, actions, and suits, without limitations, in writing.

(b) The Company shall maintain in full force and effect during the life of any franchise, public liability insurance in a solvent insurance company authorized to do business in the State of Pennsylvania, at no less than in * Franchise fee cannot exceed three (3%) percent specific justification to the FCC in accordance with Section 76.31 (b) of the FCC Rules.

the following amounts:

- a. \$50,000 property damage in any one accident;
- b. \$100,000 for personal injury to any one person;
- c. \$300,000 for personal injury in any one accident;

Provided that all such insurance may contain reasonable deductible provisions not to exceed \$1,000.000 for any type of coverage, and provided further, the Township may require that any and all investigations of claims made by any person, firm or corporation against the Township arising out of any use or misuse of privileges granted to the Company hereunder shall be made by, or at the expense of the Company or its insurer.

Section 14. PROCEDURES.

(a) Any injury, proceeding, investigation or other action to be taken or proposed to be taken by the Township in regard to the operations of Company's cable television system, including action in regard to a change in subscriber rates, shall be taken after thirty (30) days public notice of such action or proposed action is published in a daily or weekly newspaper having general circulation in the Township; a copy of such action or proposed action is served directly on Company; and, the Company been given the opportunity to respond in writing and/or at a hearing as may be specified by the Township and members of the general public have been given the opportunity to respond or comment on the action or proposed action.

(b) The public 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 Township. If a hearing is to be held, the public notice shall give the date

and the time of such a hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The Company shall be a necessary party to any hearing conducted in regard to its operations.

Section 15. PROCEDURE UPON TERMINATION. Upon expiration of the franchise, if the Company shall not have acquired an extension or renewal thereof and accepted the same, the Company may have and it is hereby granted, the right to enter upon streets, and public ways of the Township, for the purposes of removing said property, the Company shall refill, at its own expense, any excavation that shall be made by it, and shall leave said streets and public ways and places in as good condition as that prevailing prior to the Company removal of its property.

Section 16. APPROVAL OF TRANSFER. The Company shall not sell or transfer its plant or system to another, other than a parent company or a wholly-owned subsidiary of the Company, nor transfer any rights under this franchise to another without the approval of the Board of Commissioners. Provided, that no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the Township Manager an instrument duly executed reciting the fact of such a sale, assignment or lease accepting the terms of the franchise and agreeing to perform all the conditions thereof. Such Board of Commissioners approval will not be unreasonably withheld and neither this Section nor other Sections of this franchise shall preclude the mortgaging, hypothecating, or the assignment of certain rights in the system, or the pledge of stock by the Company for the purpose of financing.

Section 17. NEW DEVELOPMENTS. It shall be the policy of the Township liberally to amend this franchise upon

application of the Company, when necessary to enable the Company to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity more effectively, efficiently or economically to serve customers.

Section 18. MISCELLANEOUS PROVISIONS.

(a) When not otherwise prescribed herein, all matters required to be filed with the Township shall be filed with the Township Manager.

(b) The Company shall assume the cost of publication of this franchise as such publication is required by law. A bill for publication costs shall be presented to the Company by the Township Manager upon the Company's filing of acceptance and shall be paid at that time.

(c) The Company shall provide without charge one outlet to each governmental office building that it passed by its cable. The distribution of the cable facility inside such buildings and the extent thereof shall be the option, duty and expense of the building owner.

(d) In case of any emergency or disaster, the company shall, upon request of the Township, make available its facilities to the borough for emergency use during the emergency or disaster period.

(e) Unless agreed to in writing by the company, no conference or meeting with the Board of Commissioners or a segment thereof shall be scheduled with less than ten (10) days written notice to the Company.

The following channels are to be provided to Hopewell subscribers:

KDKA
Hollywood Home Theatre (Optional)
WTAE

WOR
WCBBS (after WOR signs off, daily)
WUAB
WJAC
WFMJ
WTRF
WYTV
WSTV
WPGH
WIC
WQEX
WKBN
WQED
LOCAL

and shall continue to be so provided unless the parties mutually agree otherwise or circumstances beyond the control of the Company prohibits further broadcast.

(f) A Metro-Data machine is to be installed in the Township Building for the use of the Township at the time the Company attains a customer count of 1,000 subscribers.

(g) Any Hopewell subscriber who wishes to pay his or her cable television cable fee twelve (12) months in advance will be given one (1) month's free service; this option known as the "Bakers Dozen" will provide thirteen months service for the price of twelve.

Section 19. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES. The Company shall at all times during the life of this franchise be subject to all lawful exercise of the police power of the Township. The Township reserves the right to adopt from time to time in addition to the provisions herein contained, such Ordinances as may be deemed necessary to the exercise of the police power. Such regulation shall be reasonable and not destructive to the rights herein granted and not in conflict with the laws of the Commonwealth or other local laws or regulations.

Section 20. VIOLATIONS.

(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 Township, or within any

other public property of the Township, or within any privately-owned area within the Township which has not yet become a public street on any tentative subdivision map approved by the Township, any equipment or facilities for distributing television signals or radio signals through CATV system, unless a franchise authorizing such use of such street or property or area has first been obtained, and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electronically, acoustically, inductively or otherwise, with any part of the franchised CATV system within this Township for the purpose of enabling himself or others to receive any television signals, radio signals, picture, program or sound, without payment to the operator of said system.

(c) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove, or injure any cables, wires, or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

Section 21. PENALTIES. Any person violating or failing to comply with any of the provision of this Section 20 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 exceeding \$100.00 or by imprisonment for a term not to exceed thirty (30) days or both such a fine and imprisonment.

Section 22. SEVERABILITY. If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction such decision shall not affect the validity of the remaining portions of hereof.

The Board of Commissioners hereby declare that it would have passed this Ordinance and each section, subsection, clause, or sentence hereof, irrespective of the fact that any one or more sections, subsections, clauses, or phrases be declared illegal, invalid or unconstitutional. The validity of any portion of this Ordinance shall not abate, reduce, or otherwise affect any consideration or other obligation required of the Company. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 23. FEDERAL REGULATIONS. Any modification resulting from an amendment of Section 76.31 ("Franchise Standards") of the Rules and Regulations of the Federal Commission shall be incorporated into this franchise as of the date of such modification becomes obligatory under FCC regulations, or in the event no obligatory date is established, within one year of adoption or at the time of franchise renewal, whichever occurs first.

Section 24. EFFECTIVE DATE. This Ordinance shall take effect and be in force thirty (30) days from and after its passage, subject to acceptance by the Company within said thirty day period.

TOWNSHIP OF HOPEWELL

BY *Michael Chabik*
President, Board of Commissioners

WITNESS:
Ann Kelly
Secretary, Manager

The **Beaver County Times**, a daily newspaper published by BEAVER NEWSPAPERS, INC., a Penn 400 Fair Avenue, West Bridgewater, Beaver County established in 1946, and has been issued regularly, since said date.

The attached advertisement, which is exactly as p
appeared in the regular issue on 6/02

BEAVER

STATE OF PENNSYLVANIA, }
COUNTY OF BEAVER, } SS:

Before me, a Notary Public in and for such
ROBERT M. WHITE, who being

ASSISTANT CONTROLLER of BEAVER
nor said corporation is interested in the subject n
that all of the allegations of the foregoing statemen
character of publication are true.

Sworn to and subscribed before me

this 13TH day of JUNE 1977

Maurit Ziegler

**ORDINANCE
NOTICE OF INTENT TO
ADOPT AN ORDINANCE**

Notice is hereby given that the Board of Commissioners of the Township of Hopewell will consider the adoption of the following ordinance at its regular meeting. The following is a summary of the ordinance. The full text of the ordinance is available for public inspection at the Township Municipal Building, Clark Boulevard and Circle Drive, Hopewell Township, Beaver County, Pennsylvania.

AN ORDINANCE GRANTING A
FRANCHISE TO CENTRE VIDEO COR-
PORATION, ITS SUCCESSORS, AND
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OF HOPEWELL, BEAVER COUNTY,
PENNSYLVANIA, SETTING FORTH
CONDITIONS ACCOMPANYING THE
GRANT OF FRANCHISE PROVIDING
FO

By K

SERVICE DIRECTORY

BABYSITTING — Done in my home. Moderate. Experienced. 775-4571.

BABYSITTING & CHILD CARE — In my home, exp., Broadhead Rd., Center Twp. 375-7182.

HLP 2 BROTHERS — Stay in college. We will mow your lawn, trim your hedges, wash & wax your car, etc. Have fun! Call 378-1810.

TECHNICAL SERVICES

ACQUINISTS — Part time. Call 378-7030.
6 cars
9 a.m. & 12 noon.

LEGAL SECRETARY — Exp'd., top salary. J.J. Personnel Employment Agency, 709 Third Ave. N., Brighton, 847-0520.

MANITORIAL-WATCHERSON — Part time, must have own transportation and be able to pass a physical in Hooks-town, Georgetown area. Reply Box 821, Beaver County Times, Beaver, Pa., 15009.

Situations Wanted

INSTUMENT-DRAFTING TECH. — Tech school grad with ability to operate transit and levels. Must also have ability to operate desk top computer to close traverses, reduce loop computations, triangulation, etc. Nat'l. Firm. Fee pd. \$1,000 range. Ohio Valley Employment Agency, Union Nat'l. Bank Bldg., Coraopolis, 264-8700.

INSURANCE SECRETARY — Typing, insurance exp. required. Salary to \$700 or higher. J. J. Personnel Employment Agency, 709 Third Ave., N. Brighton, 847-0320.

23. Situations Wanted

WRITER — Fiction. Must be published. To collaborate with published non-fiction writer on revision of a novel. Write Box 464, Beaver, Pa. 15009.

WAITRESS OR WAITER — Full or part time. Call for appl. Hyde House Restaurant, Rt. 51, Darlington, 827-2939.

AVE. CONWAY. — 1401 First

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