

Council of Yoe Borough, Pa.

Ordinance No. 67-09

AN ORDINANCE

AN ORDINANCE GRANTING TO GARDEN SPOT CABLE CO. A LICENSE AND RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, ACROSS, AND UPON THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, ROADS, AND HIGHWAYS AND OTHER PUBLIC PLACES IN THE COMMUNITY AND SUBSEQUENT ADDITIONS THERETO, FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION BY CABLE OF TELEVISION SIGNALS TO ENABLE SALE OF THEIR COMMUNITY ANTENNA SERVICE TO THE INHABITANTS OF SAID BOROUGH, AND OTHER PURPOSES, FOR A PERIOD OF TWENTY-FIVE (25) YEARS, AND REGULATING THE SAME.

BE IT OBTAINED BY THE BOROUGH COUNCIL OF YOE BOROUGH, STATE OF PENNSYLVANIA, AS FOLLOWS:

Section 1. In consideration of the faithful performance and observation of the conditions and reservations hereinafter specified, a license and right is hereby granted to Garden Spot Cable Co., a corporation organized under the laws of the State of Pennsylvania, its successors, assigns, or designees, hereinafter referred to as "the company", the right to erect, maintain and operate television transmission and distribution facilities, and additions thereto, in, under, over, along, across, and upon the streets, lanes, avenues, alleys, sidewalks, bridges, roads, highways, and other public places in the community and subsequent additions thereto, for the purpose of transmission and distribution of audio and visual impulses and television energy in accordance with the laws and regulations of the United States of America, the State of Pennsylvania and the ordinances and regulations of Yoe Borough for a period of twenty-five (25) years.

Section 2. Wherever used in this license, the words "audio", "video", and "television" shall mean a system for transmission of audio signals and visual images, or the separate transmission of either of them, by means of electrical impulses; provided that no Pay-TV programming shall be transmitted without the prior approval of Licensor. The terms "Pay-TV programming" is defined to mean a program for which a subscriber would be charged an additional sum other than the regular monthly rates (and connection charge) hereinafter mentioned.

Wherever used in this ordinance, the word "Community" shall mean Yoe Borough and its residents. Wherever used in this ordinance, the word "Licensee-Company" shall mean Garden Spot Cable Co. Wherever used in this ordinance, the word "Individuals" shall mean all persons including residents of Yoe Borough.

Section 3. There is hereby granted the further right, privilege, and authority to the Licensee-Company to lease, rent, or in any other manner obtain the use of towers, poles, lines, cables, and other equipment, and facilities from any and all holders of public licenses and franchises within the

limits of the community, including the telephone and power companies, and to use towers, poles, lines, cables, and other equipment and facilities, subject to all existing and future ordinances and regulations of the community. The poles, used for the companies distribution system, shall be those erected and maintained by the telephone and power companies, when and where practicable, providing mutually satisfactory rental agreements can be entered into with said companies.

Section 4. There is hereby granted the further right, privilege and authority to the Licensee-Company to lease, rent, or in any other manner obtain land or rights-of-way to erect and maintain its own poles, as may be necessary for the proper construction and maintenance of the television distribution system with the approval of locating poles by Metropolitan Edison Company and Borough Council.

The Licensee-Company's transmission and distribution system, poles, wires, and appurtenances shall not be located, erected and maintained as so not to endanger or interfere with the lives of persons or to interfere with individual use of their real estate or to interfere with new improvements this Borough may deem proper to make, or to unnecessarily hinder or obstruct the free use of the street, alleys, bridges, or other public or private property; removal of poles to avoid such interference will be at the Licensee-Company's expense.

Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the community affecting electrical installations, which may be presently in effect, or changes by future ordinances.

All installation of equipment shall be of permanent nature, durable, and installed in accordance with good engineering practice, and of sufficient height to apply with all existing community regulations, ordinances, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and shall not interfere with the travel and use of public places by the public during the construction, repair or removal thereof, shall not obstruct or impede traffic. All cables above ground level shall be at least twenty feet high.

Section 5. In the maintenance and operation of its television transmission distribution system in the streets, alleys, and other public places and in the course of any new construction or addition to its facilities, the Licensee-Company shall proceed so as to cause the least possible inconvenience to the general public, any opening or obstruction in the streets or other public places made by the Licensee-Company in the course of its operation shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which, during periods of dusk and darkness shall be clearly designated by red warning lights.

Whenever the Licensee-Company shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley, highway or other public place, the same shall be replaced and the surface restored in as good condition as before entry as soon as practicably without unnecessary delay. Upon failure of the Licensee-Company to make such restoration within a reasonable time, the Borough Engineer of the Borough of Yoe shall, on behalf of said Borough, by written notice to Licensee-Company, fix a reasonable time for such restoration and repair to be made, and upon the failure of the Licensee-Company to complete the same during the period so designated, the Borough may cause the proper restoration to be made including the removal of debris, and the expense of same shall be paid by the Licensee-Company upon demand by the Borough.

The location of any poles, anchors, wires, cables, conduits, vault laterals and other fixtures, or the erection, laying or removal of the same, shall not interfere unreasonably with ordinary travel and/or the use of the streets, alleys, bridges, public ways or electric installments of the Borough. Upon discovery of such interference by any agent of the Borough the Licensee-Company shall upon notice from the Borough Engineer, correct the same.

Section 6. That it is the stated intention of the community that all other holders of public licenses and franchises within the limits of the community shall cooperate with the Licensee-Company to allow the Licensee-Company's joint usage of their poles and poleline facilities wherever possible or wherever such usage does not interfere with the normal operation of said poles and polelines so that a number of new or additional poles constructed by the Licensee-Company with the utility companies may be minimized. Such cooperation shall include the rights of joint usage at reasonable rates and on reasonable terms.

Section 7. The Licensee-Company shall grant to the municipality free of expense, joint usage of all poles owned by it for any proper municipal purpose acceptable to the Company, insofar as it may be done without interfering with the free use and enjoyment of the Licensee-Company's own wires and fixtures, and the community shall hold the Licensee-Company harmless from any and all actions, causes of actions, or damage caused by the placing of the community wires or appurtenances upon the poles of the Licensee-Company. Proper regard shall be given to all existing safety rules governing construction and maintenance in effect at the time of construction.

Section 8. The Yoe Borough Council or community shall have no obligations or liability arising from the performance of any acts or business of the Licensee-Company, and no individual shall be required or pressured in any manner to become a subscriber of services from the Licensee-Company.

Section 9. The Licensee-Company shall within 90 days of passage of this ordinance carry insurance to indemnify, protect and save harmless individuals and the community from and against losses and physical damages to property, and bodily injury or death to persons, including payments made under any Workmen's Compensation Law, which may arise out of or be caused by the erection, maintenance, presence, use, or removal of said attachments on poles within the community or by any act of the Licensee-Company, its agents or employees. The Licensee-Company shall carry insurance, to protect the parties hereto, individuals and the community from and against all claims, demands, actions, judgments, costs, expenses, directly or indirectly from or by reason of such loss, injury or damage. The amounts of such insurance against liability due to physical damages to property shall not be less than Fifty Thousand (\$50,000.00) Dollars as to any one person and no less than Three Hundred Thousand (\$300,000.00) Dollars as to any one accident, and against liability due to injury or death to persons shall not be less than Fifty Thousand (\$50,000.00) Dollars as to any one person and Three Hundred Thousand (\$300,000.00) Dollars as to any one accident. The Licensee-Company shall also carry such insurance as it deems necessary to protect it from all claims under the Workmen's Compensation Laws in effect that may be applicable to the Licensee-Company. All insurance required by this agreement shall be and remain in full force and effect for the entire life of this agreement. Said policy or policies of insurance, certified copy or copies thereof, renewals and endorsements shall be approved by the Community Solicitor and then deposited with and kept on file with the Community Secretary.

Section 10. The distribution facilities of Licensee-Company shall be at all times maintained to good and safe way and condition and shall be constructed and maintained so as not to interfere with television AM or FM reception by inhabitants of the Borough of Yoe not using Licensee's- Company's services.

Section 11. The Licensee-Company agrees to install signal distribution facilities subject to satisfactory pole clearance and pole rental arrangements to all residents of the community within present existing borough boundaries.

Section 12. The Licensee-Company will supply, free of charge, upon request by local school board, all signals contained on the television distribution system to a suitable input facility of any or all public and private educational institutions (schools or church schools) and borough buildings servicing the community.

Section 13. In consideration of the license herein granted, the Licensee-Company hereby agrees to pay and shall pay the sum of Twelve (\$12.00) Dollars annually to the community Treasurer as a license fee for the term herein granted. The first annual fee shall be due and owing on September 1, 1963 and on the same date yearly thereafter. Upon failure of the Licensee-Company to make any of the required payments within the time specified, or upon the failure of the Licensee-Company to comply with any other substantive provisions hereof, this license agreement may, at the option of the Licensor, become null and void, and all rights, and privileges of the Licensee-Company shall cease and terminate.

Except as provided hereinafter, the connection fee to be charged by the Licensee-Company to a single-outlet residential or commercial subscriber to the service shall not exceed Ten (\$10.00) Dollars for the installation of the Cable into the premises of such subscriber, where the distance from the cable to the instrument does not exceed one hundred twenty-five (125) feet. The Licensee-Company reserves the right to negotiate appropriate charges for distances in excess of one hundred twenty-five (125) feet. Except as provided hereinafter, the service and maintenance charge shall not exceed the sum of Five (\$5.00) Dollars per month, nor an additional One (\$1.00) Dollar per month for each additional set within such residential unit.

The Licensee-Company shall be permitted to increase rates and installation charges no more than seven (7%) per cent during each of the first three (3) calendar years of operation, and three (3%) per cent during any calendar year thereafter, without the express permission of the Licensor.

Section 14. The Licensee-Company shall maintain and operate its system and render efficient service in accordance with the rules and regulations as are, or may be, set forth by Council as provided for in this Ordinance. As an element of said service, Licensee-Company will undertake to provide to subscribers twelve (12) VHF channels of audio and/or video programming. Said television channels may include programming from television stations located in the cities of York, Lancaster, Harrisburg, Baltimore, and elsewhere. In addition, Licensee-Company agrees that such service shall include the signals of regularly operating television stations assigned to the Borough of Yoe, regardless of whether or not such stations are licensed to transmit UHF or VHF.

Section 15. In the event of the failure of the Licensee-Company to render initial cable television service to the Borough of Yoe as contemplated and provided for by this license within three (3) years from the effective date of this license, the Licensor shall have the right, on reasonable notice to the Licensee, to declare this license and the rights granted thereunder forfeited, provided, however, that failure to comply with this stipulation by reason of causes beyond the reasonable control of the Licensee, which could not be anticipated at the time of its acceptance by the Licensee-Company, shall not be sufficient grounds to declare a forfeiture.

Section 16. The Licensee-Company is hereby granted the right of assignment of its interests under the terms of this agreement upon permission of the Licensor; provided, however, that no such assignment shall be effected during the first three (3) years following the effective date of this license, except, upon permission of the Licensor, the Licensee-Company may assign its interests under the terms of this agreement to a subsidiary of the Licensee-Company.

Section 17. Upon continuing full and complete performance by the Licensee-Company of the terms of this agreement, the permissive herein granted shall continue for the initial period of twenty-five (25) years; and at the expiration of twenty-five (25) years, Licensee shall have the option to renew this license for an additional twenty-five (25) year period under the same terms and conditions, subject to approval by Borough Council.

Section 18. This ordinance is adopted in the interest of public welfare and convenience.

Section 19. Any ordinance, or part of any ordinance, in conflict with this ordinance is hereby repealed, except such existing ordinances and ordinances which the Licensor may hereafter deem applicable to electric light, electric power, telephone and telegraph wires and cables for the conveyance of electrical energy for any purpose. Any provision of this Ordinance which is now or may be superseded by State or Federal laws or regulations is hereby declared to be null and void.

Section 20. Licensee may at any time during the term of this Agreement, or subsequent renewals, upon one hundred twenty (120) days' written notice to Licensor remove its wires and appliances or any part hereof, and discontinue its service in the Borough of Yoe, whereupon this license shall be immediately cancelled and declared null and void.

Section 21. If any provision of this Ordinance, or the application thereof to any person or circumstance, is held invalid the remainder of this ordinance and the application of such provision to the person or circumstances shall not be affected thereby and to this end the provisions of this Ordinance are declared to be severable.

Section 22. The Borough Council of Yoe Borough shall have the right upon sixty (60) days' written notice to the Licensee-Company to automatically revoke and terminate this ordinance for breach of any of the sections, conditions and reservations herein set forth without any liability or damages payable to the Licensee-Company.

Section 23. This ordinance shall in no way effect any individual's property rights and wherever necessary the Company shall lease, rent or in any other manner obtain easements, right-of-way for the erection, maintenance, removal and general usage of its cable T.V. system.

Section 24. The Company and its employees shall not engage in the sale, service, rental or leasing of television receivers in. *Yoe Borough*

The Company shall not contract for or otherwise attempt to sell a background music service, per se, to commercial establishments, apart from that which is part of the community antenna service authorized by this Ordinance.

Section 25. This Ordinance shall take effect thirty (30) days after its final passage and upon being duly signed and attested by the proper officials of the Borough of Yoe and upon the acceptance in writing of the said terms and conditions of this Ordinance by the Licensee-Company, pursuant to a proper resolution of the Board of Directors at a duly convened meeting.

PASSED FINALLY: *Oct 10 1967* By the following vote:
YEAS: *10*
NAYS: *0*

Charles A. Landis Jr.
President of Council

ATTEST:
[Signature]
Secretary