

# Chapter 22 Utility Ordinance

## TABLE OF CONTENTS

Sec. 22	Utility Ordinance
Sec. 22.1	Telephone Franchise
Sec. 22.2	Cable Television System Franchise – Scott County Cable
Sec. 22.3	Cable Television System Franchise – Warner Cable

### **Sec. 22.1 ..... Telephone Franchise (Inter-Mountain Telephone Company)**

#### 22.1.1 Terms

The Council of the Town of Gate City, Scott County, Virginia, ordains that Inter-Mountain Telephone Company, its successors and assigns for a period of thirty (30) years be, and is hereby authorized and empowered to construct, maintain and operate its posts, poles, conduits, manholes, ducts, cables, wires and other necessary overhead and underground apparatus on, over, along, in, under and through the streets, alleys, highways, and other public places within the limits of the Town of Gate City, in the County of Scott, and State of Virginia; and to use the property of other companies and permit other companies to use its property upon such arrangements as the two companies may agree, provided:

#### 22.1.2 Construction and Conditions

- a That all poles erected by said company shall be neat and symmetrical, and shall be so located as in no way to interfere with the safety or convenience of persons travelling on or over the said streets, alleys, highways, or other public places; and in the installation and maintenance of its underground system, said Company shall not open or encumber more of any streets, alleys, highways or other public places than will be necessary to enable it to perform the work with proper economy and efficiency.
- b That the erection of poles and construction of conduits and the removal thereof from one location to another for street improvement or other public works under the provisions of this ordinance shall be subject to the supervision of the Town Manager or some other representative appointed by said Council, and said Company shall replace and properly relay any sidewalk or street pavement which may have been misplaced or damaged by it in the construction and maintenance of its system, and shall remove its poles and conduits from one location to another at its cost when necessary for street or other public improvements. If the Company shall fail after five days written notice to restore any opening made by it in the streets to the satisfaction of the Town Manager, or to remove any abandoned poles or wires, the Town shall have the right to do such work and charge the cost thereof to the Company.
- c That space on one (1) crossarm of the poles erected or in one (1) duct of the conduits constructed, under the provisions of this ordinance, shall be reserved, free of charge, for the purpose of carrying wires of any fire alarm or police telegraph system owned and maintained by said Town, prescribed by said Company, and in no case used to carry electric light or high-tension currents.

- d That the company shall maintain its lines in good and safe order and condition; and shall, at all times, fully indemnify, protect and save harmless the said Town from and against all claims arising from the erection, construction, or negligent maintenance of its said lines, and shall execute and deliver to the Town its bond in the penalty of Ten Thousand (\$10,000.00) dollars, conditioned upon its so doing, and its compliance with all of the terms of this franchise.

22.1.3 Rights

That nothing in this ordinance shall be construed to grant unto the said company any exclusive right or to prevent a grant of similar privileges to other companies.

**Sec. 22.2 ..... Cable Television System Franchise - Scott County Cable**

22.2.1 Scott Co. Cablevision, Inc. Rights

Scott County Cablevision, Inc., desires to construct and operate a cable television system in the Town of Gate City, Virginia. There is hereby granted to Scott County Cablevision, Inc., its successors and assigns, all of whom are hereinafter referred to as Grantee, a franchise and privilege of providing and operating a cable television system, and as such, to place, erect, and maintain in, on, over and under the streets, alleys, and public highways, conductors for said cable television system. Such wires, cables, fixtures, appliances, appurtenances and other conductors may be strung upon poles or other fixtures above ground, and such other apparatus may be used as may be necessary or proper to operate and maintain the same. There is also authorized, when necessary, the erection, construction, maintenance and repair within said Town of Gate City, Scott County, Virginia, of poles, receiving towers with the necessary fixtures, hardware and attachments, stretching and maintaining thereof of wire and cable to be used in connection with the said television, video, sound and other reception and/or transmission.

22.2.2 Construction

Whenever the Grantee shall disturb any of the streets for the purpose aforesaid, Grantee, its successors and assigns, shall replace in as good order and condition as the same enjoyed before the doing of any work thereon.

22.2.3 Term

The rights, privileges, and franchise herein granted shall be for a period of fifteen (15) years, terminating fifteen (15) years after acceptance of said ordinance granting this cable television franchise. If Grantee has observed the material terms of the franchise, renewal franchise rights may be issued for an additional period of fifteen (15) years. This section is subject, however, to the right reserved by the Town Council of the Town of Gate City, Scott County, Virginia, to review on an annual basis the monthly basic rates for cable television services charged by Grantee and the amount of gross receipts tax, which shall be paid by the Grantee to the Town under the then existing FCC regulations.

22.2.4 Liability

The Grantee shall indemnify and save the Town free and harmless from any liability, loss, cost, damage, or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted.

#### 22.2.5 Compensation

The rights and privileges granted by this ordinance are upon the conditions that the said Grantee, its successors and assigns, shall pay as compensation and as consideration for use of streets, alleys and public grounds of said Town for the purposes herein designated, the full sum and amount of Three (3%) Percent of its gross receipts from the basic television reception service in the Town of Gate City, Scott County, Virginia, which said sum shall be paid annually on a calendar year basis into the treasury of said Town and the payments to be made on or before the 31st day of August of each year after the granting of this franchise. Said payment of compensation to the Town shall be in lieu of any license fee or other taxation by said Town. Gross receipts as used herein shall be defined as the gross receipts of basic television service.

#### 22.2.6 Regulation

If the aforesaid cable system is regulated by the State or Federal Government, nothing in this franchise ordinance or any other Town ordinance or regulation shall operate in conflict with the State and Federal regulations. This section is subject, however, to the rights reserved and set out in Section Three (3) of this ordinance to review the gross receipts tax subject to the then existing FCC regulations.

#### 22.2.7 Conditions

This franchise is granted upon the express conditions that:

- a The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to approve any rate increase for basic television cable service with the understanding that approval for said rate increase shall not be reasonably withheld. No proposed increase in rates will be approved without a public hearing after notice; however, in no event shall approval be needed for a decrease which shall only be effected at the discretion of the Grantee. If the Grantee exercises the right to decrease, the Grantee may subsequently increase the rate up to the amount of the last approved rate.
- b The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to review the quality of service provided by the Grantee.
- c The Town Council of the Town of Gate City, Scott County, Virginia, must be consulted before any transfer of the franchise rights is made by the Grantee.
- d The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to revoke the franchise if the Grantee abandons its television transmission.

#### 22.2.8 Acceptance

The Grantee shall file his written acceptance of the provisions of this ordinance with the Treasurer of the Town of Gate City, Scott County, Virginia, on or before one hundred and twenty (120) days from the final passage and adoption of this ordinance.

### 22.2.9 Adoption

Franchise was adopted 9/17/84.

## **Sec. 22.3 ..... Cable Television System Franchise - Warner Cable Corporation**

### 22.3.1 Rights

Warner Cable Corporation is the operator of the existing cable television system in the Town of Gate City, Virginia. There is hereby granted to Warner Cable Corporation, its successors and assigns, all of whom are hereinafter referred to as Grantee, a renewal of the franchise and privilege of providing and operating a cable television system, and as such, to place, erect, and maintain in, on, over and under the streets, alleys, and public highways, conductors for said cable television system. Such wires, cables, fixtures, appliances, appurtenances and conductors may be strung upon poles or other fixtures above ground, and such other apparatus may be used as may be necessary or proper to operate and maintain the same. There is also authorized, when necessary, the erection, construction, maintenance and repair within said Town of Gate City, Scott County, Virginia, of poles, receiving towers with the necessary fixtures, hardware and attachments, stretching and maintaining thereon of wire and cable to be used in connection with the said television, video, sound and other reception and/or transmission.

### 22.3.2 Construction

Whenever the Grantee shall disturb any of the streets for the purpose aforesaid, Grantee, its successors and assigns, shall replace in as good order and condition as the same enjoyed before the doing of any work thereon.

### 22.3.3 Term

The rights, privileges, and franchise herein granted shall be for a period of fifteen (15) years, terminating fifteen (15) years after acceptance of said ordinance granting this cable television franchise renewal. If Grantee has observed the material terms of the franchise, renewal franchise rights may be issued for an additional period of fifteen (15) years. This section is subject, however, to the right reserved by the Town Council of the Town of Gate City, Scott County, Virginia, to review on an annual basis the monthly rates for cable television services charged by Grantee and the amount of gross receipts tax, which shall be paid by the Grantee to the Town under the then existing FCC regulations.

### 22.3.4 Liability

The Grantee shall indemnify and save the Town free and harmless from any liability, loss, cost, damage, or expense from accident or damage, either to itself or to persons or property of others which may occur by reason of the exercise of the rights and privileges herein granted.

### 22.3.5 Compensation

The rights and privileges granted by this ordinance are upon the conditions that the said Grantee, its successors and assigns, shall pay as compensation and as consideration for use of streets, alleys, and public grounds of said Town for the purposes herein designated, the full sum and amount of three (3%) percent of its gross receipts from the basic television reception service in the Town of

Gate City, Scott County, Virginia, which said sum shall be paid annually on a calendar year basis into the treasury of said Town and the payments to be made on or before the 31st day of August, of each year after the granting of this franchise. Said payment of compensation to the Town shall be in lieu of any license fee or other taxation by said Town.

#### 22.3.6 Regulation

If the aforesaid cable system is regulated by the State or Federal Government, nothing in this franchise ordinance or any other Town ordinance or regulation shall operate in conflict with the State and Federal regulations. This section is subject, however, to the rights reserved and set out in Section Three (3) of this Ordinance to review the gross receipts tax subject to the then existing FCC regulations.

#### 22.3.7 Conditions

- a The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to approve any rate increase for basic television cable service, with the understanding that no proposed increase in rates will be approved without a public hearing after notice.
- b The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to review the quality of service provided by the Grantee.
- c The Town Council of the Town of Gate City, Scott County, Virginia, must be consulted before any transfer of the franchise rights is made by the Grantee.
- d The Town Council of the Town of Gate City, Scott County, Virginia, reserves the right to revoke the franchise if the Grantee abandons its television transmission.

#### 22.3.8 Acceptance

The Grantee shall file his written acceptance of the provisions of this ordinance with the Treasurer of the Town of Gate City, Scott County, Virginia, on or before one hundred and twenty (120) days from the final passage and adoption of this ordinance.

#### 22.3.9 Adoption

Franchise adopted 2/6/79.