

# SUMPTER CABLE TELEVISION FRANCHISE ORDINANCE

## Sec. 1. Short title.

This chapter shall be known and may be cited as the "Sumpter Cable Television Franchise Ordinance," hereinafter "Franchise" or "Ordinance."

## Sec. 2. Definitions.

For the purpose of this Ordinance the following terms, phrases, words and their derivations shall have the meaning given herein:

"Basic Service" means all Subscriber services provided by the Grantee in one (1) or more service tiers, which includes the delivery of local broadcast stations, and public, educational and government access channels. Basic Service does not include optional program and satellite service tiers, a la carte services, per channel, per program, or auxiliary services for which a separate charge is made. However, Grantee may include other satellite signals on the Basic Service tier.

"Cable Service" means: (A) the transmission to subscribers of (1) video programming, or (2) other programming services; and (B) subscriber interaction, if any, that is required for the selection or use of such video programming or other programming services.

"Cable System" or "System" or "Cable Television 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 (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way, (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c) to the extent such facility is used in transmission of video programming directly to Subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility system.

"Class IV Channel" means a signaling path provided by a cable communications system to transmit signals of any type from a Subscriber terminal to another point in the cable communications system.

"Control" or "Controlling Interest" shall mean actual working control or ownership of a System in whatever manner exercised. A rebuttal presumption of the existence of Control or a Controlling Interest shall arise from the ownership, directly or indirectly, by any person or legal entity (except underwriters during the

period in which they are offering securities to the public) of forty percent (40%) or more of a Cable System or the Franchise under which the System is operated. A change in the Control or Controlling Interest of a legal entity which has Control or a Controlling Interest in a Grantee shall constitute a change in the Control or Controlling Interest of the System under the same criteria. Control or Controlling Interest as used herein may be held simultaneously by more than one person or legal entity.

“Converter” means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a Subscriber, and by an appropriate channel selector also permits a Subscriber to view more than twelve (12) channels delivered by the System at designated converter dial locations.

“Dwelling Unit” means any building or part of a building that is used as a home or residence.

“FCC” means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

“Franchise” means an initial authorization, or renewal thereof, issued by the Town, as the franchising authority, to a Grantee to construct or operate a Cable System.

“Franchise Agreement” means a contractual agreement entered into between the Town and any Grantee hereunder that is enforceable by the Town and by the Grantee, and which sets forth the rights and obligations between the Town and the Grantee in connection with the Franchise.

“Grantee” means a person or legal entity to whom or to which a Franchise under this Ordinance is granted by the Town, along with the lawful successors or assigns of such person or entity.

“Gross Revenues” means all revenue collected by the Grantee, arising from or attributable to the provision of cable service by the Grantee within the Town including, but not limited to: periodic fees charged Subscribers for any basic, optional, premium, per-channel or per-program service; franchise fees; installation and reconnection fees; leased channel fees; converter rentals and/or sales; program guide revenues; late or administrative fees; upgrade, downgrade or other change-in-service fees; local advertising revenues; revenues from home shopping; revenues from the sale, exchange, use or cable cast of any programming developed on the System for community or institutional use; provided, however, that this shall not include any taxes on services furnished by the Grantee herein imposed directly upon any Subscriber or User by the state, local or other governmental unit and collected by the Grantee on behalf of the governmental unit.