

AN ORDINANCE GRANTING A FRANCHISE TO DAVE'S CABLE INC. JACKIE LOVETT-ANDERSON AND CONNIE HOLT, ITS SUCCESSORS AND ASSIGNS, TO OWN, OPERATE AND MAINTAIN A COMMUNITY TELEVISION SYSTEM IN THE CITY OF TONTITOWN, ARKANSAS: SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OR FRANCHISE; AND PROVIDING FOR REGULATIONS AND USE OF THE SAID SYSTEM BY SAID CITY.

Section 1: Short Title. This ordinance shall be known and may be cited as the "Cable Television Ordinance."

Section 2: Definitions. for the purpose of this ordinance the following terms, phrases, word and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in plural number include the singular number, and words in singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "City" is the city of Tontitown in the state of Ark.
- (2) "Company" is the grantee of rights under this ordinance awarding a franchise and is known as Dave's Cable, Inc.
- (3) "Person" is any person, firm, partnership, association, corporation. Company or organization of any kind.
- (4) "System" shall mean the entire installation located in the City of Tontitown.

Section 3: Grant of authority. The city, after due consideration, being satisfied as to the company's legal, technical, character, financial and other qualifications, and the adequacy and feasibility of the company's construction arrangements, hereby grants to the company, a non-exclusive franchise, right and privilege to construct, erect, operate and maintain in, upon, along, across, above, over, and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a Cable Television System for the purpose of distributing television and radio signals and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

Section 4: Liability and indemnification. The company shall pay and by its acceptance of this franchise, the company expressly agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of the Company's negligence in the installation, operation, or maintenance of the Cable Television System authorized herein. The City shall notify the Company's representative within fifteen (15) days after the presentation of any claim or demand to the City, either by suit or otherwise, made against the City on account of any negligence or contract as aforesaid on the part of the Company. The Company shall carry and pay the cost of the following liability insurance in support of its undertaking to hold the City harmless from loss sustained by either on account of the negligence of the Company, is at least the amounts indicated below, for injury to or death of persons and injury to or destruction of property:

- (1) \$50,000.00 for property damage to any one person.
- (2) \$100,000.00 for property damage in any one accident.
- (3) \$100,000.00 for personal injury to any one person.
- (4) \$300,000.00 for personal injury in any one accident.

The Company shall comply with all the provisions of the Workman's Compensation Law of the State of Ark.

Section 5: Local office: During the term of this franchise, and any renewal thereof, the Company shall maintain within the area, a local business office or agent for the purpose of resolving all complaints regarding the quality of service, equipment malfunction, and similar matters. The Company shall provide the City Clerk's office with the address and phone number of said office or agent which will receive complaints regarding quality of service, equipment malfunctions and similar matters. The local business office or agent shall be open to receive inquiries or complaints from subscribers regarding the quality of service, equipment malfunctions, and similar matters during normal business hours.

Section 6: Condition of Road Occupancy.

- (1) The Company may enter into one or more contracts with the Light, Gas, Water and Telephone companies or the owner or lessee of any poles or posts located within the City to whatever extent such contract or contracts may be expedient and of advantage to the Company furnishing the service covered by this franchise to its customers.

- (2) The Company system, poles, wires and appurtenances shall be located, erected and maintained so that no part of it shall endanger or interfere with the lives of persons, or interfere with any improvements the City may deem proper to make, or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges, easements, or public property.

Section 7: Payments to the City. The Company shall, during each year of operation under this Franchise, pay to the City, three (3) percent of the annual gross subscribers revenues to customers located within the City. At the time of this annual payment, Company shall furnish the City with an annual report showing the Company's annual gross subscriber revenues during preceding year.

Section 8: Franchise Term. The Franchise granted the Company herein shall terminate 15 years from date of grant. The franchise may be renewed for periods of reasonable duration not to exceed fifteen (15) years per renewal period, on the same terms and conditions as contained herein, or on such different terms or conditions as are consistent with the requirements of Section 76.31 and other Rules of the Federal Communications Commission. Unless contrary notification be timely received from the City, the Company's application for renewal shall be approved, provided:

- (1) The Company shows that its CABLE service during the preceding franchise period has reflected good-faith effort to serve the needs and interests of its franchise area, and
(2) the Company has not demonstrated a callous disregard for the law and all pertinent regulations.

Section 9: Commence of Construction. Upon grant of the Franchise to construct and maintain a community television system in the city of Tontitown, Arkansas, the Company may enter into contracts with Light, Gas, Water and Telephone Companies or other for the use of poles and posts necessary for proper installation of the system, obtain right of way permits from appropriate state, County and Federal officials necessary to cross highways or roads under their respective jurisdiction to supply main trunk lines from the Company's receiving antennas, obtain permission from the Federal Aviation Authority to erect and maintain antennas suitable to the needs of the system and its subscribers and obtain whatever other permits a County, State or Federal Agency may require. In the construction, installation and maintenance of its system the company will use steel, cable and electronic devices, all of specialized and advanced design and type; in the operation of its system the Company will employ personnel with training, skill and experience in electronics and communications. Neither materials nor personnel of this sort will be available to the company for its system in the event of

a war or other similar national emergency.

- Section 10: Construction Schedule. Within one (1) year from the date the Federal Communications Commission certifies that the Company's plans for cable television operation in and for the City comply with it's rules and regulations governing cable television, the Company shall accomplish significant construction of the system; thereafter, it shall reasonably and equitably extend energized trunk cable to 20% of its City Franchise area each year unless additional time is granted by the City Council upon request of the Company for good cause shown.
- Section 11: Modification of FCC Rules. Consistent with the requirements of Rule 76.31 (a) (6) of the Federal Communications Commission, any modification of Rule 76.31 resulting from amendment thereto by the Federal Communications Commission shall to the extent applicable be considered as a part of this franchise as of the effective date of the amendment made by the FCC and shall be incorporated in such franchise by specific amendments thereto by the lawful action of the City Council within (1) year from the effective date of the Federal Communications Commission's amendment or at the time of renewal of this franchise, whichever occurs first.
- Section 12: Activities Prohibited. The Company shall not allow it's cable or other operations to interfere with television reception or persons not served by the Company, nor shall the system interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.
- Section 13: Limited Purpose. This Franchise is granted by the City Council of Tontitown, Arkansas, to the Company purely for the purpose of using easements, streets and highways of the City to erect and construct the Company's system and is not intended to convey any copyrighted or patent privileges, whatsoever.
- Section 14: Separability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not effect the validity of the remaining portion hereof.
- Section 15: Ordinance Repealed. All ordinances or parts thereof in conflict with the provisions of the ordinance are hereby repealed.

SECTION 16: BE IT FURTHER ORDAINED THAT THIS ORDINANCE TAKE effect from the date it shall have been passed by the Council, certified and delivered, to the office of the Mayor of Tontitown, Ark. in writing by the City Clerk, and become effective as otherwise provided by law.

PASSED AND APPROVED THIS 7th DAY OF November, 1989

Freddie R. Zaldo
Mayor of the City Council

Frances Franco
CITY CLERK

CERTIFICATE

The undersigned, City Clerk of the City of Tontitown, Arkansas, hereby certifies that the above and foregoing is a true and correct copy of Ordinance NO 85 duly passed and approved by the City Council and the Mayor of the City of Tontitown, Arkansas, on 7th day of November, 1989, the same being recorded in Book NO. _____ at Page _____.

Frances Franco
City Clerk

TONTITOWN WATER DEPARTMENT
CITY OF TONTITOWN, ARKANSAS

	Budget 89	Actual 89 ⁽¹⁾	Budget 90
A. ESTIMATED REVENUES:			
1. Water Sales	\$ 97,000	\$ 99,137	\$105,000
2. Fire Hydrant Rental (2)	1,720	1,720	1,720
3. Connection Fees	4,000	2,500	5,000
4. Interest	20,000	23,607	22,000
Total Estimated Revenue Available	\$122,720	\$126,964	\$133,720
B. ESTIMATED OPERATION AND MAINTENANCE EXPENSES:			
1. Salaries	\$ 5,000	\$ 3,258	\$ 5,000
2. Office Supplies & Postage	3,000	1,398	5,000
3. Machine Hire & Labor	8,000	3,865	8,000
4. Materials & Supplies	5,000	3,288	8,000
5. Water Purchases	60,000	51,115	70,000
6. Insurance, Taxes & Bonds	8,000	6,065	8,000
7. Misc.	500	150	500
8. Bad Debts	500	250	500
9. Engineering Fees	-0-	-0-	1,000
10. Legal Fees & Advertising	250	20	250
Total Operation & Maintenance Expenses	\$ 90,250	\$ 69,409	\$106,250
C. DEBT REPAYMENT:			
1. 1971 Revenue Bond	\$ 8,500	\$ 8,500	\$ 8,500
2. 1975 Revenue Bond	5,928	5,928	5,928
3. 1978 Revenue Bond	1,852	14,808	-0-
Total Debt Repayment	\$ 16,280	\$ 29,236	\$ 14,428
D. RESERVE FUNDING:			
1. Capital Improvements in Reserve	\$ 5,000	\$ 5,000	\$ 5,000
2. Depreciation Funded 5% of sales	4,850	4,850	4,956
Total Reserve Funding	\$ 9,850	\$ 9,850	\$ 9,956
TOTAL OPERATION & MAINTENANCE EXPENSES			
DEBT REPAYMENT AND RESERVE FUNDING	\$116,380	\$108,495	\$130,634
E. ESTIMATED SURPLUS:	\$ 6,340	\$ 18,469	\$ 3,086
Total Equals Estimated Revenue Available	\$122,720	\$126,964	\$133,720
F. ESTIMATED NEW CONSTRUCTION FROM RESERVE FUNDING:	\$ 64,000	\$ 46,350	\$100,000
1. Total Construction costs \$73,520			
2. Donation from Landowners 25,750			
3. Extra Taps 420			

Notes: (1) Figures for actual 1989 are based on actual data for the first 9 months and estimated data for the last 3 months. These figures are furnished for comparison only.

(2) Fire Hydrant rental is paid from the General Fund, City of Tontitown.

RESOLUTION NO. 50

NOW THEREFORE, be it resolved by the City Council of the City of Tontitown, Arkansas that the above set out budget is adopted on the 9th day of November 1989.

CITY OF TONTITOWN, ARKANSAS

ATTEST: Frances Franco
Frances Franco, Recorder/Treasurer

Freddie P. Talda
Freddie P. Talda Mayor