

ORDINANCE # 1989-6

AN ORDINANCE ESTABLISHING ALL RULES AND REGULATIONS FOR THE CONTROL AND OFFERING OF CABLE TELEVISION SERVICES IN THE VILLAGE OF CAMDEN, MICHIGAN AND GRANTING TO COUNTRY CABLE SYSTEMS, INC. AND ITS SUCCESSORS AND ASSIGNS THE RIGHT, PRIVILEGE, AUTHORITY, LICENSE AND FRANCHISE TO CONSTRUCT AND OPERATE A CABLE TELEVISION SYSTEM.

BE IT HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF CAMDEN, MICHIGAN:

SECTION 1. Purpose.

A. The purpose of this ordinance is to provide regulatory provisions of the cable television system in the Village of Camden, Michigan.

B. This ordinance shall be known and may be cited as the "Camden Cable Television Regulatory Ordinance."

SECTION 2. Definitions. For the purpose of this Ordinance the following terms, phrases, words and derivations shall have the meaning given in this section.

A. "Company" means Country Cable Systems, Inc. an Indiana Corporation with its offices in Kouts, Indiana the grantee of rights under this regulatory ordinance.

B. "Federal Communications Commission" or "FCC" means that federal agency constituted by the Communications Act of 1934 and as amended.

C. "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the Village for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross Subscriber revenues shall not include any revenues received:

1. As reimbursement of expense in the operation of any access channels;
2. As advertising payments;
3. From the leasing of cable channels;
4. From programs for which a per-channel, per program, or tier charge is made; and

5. From furnishing other communications and nonbroadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installments.

D. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

E. "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the cable television system authorized in this ordinance.

SECTION 3. Ordinance--Grant of Franchise.

A. This regulatory ordinance which grants to the company the nonexclusive right to construct, operate and maintain a cable television system in the Village, was passed and adopted by the Village Council after a full, open and public proceeding at its regular Council meeting. Therefore, the Village grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in and upon, among, across, above, over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the Village, for poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Village of a CATV system, for the purpose of the transmission and distribution of audio, visual, and electronic impulses in order to furnish various communication services to the community, as provided for herein which does not take the place of any other franchise, license or permit which might be required by federal, state or local law. The right so granted includes the non-exclusive right to use and occupy the streets, alleys, public ways and public places and all manners of easements over which the Village has jurisdiction for the purpose set forth in this Ordinance. The franchise, herein granted shall not infringe on the rights currently held by other utility franchisees.

B. Nothing in this Ordinance shall affect the right of the Village to grant to any other person a franchise to occupy and use the streets or any part thereof for the construction, operation and maintenance of a CATV or similar facility within the Village and the Company shall not take a legal position contesting the Village Council's right to authorize such use of the streets or any part thereof; provided, however, that the Village shall give the Company no less than sixty days notice of the hearing date of any application for any additional franchise to another and nothing contained in this Ordinance shall prohibit the Company from appearing before the Village Council and being heard on any applications for any additional franchise to another.

C. The franchise granted hereunder shall be subject to the right of revocation by the Village Council by adoption of an amendatory ordinance after a public hearing at which the Company was determined to have violated the terms (the Company's violation not caused by others), or intent of the franchise unless

within sixty (60) days the Company shall have complied with the terms or intent after being notified by the Village Council. A public hearing will be held in the event of such notification and the Company will be provided notice of such hearing be certified mail at least thirty (30) days prior to such action.

D. Any franchise granted under the terms of this Ordinance shall be subject to all applicable state and federal laws, including rules and regulations promulgated by the FCC.

SECTION 4. Compliance--Required Generally. The company shall, at all times during the life of this regulatory ordinance be subject to all lawful exercise of the police power by the Village and to such reasonable regulation as the Village shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and regulations of the Federal Communications Commission, the Village or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this ordinance.

SECTION 5. Compliance--National Electrical Safety Code. All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code.

SECTION 6. Compliance--FCC Rules and Regulations. The company shall, at all times, comply with the rules and regulations of the FCC governing CATV operations.

SECTION 7. Modifications of FCC Rules. Consistent with the requirements of Rule 76.31 (a) (6) of the FCC, any modification of Rule 76.31 resulting in amendment thereto by the FCC, shall automatically be incorporated in this ordinance by specific amendments thereto and by lawful action of the Village, within one year from the effective date of the FCC's amendment.

SECTION 8. Transfer. The Company shall not sell or transfer any rights granted under this ordinance to another without written notice and approval by the Village; provided, that such approval shall not be unreasonably withheld if the company, or assignee has filed with the Village an instrument duly executed, reciting the fact of such sale or assignment, accepting the terms of this ordinance and agreeing to perform all conditions thereof, and provided that the Assignee is a person, firm or company which has demonstrated its ability to operate a CATV system in another municipality. The Company shall have the right, without the consent of the Village, to assign or transfer this franchise to a corporation owned by the company or to a limited partnership of which the company is a partner, general partner or affiliate. No consent by the Village Council shall be required for a transfer in trust, mortgage, or other financial instrument to secure an indebtedness of the Cable System or Company.

SECTION 9. Company Rules and Regulations. The Company shall have the authority to establish such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its right and perform its obligations under this ordinance, and to assure an uninterrupted service to each and all subscribers.

SECTION 10. Franchise--Term. The franchise granted to Company under the terms of this Ordinance shall terminate fifteen (15) years from the date of grant unless sooner terminated under the provisions of Section 3 hereof. In the event that Company desires to extend its franchise right, the Village Council agrees that it will use its best efforts to arrive at an extended franchise under such reasonable terms as the parties can then agree to.

SECTION 11. Franchise--Renewal. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations.

SECTION 12. System Construction and Maintenance.

A. Upon grant of the franchise to construct and maintain a cable television system in the Village, and in furtherance of the company's execution of contracts with public utility companies, the company may obtain right-of-way permits from appropriate state, county and federal officials necessary to cross highways or roads to supply main trunk lines from the company's receiving antennas. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company.

B. In the event that the Village elects to alter or change the grade of any street, alley or other public ways, the company, upon notice by the Village shall remove, relay or relocate its wires, cables, and other fixtures at the company's own expense.

C. The company shall, on the request of any person holding a building moving permit issued by the Village, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, 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.

D. The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the Village and to any public elementary or secondary school if located in the town where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution.

SECTION 13. Construction Schedule. The company shall accomplish significant construction at least twenty percent (20%) within one (1) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the Village, subject to the line extension provisions of Section 14, within two (2) years after receiving above federal approval.

SECTION 14. Line Extension. It shall be the obligation of the Company to serve all residents of the Village except to the extent that the density of homes, adverse terrain or other factors render providing service impracticable or technically infeasible. The Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where the density of new subscribers would be at least forty-five (45) homes per each linear mile of new main cable construction.

SECTION 15. Village Rights.

A. Village Rules. The right is reserved by the Village to adopt, in addition to the provisions contained in this ordinance, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this ordinance, and shall not be in conflict with the applicable laws of the state or the United States, or any FCC regulations.

B. Emergency. In the case of any emergency, the company shall, upon request of the Village, make available its facilities to the Village for emergency use during the emergency period.

C. Liability. The Village shall not be liable for any damage occurring to the property of the company caused by employees of the Village in the performance of their duties. The Village shall not be liable for the interruption of service by actions of Village employees in the performance of their duties, nor shall the Village be held liable for the failure of the company to be able to perform normal services due to other factors beyond the control of the Village.

D. No Property Right. Nothing in this Ordinance shall grant to the company any right of property in the Village owned property.

E. Construction Approval by Village. The Village shall have the right to inspect the construction, operation and maintenance of the cable television system by the company.

F. Correction of Defects. In the event the company should violate any of the terms of this regulatory ordinance, the Village shall immediately give to the company, sixty (60) day's written notice to correct such violation and in the event the company does not make such correction within sixty (60) days from the receipt of such written notice, the Village may make such correction itself and charge the cost of same to the company, and the company shall pay such charges.

SECTION 16. Publication Costs and Legal Fees.

The company shall assume the costs of the publication of the ordinance if such publication is required by law. A bill for publication costs shall be presented

to the company and said publication costs shall be paid at that time by the company. The Village shall assume the costs of the Village Attorney and associated town legal fees.

SECTION 17. Payments to the Village.

A. The company shall, commencing one (1) year from the date of the first service, and during each year of operation, pay to the Village three percent (3%) of the annual gross subscriber revenues received by the company for regular monthly cable television services rendered to customers located within the Village. The company shall furnish to the Village a report showing the cable television systems annual gross subscriber revenue for the period that payment is being made.

B. All payments as required by the company to the Village shall be made semi-annually and shall be due forty-five (45) days after the close of the six (6) month period.

SECTION 18. Rates and Charges--Designated.

A. Except as otherwise provided the company shall have the right, privilege and authority to charge the rates and charges fixed in this section to its subscribers for its services.

B. At system turnon single-user rates and charges may be as follows:

Installation--Not to exceed \$25.00 per standard installation.

Basic Service Charge--Initial Outlet--Not to exceed \$12.00 monthly.

Basic Service Charge--Additional Outlets Each--Not to exceed \$4.00 monthly.

C. Multi-user rates and charges may be negotiated between the company and the subscriber.

D. In addition to the specified monthly service rate, the company may add to that rate, taxes and town fees imposed upon the company's gross subscribers revenues or property by the town, county, state or federal governmental or legislative bodies and fees or charges imposed upon the company for the use and distribution of copyrighted program material.

E. Company may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for promotional purposes.

SECTION 19. Rates and Charges--Change.

A. For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental

of studios or equipment, provision of program production services, tiered channels, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the Village.

B. In consideration for the services rendered to the subscribers, company may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital, The Company, from time to time, may alter these rates at its discretion. The Company and the Village agree that rates charged to subscribers are no longer subject to regulation by local government. The Federal Cable Communications Policy Act deregulated Cable Television.

SECTION 20. Recordkeeping. The company shall keep accurate and current maps, and plans of the system, and these items shall be made available to the Village.

SECTION 21. Service Procedures. During the term of this ordinance, a toll-free telephone number shall be provided by the company to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, Monday through Friday.

A. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint, and the date and time it was received.

B. The company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the company.

C. The equipment installed by the company in the subscribers home shall remain the property of the company, and shall be subject to reasonable inspection and service by the company at reasonable hours, and removal upon non-payment or termination of the service.

D. In the event that any subscriber shall fail to meet his obligations for payment of CATV service and to meet reasonable company rules and regulations, the company shall have the right to withhold or deny or disconnect CATV services to such subscriber.

SECTION 22. Protection of Privacy.

A. The company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining permission of the subscriber.

B. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the CATV service without payment to the grantee for same. Such action shall be a simple misdemeanor.

SECTION 23. Program Content Restrictions. In addition to providing basic cable television service consisting of broadcast and automated signals, the company may offer subscribers optional services on a per-program or per-channel basis. However, the company shall not display X-rated motion pictures either as part of its basic cable or pay cable services.

SECTION 24. Liability and Indemnification.

A. The company shall indemnify the Village, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this ordinance. The Village shall notify the company's representative within fifteen (15) days after the presentation of any claim or demand to the Village, either by suit, or otherwise, made against the Village on account of any negligence on the part of the company.

B. The Company shall maintain throughout the term of its franchise liability insurance insuring the Village and the Company with regard to all damages for which the Village and/or the Company may be liable, damages arising out of copyright infringements and all other damages arising out of the installation, operation, maintenance or removal of the cable communication system that is the subject of this franchise whether or not any act or omission complained of is authorized, allowed or prohibited by this franchise. This liability insurance shall be in the following minimum amounts:

1. \$500,000 for bodily injury or death to any person within limits of \$1,000,000 for bodily injury or death resulting from any one accident;
2. \$500,000 for property damage resulting from any one accident;
3. \$500,000 for infringement of copyright;
4. \$500,000 for all other types of liability;
5. Worker's Compensation insurance in accordance with the statutory requirements.

C. The Village Council may annually review the above insurance and if it is determined that the insurance coverage is inadequate, additional insurance may be requested as reasonably determined by the Village Council and shall be provided by the Company.

SECTION 25. Activities Prohibited.

A. The company shall not allow its cable or other operations to interfere with television reception of others or the operation of the various utilities serving the Village residents.

B. 1. No person whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company, or to obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

2. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) for each offense. Each day's violation of this section shall be considered a separate offense.

SECTION 26. Repealer. That all ordinances in conflict herewith are hereby repealed. They are: NONE

SECTION 27. Severability Clause. If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional, such part shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 28. When Effective. This ordinance shall be in effect after its final passage, approval, publication, or posting as provided by law.

Passed and adopted this 9th day of May, 1989.

ATTEST:

Patsy Kowitz
Camden, Village Clerk

Lyle M. Kowitz
Village Council President

ACCEPTED:

DOUGLAS SHELDAHL PRESIDENT
COUNTRY CABLE SYSTEMS, INC.

ATTEST:
