

## Chapter 55 - CABLE COMMUNICATIONS

### Sec. 55-1 Title

This article shall be known as the DeKalb County Cable Television Ordinance (CATV) and is passed pursuant to the authority granted in 55 ILCS 5/5-1095 and 5/5-1116.

*(Code 1979, § 5.5-11)*

### Sec. 55-2 Definitions

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Act* means the provisions of 55 ILCS 5/5-1095, as amended.

*Cable system* means a facility consisting of a set of closed transmission paths and associated signal generation reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations.
2. A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility or facilities uses any public right-of-way.
3. A facility of a common carrier which is subject, in whole or in part to the provisions of title II of the Federal Communications Act (47 USCS section 201 et seq.), except that such facility shall be considered a cable system (other than for purposes of section 621(c)) (47 USCS section 541(c)) to the extent such facility is used in the transmission of video programming directly to subscribers.
4. Any facilities of any electric utility used solely for operating its electric utility systems.

*County Board* means the DeKalb County Board (referred to in this article as the County).

*Franchise area* means the geographic area designated in each specific franchise granted by the County Board.

*Franchise gross revenues* means all revenues of the franchise derived from the operation of a cable system.

*Franchisee* means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity awarded a franchise under this article.

*(Code 1979, § 5.5-12)*

### Sec. 55-3 Granting, Scope, Renewal of Franchise

- A. *Authority and process of grant.* The County may grant a franchise to one or more cablecasters within the territorial limits designated by the County. A grant of a franchise shall be made only after applications and lawful public hearings. The selection process of a franchise shall be conducted pursuant to rules, regulations and procedures to be adopted by the County and awards shall be made in conformance with rules and regulations then currently in force by the FCC, and any other applicable federal, state or local regulatory agencies.
- B. *Franchise required; duration; nonexclusivity.*
  1. The County may grant a nonexclusive franchise or franchises for the use of the streets, roads and other property within the County for the construction, operation and maintenance of a CATV system. No system shall be allowed to occupy or use the streets, roads and other property of the County, nor shall any system be allowed to operate without a CATV franchise.

2. The franchise shall be granted for a term of up to 15 years. Thereafter, the franchise may be renewed, for such a term as the County shall determine is in accord with the public interest after full public hearing, and according to the franchise renewal procedure.
  3. The right to use and occupy the streets, roads and property for the purpose set forth in this article shall not be exclusive and the County reserves the right to grant a similar use of the streets, roads and property to any person, company, corporation or any other entity at any time during the period of the franchise issued pursuant to this article. Nothing in this article shall be construed as a waiver of the County's right to require any person utilizing the system to secure consent, or other appropriate permission authorizing such use.
  4. Nothing in this article shall grant to the franchise any right to County-owned property, nor shall the County be compelled to maintain any of its property any longer than or in any fashion other than in the County's judgment its own business or needs may require.
- C. *Procedure to consider franchise renewal.* The procedure to consider renewal of a franchise shall be in conformity with the Cable Communications Act of 1984 (47 USCS section 521 et seq.).
- D. *Geographical area involved.*
1. The County Planning and Zoning Committee shall define each particular geographical area in which an individual franchise may be located. Such geographical area shall be entirely within an unincorporated area of the County; however, the franchise may be connected to an existing franchise operation in an adjacent area which is incorporated as a political entity. In the event of an annexation of a particular franchise area, the provisions of 55 ILCS 5/5-1095, as amended, shall apply.
  2. The County, pursuant to a public hearing before the planning and zoning committee, may waive the extension of a cable system into any part of a franchise area if such an extension would be economically or technologically unfeasible.

*(Code 1979, § 5.5-13)*

#### **Sec. 55-4 Franchise Fee, Application Costs**

As compensation for the franchise granted pursuant to this article, the franchisee shall pay to the County an annual amount not to exceed five percent of franchisee's gross revenues attributable to the operation of the cable system. Such payments are to be payable to the County on or before the 15th day of the month following the end of the quarter unless alternative payment dates are selected and incorporated into a franchise agreement. All funds received pursuant to this subsection shall be deposited into the general fund of the County. In addition, each franchisee shall be required to pay to the County the cost of publication and hearing costs attributable to any public hearing held to consider that franchisee's application for a franchise.

*(Code 1979, § 5.5-14)*

#### **Sec. 55-5 Revocation of Franchise**

- A. *County's right to terminate grant.* In addition to all other rights, powers or remedies pertaining to the County in connection with this article or otherwise, the County reserves the right to terminate, cancel and revoke the franchise and all rights and privileges of the franchisee under this article if any of the following events shall occur and be continuing:
1. The failure to pay any portion of the fee for the franchise when due.
  2. The material misrepresentation of information contained in an application and presented at a hearing.
  3. The violation of any covenants, agreements or conditions contained in the franchise agreement.
  4. A failure by the franchisee to provide or maintain in full force and effect the liability and indemnification coverage or the letter of credit required under any franchise agreement.

- B. *Procedures for revocation.* If it appears to the County or its designated committee that good cause does exist for the revocation of a franchise, the revocation shall be conducted only after notice of the specific causes for revocation are provided to the franchisee, and only after a public hearing is provided to the franchisee, unless public hearing is specifically waived by the franchisee.

(Code 1979, § 5.5-15)

### **Sec. 55-6 Governmental Approvals, Licenses, Permits**

- A. *Registration with FCC.* The franchisee shall register the grant with the FCC within 30 days of the date of the franchise.
- B. *Other registrations and permits.* The franchisee shall apply for all necessary federal, state and local governmental permits, licenses, and other required authorizations in connection with the establishment, construction, operation and maintenance of the system and the system facilities. No system shall be constructed, nor any system construction commenced unless all such permits, licenses and authorizations are included. The permits, licenses and other authorizations include those which are within the jurisdiction of any County Board committee. A granting of a franchise shall not include a grant of any County permit, license or authorization, except the franchise itself.

(Code 1979, § 5.5-16)

### **Sec. 55-7 Construction Timetable**

The franchisee shall commence operation within one year of the effective date of franchise. Operations shall be considered commenced with the bona fide transmission and amplification of television signals on a regular basis to all eligible residential subscribers. Subsequently, upon the reasonable request for service by any person located within the franchise area, the franchisee shall, within 60 days, furnish the requested service to such person.

(Code 1979, § 5.5-17)

### **Sec. 55-8 Compliance with Local, State and Federal Jurisdiction**

The franchisee shall establish, construct, operate and maintain the system in the strict compliance with all applicable laws, Ordinances, rules and regulations of the County and any other governmental body having jurisdiction over operation of the system.

(Code 1979, § 5.5-18)

### **Sec. 55-9 Performance Bond**

The franchisee shall furnish to the County a performance bond issued by a bonding company acceptable to the County which bond shall be in an amount determined by the County as appropriate to guarantee the faithful performance by the franchisee of its obligations under this article and the franchise, including timely compliance with the construction schedule set forth in section 18-27 of this article.

(Code 1979, § 5.5-19)

### **Sec. 55-10 Assignment or Transfer**

- A. *County approval required.* Except as provided in this section, neither the franchise nor the system facilities shall be assigned or transferred either in whole or in part, nor leased, sublet, pledged or mortgaged in any manner, nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest in any person either by the act of the franchisee or by operation of law, without prior expressed approval of the County by Ordinance duly enacted by the corporate authorities. The granting of, or waiving of the need to require approval at any such time, shall not constitute a continuing grant or waiver of the provisions of this section. The County may require reasonable conditions in connections with such assignment or transfer. The consent required in this section shall be requested in the form of a written petition.

- B. *Foreclosure; receivership.* Upon the foreclosure or other judicial sale of all or a substantial part of the system, or upon the termination of any lease covering all or a substantial part of the system, the franchisee shall notify the County of such fact. Such notification shall be treated as a notification that a change in control of the franchisee has taken place, and the provisions of this section governing the consent of the County to such change in control of the franchisee shall apply.

*(Code 1979, § 5.5-20)*