

ORDINANCE NO. 78-5

AN ORDINANCE PROVIDING FOR THE GRANTING OF FRANCHISES TO CONSTRUCT, OPERATE AND MAINTAIN CABLE TELEVISION SYSTEMS IN THE COUNTY OF MANATEE, FLORIDA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SAID FRANCHISES; PROVIDING OPERATIONAL SAFETY STANDARDS; PROVIDING FRANCHISEE SERVICE POLICIES; PROVIDING FOR A LINE EXTENSION FORMULA IN THE FRANCHISE AREA; PROVIDING OPERATIONAL STANDARDS; PROVIDING NO FRANCHISEE RATE REGULATION; PROVIDING FOR COUNTY REVENUES AND INDEMNIFICATION; PROVIDING PROCEDURES FOR COUNTY INVESTIGATIONS OF FRANCHISEES, FRANCHISE TERMINATIONS AND FRANCHISE TRANSFERS; PROVIDING FOR LOCAL OFFICES; PROVIDING PUBLIC SERVICE OUTLETS AND EMERGENCY ASSISTANCE BY FRANCHISEES; PROVIDING A LISTING OF VIOLATIONS AND PENALTIES THEREFOR; INCORPORATING FEDERAL REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. DEFINITIONS. For the purpose of this ordinance the following terms, phrases, words, abbreviations, and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(a) "County" shall mean the County of Manatee State of Florida.

(b) "Commission" shall mean the governing body of the County.

(c) "Company" shall mean the grantee of right under this ordinance.

(d) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

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SECRETARY OF STATE

(e) "Franchise area" shall mean the entire unincorporated area of the County, or any portion thereof.

(f) "Street" shall mean the surface of and the space above and below any public street, right-of-way, road, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, communications, or utility easement, now or hereafter existing as such within the franchise area.

(g) "Property of Company" shall mean all property owned, installed or used by the Company in the conduct of a CATV business in the County.

(h) "CATV" shall mean a cable television system as hereinafter defined.

(i) "Cable Television System" shall mean a system composed of, without limitation, antenna, cables, wires, lines, towers, amplifiers, wave guides, or any other conductors, converters, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio and/or visual radio, television, electronic or electrical signals to and from persons, subscribers and locations in the franchise area.

(j) "Basic CATV Service" shall mean the distribution of broadcast television and radio signals.

(k) "Expanded CATV Service" shall mean any communications service in addition to Basic CATV Service provided by the Company either directly or as a carrier for their subsidiaries, affiliates or any other person engaged in communications service, including,

but not by way of limitation, pay TV, burglar alarm service, data or other electronic transmission services, facsimile reproduction services, meter reading services and home shopping services.

(l) "Subscriber" shall mean any person or entity receiving Basic CATV Service.

(m) "Gross Annual Basic Subscriber Revenues" shall mean any and all compensation and other consideration derived directly by the Company from subscribers for regularly furnished Basic CATV Service. Gross annual basic subscriber revenue shall not include revenues derived from Expanded CATV Service, advertising revenues, installation charges, or any taxes on services furnished by the Company imposed directly on any subscriber or user by any city, state or other governmental unit and collected by the Company for such governmental unit.

(n) "Public Way" shall mean any public street, public way and public place, now laid out or dedicated and all extensions thereof and additions thereto in the franchise area.

Section 2. GRANT OF AUTHORITY. When the County has approved the legal, character, financial, technical and other qualifications of a Company and the adequacy and feasibility of a Company's construction arrangements as part of a full public proceeding affording due process, the County may grant to a Company the right and privilege to engage in the business of operating a CATV system in the County for the purpose of providing Basic CATV Service and such aspects of

Expanded CATV Service, if any, as the Company may from time to time deem advisable; provided that the service is within the definition of Basic or Expanded CATV Service as defined herein and is permissible under the laws, rules and regulations of the Federal Communications Commission ("F.C.C."). Such grant shall give to the Company the right and privilege to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any Public Way, such poles, wires, cable, conductors, ducts, conduit vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other grantee franchised or permitted to do business in the County.

Section 3. NON-EXCLUSIVE GRANT. The right granted under Section 2. hereof to use and occupy said streets, and other public ways for the purpose herein set forth, shall not be exclusive, and the County reserves the right to grant a similar use in said streets to any other person.

Section 4. TERM OF FRANCHISE. The franchise and rights to be granted hereunder shall take effect and be in force thirty (30) days from and after the final approval of passage of the granting of a franchise and the execution of a Franchise Agreement and shall continue in force and effect for a term not to exceed fifteen (15) years after the effective.

date of the Franchise Agreement. The Franchise Agreement may provide for renewal for up to an additional fifteen (15) year period following a full public proceeding affording due process, during which the Company's performance and the adequacy of the franchise will be reviewed by the County.

Section 5. CONDITIONS OF STREET OCCUPANCY.

(a) All transmission and distribution structures, lines, and equipment erected by any Company granted a franchise hereunder within the franchise area shall be so located as to cause minimum interference with the proper use of Public Ways, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said Public Ways. The CATV system shall be constructed and operated in compliance with all applicable County, State and national laws, ordinances and regulations. The Company shall install and maintain its wire, cables, fixtures, and other equipment in such manner that they will not interfere with any installations or facilities of the County or of a public utility serving the County.

(b) In case of disturbance of any Public Way, as a result of the operations of the Company, the Company shall, at its own cost and expense and in a manner approved by the County, replace and restore such Public Way in as nearly as possible as good a condition as before the work involving such disturbance was done.

(c) Any poles or other fixtures placed in any Public

Way by the Company shall be placed in such manner as not to interfere with the usual travel thereon.

(d) The Company shall, on the request of any person holding a building moving permit issued by the County, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or 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.

(e) The Company shall have the authority to trim trees upon and overhanging Public Ways so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

(f) If at any time during the term of the franchise the cables, wires, or other like facilities of public utilities are placed underground, the Company shall, at that time, place its cables, wires, or other like facilities underground to the maximum extent that existing technology reasonably permits the Company to do so.

(g) The Company shall protect, support, temporarily disconnect, relocate in the same Public Way, or remove from the Public Way (all such activity of the Company being herein referred to as "relocation") any property of the Company when reasonably required by the County by reason of traffic conditions, public safety, street construction, change or establishment of

street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the Company shall be entitled to reimbursement for the costs incurred by it in connection with such relocation; and provided further that if such reimbursement is not sought from the County but from a private contractor who is performing the work necessitating such relocation, the Company shall have the right to insist upon receiving appropriate security from the Contractor for the relocation expenses anticipated to be incurred by it prior to effecting such relocation.

(h) The County shall have the right to make additional use, for any public or County purpose, of any poles or conduits controlled or maintained exclusively by or for the Company in any Public Way, provided such use by the County does not interfere with the use by the Company. The County shall indemnify and hold harmless the Company against and from any and all claims, demands, causes of actions, actions, suits, proceedings, damages, costs or liabilities of every kind and nature whatsoever arising out of such use of Company's poles or conduits by the County.

Seciton 6. SAFETY REQUIREMENTS.

(a) The Company shall at all times employ ordinary care in its operations and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) All structures and all lines, equipment and connections in, over, under, and upon the Public Ways, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

Section 7. SERVICE POLICIES. Any franchise granted pursuant to this ordinance shall define a franchise area to be served by the Company receiving such franchise. Within such franchise area the Company receiving such franchise shall adhere to the following service policies.

I. System Expansion, Isolated Subscribers.

- A) The Company shall extend cable television services to any isolated residence at the standard rate if:
- (1) The resident requests the service extension; and
  - (2) The service connection to the isolated residence would require no more than a standard one hundred (100) foot aerial drop line from existing cable to the residence.
- B) The Company shall extend cable television services to any isolated residence requiring more than a standard one hundred (100) foot aerial drop line from the existing cable to the residence at a premium installation rate if such service has been requested by the resident. The premium installation rate charged shall be



the actual cost for the distance exceeding one hundred (100) feet. The Company may require advance payment for such installation.

II. System Expansion, New or Existing Developments, Overhead Cable Construction

- A) The Company shall extend cable television services to any existing development or group of residences at the standard rate if:
- (1) The Existing development or group of residences to be served has a density of at least eighty (80) residences per strand mile of contiguous trunk line cable installed from existing plant; and,
  - (2) Fifty per cent (50%) of the residences within the development or group of residences to be served have requested service.
- B) Any development or group of residences not meeting the above requirements may be served at Grantee's discretion.

III. System Expansion, New or Existing Underground Developments

The Company may, at its option and upon agreement of the developer, extend energized or unenergized cable, or conduit, to all new residential developments as they are constructed. Costs of trenching, conduit, pedestals and/or vaults and laterals as well as easements therefore required to bring service to the development

shall be borne by the developer and/or landowner. All installations and construction by developer and/or landowner shall be to the specifications of the Company. The Company need not provide cable television services to such a development until fifty per cent (50%) of the residential dwelling units to be served have agreed to subscribe to receive cable services.

IV. System Expansion Limitation

- A) No provision of this Ordinance shall require the Company to extend in any twelve (12) month period, trunk, and/or distribution lines to more than twenty per cent (20%) of the residences in the franchise area. Should the Company elect to extend the system in excess of this limitation, credit for such extension shall be made against extension requirements in the next twelve (12) month period.
- B) Upon petition by the Company, the Commission may defer or indefinitely suspend any expansion required by this Ordinance after a showing by the Company that such expansion would cause unreasonable financial hardship to the Company. Such a showing shall be made by the Company at a public hearing. The County shall publish a notice of any such hearing

setting forth a time and place when and where any persons having any interest therein may appear before the Commission and be heard, at least fifteen (15) days prior to the hearing in a newspaper of general circulation within the County. The County shall also cause a copy of such notice to be mailed to the Company at least fifteen (15) days prior to the hearing.

V. Undergrounding of System

For any system expansion in existing developments the Company shall place the cable system underground in localities where both telephone and power lines are underground. For existing facilities, the Company shall replace aerial facilities with underground facilities concurrently and in cooperation with similar programs of the telephone and power utilities. At no time shall the cable system be the only aerial facility. Where undergrounding is required, the Company shall have the option of sharing or not sharing utility trenches.

Section 8. OPERATIONAL STANDARDS. The Company shall operate and maintain its cable television system in full compliance with the standards set forth by the Federal Communications Commission.

Section 9. RATES. Rates charged for Basic or Expanded CATV Service as may be from time to time offered by the Company shall not be regulated by the County.

Section 10. FRANCHISE PAYMENTS. The Company shall pay to the County, on or before March 31 of each year, a reasonable franchise fee not to exceed the maximum allowable fee under the laws, rules and regulations of the Federal Communications Commission at the time of the grant of a franchise hereunder. The amount of such fee shall be specified in the Franchise Agreement between the County and the Company and shall be based on Gross Annual Basic Subscriber Revenues received for cable television operations in the County for the preceding calendar year. No other fee, charge or consideration shall be imposed. At the time of each payment due hereunder, the Company shall provide to the County an annual summary report showing Gross Annual Basic Subscriber Revenues received during the preceding year.

Section II. INDEMNIFICATION OF COUNTY.

(a) The Company shall at all times protect and hold harmless the County from all claims, actions, suits, liability, loss, expense or damages of every kind and description (herein collectively referred to as "claims") including investigation costs, court costs and attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Company in the ownership, construction, installation, repair, replacement, maintenance and operation of the cable television system. The County shall give the Company prompt notice of any such claims filed against it.

(b) The Company shall maintain in full force and effect during the life of any franchise, public liability

insurance in a solvent insurance company authorized to do business in the State of Florida.

1. \$50,000 property damage in any one accident;
2. \$100,000 for personal injury to any one person;
3. \$300,000 for personal injury in any one accident;

provided, however, that all such insurance may contain reasonable deductible provisions not to exceed \$1,000.00 for any type of coverage.

Section 12. PROCEDURES.

(a) Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the County in regard to the operation of the Company's cable television system shall be taken only after

1. the minimum legally required public notice of such action or proposed action is published in a local daily or weekly newspaper having general circulation in the County (and in the absence of any such legal requirement, the notice shall be published at least seven (7) days prior to the date of the proposed action);
2. a copy of such action or proposed action is served directly on the Company at least fifteen (15) days prior to the proposed action;
3. the Company has been given an opportunity to respond in writing and/or at hearings as may be specified by the County.

(b) The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed; and such other procedures as may be specified by the County. If a hearing is to be held, the public notice shall give the date and time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The Company shall be an indispensable party to any hearing conducted in regard to its operations.

Section 13. PROCEDURE UPON TERMINATION. Upon expiration of any franchise granted hereunder, if the Company shall not have acquired an extension or renewal thereof and accepted the same, the Company may enter upon the Public Ways of the County, for the purpose of removing its property. In so removing said property the Company shall, at its own expense, refill any excavation that shall be made by it, and, insofar as possible, shall leave said Public Ways in the same condition prevailing prior to the Company's removal of its property.

Section 14, NEW DEVELOPMENTS. It shall be the policy of the County to amend this franchise liberally upon application of the Company, when necessary to enable the Company to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity to more effectively, efficiently or economically serve its customers.

Section 15. APPROVAL OF TRANSFER.

(a) Without Commission approval the Company shall not

sell or transfer its CATV system or any of its rights under this franchise to another, except to a parent company or a wholly owned subsidiary of the Company, except as security for monies borrowed. Such Commission approval shall not be unreasonably withheld.

(b) Upon the foreclosure or other judicial sale of all or a substantial part of the Cable Television System, or upon the termination of any lease covering all or a substantial part of the Cable Television System, the Company shall notify the Commission of such fact, and such notification shall be treated as a notification that a change in control of the Company has taken place, and the provisions of this section, governing the consent of the Board to such change in control of the Company, shall apply.

(c) The Commission shall have the right to cancel this franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

1. Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; and,

2. Such receiver or trustee, within said one hundred and twenty (120) days shall have executed an agreement, duly

approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the Certificate granted to the Company.

Section 16. LOCAL OFFICE, COMPLAINTS. The Company shall maintain a local business office, or agent, which subscribers may telephone or contact personally during regular business hours without incurring added message or toll charges, so that CATV maintenance service shall be promptly available. Should a subscriber have an unresolved complaint with the Company regarding the quality of cable television service, equipment malfunctions, or similar matters, the subscriber shall be entitled to file his complaint with the Board of County Commissioners, who has primary responsibility for the continuing administration of the franchise and the procedures for resolving complaints, and thereafter to meet jointly with a representative of the County and a representative of the Company within thirty (30) days to fully discuss and resolve such matters. The Company shall notify each subscriber, at the time of initial subscription to the service of the Company, of the procedures for reporting and resolving such complaints.

Section 17. MISCELLANEOUS PROVISIONS.

(a) When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the Commission.

(b) The Company shall provide without charge one outlet to each governmental office building, fire station, police station, and public and private school building that is passed by its cable. If more than one outlet is required



at any of the said locations, the Company shall install additional outlets at the cost of time and material only and in no event will there be a monthly service charge at said locations. The distribution of the cable facility inside such buildings and the extent thereof shall be the responsibility of the building owner.

(c) The Company will provide such facilities and channels for public access cable casting as are required by the rules and regulations of the Federal Communications Commission.

(d) In the case of any emergency or disaster, the Company shall, upon request of the County make available its facilities to the County for reasonable emergency use during the emergency or disaster period.

(e) The Company shall furnish to the County such reasonable information concerning its operations and services under its franchise as the County may request.

Section 18. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.  
The Company shall at all times during the life of this franchise be subject to all County ordinances and regulations and lawful exercise thereof which shall be reasonable and not destructive to the rights granted to the Company herein.

Section 19. VIOLATIONS.

(a) From and after the effective date of this ordinance, it shall be unlawful for any person to construct, install or maintain any equipment or facilities for distributing any television signals or radio signals through

CATV system within any Public Way or within any other public property of the County, or within any privately-owned area within the County which has not yet become a Public Way but is designated or delineated as a proposed Public Way on any tentative subdivision map approved by the County, unless a franchise authorizing such use of such Public Way or property or area has first been obtained, and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the Company's CATV system within this County for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the Company.

(c) It shall be unlawful for any person, without the consent of the Company, to wilfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

Section 20. PENALTIES. Any person violating or failing to comply with any of the provisions of Section 19 of this Ordinance shall be guilty of a misdemeanor as defined and punishable by general law. Each day of violation shall constitute a separate offense.

Section 21. SEVERABILITY. If any section, subsection, sentence, clause or phrase of this chapter of this Ordinance

is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Commission hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this Ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Company. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 22. FEDERAL REGULATION. Any lawful modification resulting from amendment of Section 76.31 ("Franchise Standards") of the Rules and Regulations of the Federal Communications Commission shall be incorporated into this franchise as of the date such modifications become obligatory under F.C.C. regulations, or in the event no obligatory date is established, within one year of adoption or at the time of franchise renewal, whichever occurs first.

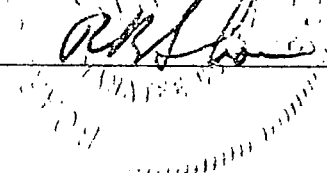
Section 23. EFFECTIVE DATE. This Ordinance shall take effect immediately upon receipt of official acknowledgment from the Office of the Secretary of State of the State of Florida that this Ordinance has been filed with that Office.

PASSED AND DULY ADOPTED, by the Board of County Commissioners of Manatee County, Florida, this the 16th day of May, 1978.

BOARD OF COUNTY COMMISSIONERS  
OF MANATEE COUNTY, FLORIDA

By: Louis E. Driggers  
Chairman

ATTEST: R. B. SHORE  
Clerk of the Circuit Court



R. B. Shore

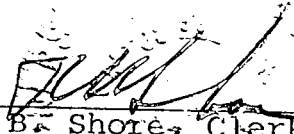
STATE OF FLORIDA

COUNTY OF MANATEE

I, R. B. Shore, Clerk of Circuit Court, in and for the County of Manatee, State of Florida, do hereby certify that the foregoing is a true copy of an Ordinance adopted by the Board of County Commissioners of said County in session on the 16th day of May 1978

PROVIDING FOR THE GRANTING OF FRANCHISES TO  
SUBJECT: CONSTRUCT, OPERATE AND MAINTAIN CABLE TELEVISION SYSTEMS IN THE COUNTY OF MANATEE, FLORIDA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SAID FRANCHISES; PROVIDING OPERATIONAL SAFETY STANDARDS; PROVIDING FRANCHISEE SERVICE POLICIES; PROVIDING FOR A LINE EXTENSION FORMULA IN THE FRANCHISE AREA; PROVIDING OPERATIONAL STANDARDS; PROVIDING NO FRANCHISE RATE REGULATION" PROVIDING FOR COUNTY REVENUES AND INDEMNIFICATION; PROVIDING PROCEDURES FOR COUNTY INVESTIGATIONS OF FRANCHISEES, FRANCHISE TERMINATIONS AND FRANCHISE TRANSFERS; PROVIDING FOR LOCAL OFFICES; PROVIDING PUBLIC SERVICE OUTLETS AND EMERGENCY ASSISTANCE BY FRANCHISEES; PROVIDING A LISTING OF VIOLATIONS AND PENALTIES THEREFOR; INCORPORATING FEDERAL REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.

WITNESS My Hand and Official Seal this 17th day of May 1978 in Bradenton, Florida.

  
\_\_\_\_\_  
R. B. Shore, Clerk of Circuit Court  
Manatee County, Florida

# The Bradenton Herald

RECEIVED

MAY 3 1978

Board of County Commissioners  
MANATEE COUNTY

STATE OF FLORIDA  
COUNTY OF MANATEE:

Before the undersigned authority personally appeared

William F. LaMee, who on oath says that he is

Publisher of The Bradenton Herald, a daily

newspaper published at Bradenton in Manatee County, Florida; that the attached copy of advertisement, being a legal advertisement in the matter of Consider Ordinance 78-5

\_\_\_\_\_ in the \_\_\_\_\_ Court,

was published in said newspaper in the issues of \_\_\_\_\_

April 28, 1978

Affiant further says that the said Bradenton Herald is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Bradenton, Manatee County, Florida, each day and has been entered a second class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and the affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

*William F. LaMee*

NOTICE OF INTENT TO CONSIDER ORDINANCE NO. 78-5  
NOTICE IS HEREBY GIVEN, pursuant to Florida Statutes 125.66 that the Board of County Commissioners of Manatee County, Florida, will conduct a public hearing at the office of said Board in the Court House at Bradenton, Florida, on the 16th day of May, 1978, at 9:00 a.m., to consider, act upon, adopt, or reject the following Ordinance.  
ORDINANCE NO. 78-5  
AN ORDINANCE PROVIDING FOR THE GRANTING OF FRANCHISES TO CONSTRUCT, OPERATE AND MAINTAIN CABLE TELEVISION SYSTEMS IN THE COUNTY OF MANATEE, FLORIDA; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF SAID FRANCHISES; PROVIDING OPERATIONAL SAFETY STANDARDS; PROVIDING FRANCHISE SERVICE POLICIES; PROVIDING FOR A LINE EXTENSION FORMULA IN THE FRANCHISE AREA; PROVIDING OPERATIONAL STANDARDS; PROVIDING NO FRANCHISEE RATE REGULATION; PROVIDING FOR COUNTY REVENUES AND INDEMNIFICATION; PROVIDING PROCEDURES FOR COUNTY INVESTIGATIONS OF FRANCHISEES, FRANCHISE TERMINATIONS AND FRANCHISE TRANSFERS; PROVIDING FOR LOCAL OFFICES; PROVIDING PUBLIC SERVICE OUTLETS AND EMERGENCY ASSISTANCE BY FRANCHISEES; PROVIDING A LISTING OF VIOLATIONS AND PENALTIES THEREFORE; INCORPORATING FEDERAL REGULATIONS; AND PROVIDING AN EFFECTIVE DATE.  
Continued on Page B-10

Sworn to and subscribed before me this

1st day of May

A.D. 1978  
Louise Tucker

(SEAL) Notary Public

Form O-701

NOTARY PUBLIC, STATE OF FLORIDA AT LARGE  
MY COMMISSION EXPIRES MAY 11, 1979.

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Cont. from Page B-9

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA:

Section 1. DEFINITIONS. For the purpose of this ordinance the following terms, phrases, words, abbreviations, and their derivations shall have the meaning herein given. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(a) "County" shall mean the County of Manatee, State of Florida.

(b) "Commission" shall mean the governing body of the County.

(c) "Company" shall mean the grantee of rights under this ordinance.

(d) "Person" shall mean any person, firm, partnership, association, corporation, company or organization of any kind.

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(h) "CATV" shall mean a cable television system as hereinafter defined.

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(m) "Gross Annual Basic Subscriber Revenues" shall mean any and all compensation and other consideration derived directly by the Company from subscribers for regularly furnished Basic CATV Service. Gross annual basic subscriber revenue shall not include revenues derived from Expanded CATV Service, advertising revenues, installation charges, or any taxes on services furnished by the Company imposed directly on any subscriber or user by any city, state or other governmental unit and collected by the Company for such governmental unit.

(n) "Public Way" shall mean any public street, public way and public place, now laid out or dedicated and all extensions thereof and additions thereto in the franchise area.

Section 2. GRANT OF AUTHORITY. When the County has approved the legal, character, financial, technical and other qualifications of a Company and the adequacy and feasibility of a company's construction arrangements as part of a full public proceeding affording due process, the County may grant to a Company the right and privilege to engage in the business of operating a CATV system in the County for the purpose of providing Basic CATV Service and such aspects of Expanded CATV Service, if any, as the Company may from time to time deem advisable; provided that the service is within the definition of Basic or Expanded CATV Service as defined herein and is permissible under the laws, rules and regulations of the Federal Communications Commission ("F.C.C."). Such grant shall give to the Company the right and privilege to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any Public Way, such poles, wires, cable, conductors, ducts, conduit vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate and provide similar facilities or properties rented or leased from other persons, firms or corporations, including but not limited to any public utility or other grantee franchised or permitted to do business in the County.

Section 3. NON-EXCLUSIVE GRANT. The right granted under Section 2 hereof to use and occupy said streets, and other public ways for the purpose herein set forth, shall not be exclusive, and the County reserves the right to grant a similar use in said streets to any other person.

Section 4. TERM OF FRANCHISE. The franchise and rights to be granted hereunder shall take effect and be in force thirty (30) days from and after the final approval of passage of the granting of a franchise and the execution of a Franchise Agreement and shall continue in force and effect for a term not to exceed fifteen (15) years after the effective date of the Franchise Agreement. The Franchise Agreement may provide for renewal for up to an additional fifteen (15) year period following a full public proceeding affording due process, during which the Company's performance and the adequacy of the franchise will be reviewed by the County.

Section 5. CONDITIONS OF STREET OCCUPANCY.

(a) All transmission and distribution structures, lines, and equipment erected by any Company granted a franchise hereunder within the franchise area shall be so located as to cause minimum interference with the proper use of Public Ways, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said Public Ways. The CATV system shall be constructed and operated in compliance with all applicable County, State and national laws, ordinances and regulations. The Company shall install and maintain its wire, cables, fixtures, and other equipment in such manner that they will not interfere with any installations or facilities of the County or of a public utility serving the County.

(b) In case of disturbance of any Public Way, as a result of the operations of the Company, the Company shall, at its own cost and expense and in a manner approved by the

County, replace and restore such Public Way in as nearly as possible as good a condition as before the work involving such disturbance was done.

(c) Any poles or other fixtures placed in any Public Way by the Company shall be placed in such manner as not to interfere with the usual travel thereon.

(d) The Company shall, on the request of any person holding a building moving permit issued by the County, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or 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.

(e) The Company shall have the authority to trim trees upon and overhanging Public Ways so as to prevent the branches of such trees from coming in contact with the wires and cables of the Company.

(f) If at any time during the term of the franchise the cables, wires, or other like facilities of public utilities are placed underground, the Company shall, at that time, place its cables, wires, or other like facilities underground to the maximum extent that existing technology reasonably permits the Company to do so.

(g) The Company shall protect, support, temporarily disconnect, relocate in the same Public Way, or remove from the Public Way (all such activity of the Company being herein referred to as "relocation") any property of the Company when reasonably required by the County by reason of traffic conditions, public safety, street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by public agencies; provided, however, that the Company shall be entitled to reimbursement for the costs incurred by it in connection with such relocation; and provided further that if such reimbursement is not sought from the County but from a private contractor who is performing the work necessitating such relocation, the Company shall have the right to insist upon receiving appropriate security from the Contractor for the relocation expenses anticipated to be incurred by it prior to effecting such relocation.

(h) The County shall have the right to make additional use, for any public or County purpose, of any poles or conduits controlled or maintained exclusively by or for the Company in any Public Way, provided such use by the County does not interfere with the use by the Company. The County shall indemnify and hold harmless the Company against and from any and all claims, demands, causes or actions, suits, proceedings, damages, costs or liabilities of every kind and nature whatsoever arising out of such use of Company's poles or conduits by the County.

Section 6. SAFETY REQUIREMENTS.

(a) The Company shall at all times employ ordinary care in its operations and shall install, maintain and use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

(b) All structures and all lines, equipment and connections in, over, under, and upon the Public Ways, wherever situated or located, shall at all times be kept and maintained in a safe, suitable condition, and in good order and repair.

Section 7. SERVICE POLICIES. Any franchise granted pursuant to this ordinance shall define a franchise area to be served by the Company receiving such franchise. Within such franchise area the Company receiving such franchise shall adhere to the following service policies.

I. System Expansion, Isolated Subscribers.

A) The Company shall extend cable television services to any isolated residence at the standard rate if:

(1) The Resident requests the service extension; and

(2) The service connection to the isolated residence would require no more than a standard one hundred (100) foot aerial drop line from existing cable to the residence.

B) The Company shall extend cable television services to any isolated residence requiring more than a standard one hundred (100) foot aerial drop line from the existing cable to the residence at a premium installation rate if such service has been requested by the resident. The premium installation rate charged shall be the actual cost for the distance exceeding one hundred (100) feet. The Company may require advance payment for such installation.

II. System Expansion, New or Existing Developments, Overhead Cable Construction

A) The Company shall extend cable television services to any existing development or group of residences at the standard rate if:

(1) The Existing development or group of residences to be served has a density of at least eighty (80) residences per strand mile of contiguous trunk line cable installed from existing plant; and,

(2) Fifty per cent (50%) of the residences within the development or group of residences to be served have requested service.

B) Any development or group of residences not meeting the above requirements may be served at Grantco's discretion.

III. System Expansion, Now or Existing Underground Developments

The Company may, at its option and upon agreement of the developer, extend energized or unenergized cable, or conduit, to all new residential developments as they are constructed. Costs of trenching, conduit, pedestals and/or vaults and laterals as well as easements therefore required to bring service to the development shall be borne by the developer and/or landowner. All installations and construction by developer and/or landowner shall be to the specifications of the Company. The Company need not provide cable television services to such a development until fifty per cent (50%) of the residential dwelling units to be served have agreed to subscribe to receive cable services.

IV. System Expansion Limitation

A) No provision of this Ordinance shall require the Company to extend in any twelve (12) month period, trunk, and/or distribution lines to more than twenty per cent (20%) of the residences in the franchise area. Should the Company elect to extend the system in excess of this limitation, credit for such extension shall be made against extension requirements in the next twelve (12) month period.

B) Upon petition by the Company, the Commission may defer or indefinitely suspend any expansion required by this Ordinance after a showing by the Company that such expansion would cause unreasonable financial hardship to the Company. Such a showing shall be made by the Company at a public hearing.

The County shall publish a notice of any such hearing setting forth a time and place when and where any persons having any interest therein may appear before the Commission and be heard, at least fifteen (15) days prior to the hearing in a newspaper of general circulation within the County. The County shall also cause a copy of such notice to be mailed to the Company at least fifteen (15) days prior to the hearing.

#### V. Undergrounding of System

For any system expansion in existing developments the Company shall place the cable system underground in localities where both telephone and power lines are underground. For existing facilities, the Company shall replace aerial facilities with underground facilities concurrently and in cooperation with similar programs of the telephone and power utilities. At no time shall the cable system be the only aerial facility. Where undergrounding is required, the Company shall have the option of sharing or not sharing utility trenches.

**Section 8. OPERATIONAL STANDARDS.** The Company shall operate and maintain its cable television system in full compliance with the standards set forth by the Federal Communications Commission.

**Section 9. RATES.** Rates charged for Basic or Expanded CATV Service as may be from time to time offered by the Company shall not be regulated by the County.

**Section 10. FRANCHISE PAYMENTS.** The Company shall pay to the County, on or before March 31 of each year, a reasonable franchise fee not to exceed the maximum allowable fee under the laws, rules and regulations of the Federal Communications Commission at the time of the grant of a franchise hereunder. The amount of such fee shall be specified in the Franchise Agreement between the County and the Company and shall be based on Gross Annual Basic Subscriber Revenues received for cable television operations in the County for the preceding calendar year. No other fee, charge or consideration shall be imposed. At the time of each payment due hereunder, the Company shall provide to the County an annual summary report showing Gross Annual Basic Subscriber Revenues received during the preceding year.

#### Section 11. INDEMNIFICATION OF COUNTY.

(a) The Company shall at all times protect and hold harmless the County from all claims, actions, suits, liability, loss, expense or damages of every kind and description (herein collectively referred to as "claims") including investigation costs, court costs and attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Company in the ownership, construction, installation, repair, replacement, maintenance and operation of the cable television system. The County shall give the Company prompt notice of any such claims filed against it.

(b) The Company shall maintain in full force and effect during the life of any franchise, public liability insurance in a solvent insurance company authorized to do business in the State of Florida.

1. \$50,000 property damage in any one accident;
  2. \$100,000 for personal injury to any one person;
  3. \$300,000 for personal injury in any one accident;
- provided, however, that all such insurance may contain reasonable deductible provisions not to exceed \$1,000.00 for any type of coverage.

#### Section 12. PROCEDURES.

(a) Any inquiry, proceedings, investigation or other action to be taken or proposed to be taken by the County in regard to the operation of the Company's cable television system shall be taken only after

1. the minimum legally required public notice of such action or proposed action is published in a local daily or weekly newspaper having general circulation in the County (and in the absence of any such legal requirement, the notice shall be published at least seven (7) days prior to the date of the proposed action);

2. a copy of such action or proposed action is served directly on the Company at least fifteen (15) days prior to the proposed action;

3. the Company has been given an opportunity to respond in writing and/or at hearings as may be specified by the County.

(b) The public notice required by this section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed; and such other procedures as may be specified by the County. If a hearing is to be held, the public notice shall give the date and time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The Company shall be an indispensable party to any hearing conducted in regard to its operations.

#### Section 13. PROCEDURE UPON TERMINATION.

Upon expiration of any franchise granted hereunder, if the Company shall not have acquired an extension or renewal thereof and accepted the same, the Company may enter upon the Public Ways of the County, for the purpose of removing its property. In so removing said property the Company shall, at its own expense, refill any excavation that shall be made by it, and, insofar as possible shall leave said Public Ways in the same condition prevailing prior to the Company's removal of its property.

#### Section 14. NEW DEVELOPMENTS.

It shall be the policy of the County to amend this franchise liberally upon application of the Company, when necessary to enable the Company to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity to more effectively, efficiently or economically serve its customers.

#### Section 15. APPROVAL OF TRANSFER.

(a) Without Commission approval the Company shall not sell or transfer its CATV system or any of its rights under this franchise to another, except to a parent company or a wholly owned subsidiary of the Company, except as security for monies borrowed. Such Commission approval shall not be unreasonably withheld.

(b) Upon the foreclosure or other judicial sale of all or a substantial part of the Cable Television System, or upon the termination of any lease covering all or a substantial part of the Cable Television System, the Company shall notify the Commission of such fact, and such notification shall be treated as a notification that a change in control of the Company has taken place, and the provisions of this section, governing the consent of the Board to such change in control of the Company, shall apply.

(c) The Commission shall have the right to cancel this franchise one hundred and twenty (120) days after the appointment of a receiver, or trustee, to take over and conduct the business of the Company, whether in receivership, reorganization, bankruptcy, or other action or proceeding, unless such receivership or trusteeship

shall have been vacated prior to the expiration of said one hundred and twenty (120) days, or unless:

1. Within one hundred and twenty (120) days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this ordinance and remedied all defaults thereunder; and

2. Such receiver or trustee, within said one hundred and twenty (120) days shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this Ordinance and the Certificate granted to the Company.

#### Section 16. LOCAL OFFICE COMPLAINTS.

The Company shall maintain a local business office, or agent, which subscribers may telephone or contact personally during regular business hours without incurring added message or toll charges, so that CATV maintenance service shall be promptly available. Should a subscriber have an unresolved complaint with the Company regarding the quality of cable television service, equipment malfunctions, or similar matters, the subscriber shall be entitled to file his complaint with the Board of County Commissioners, who has primary responsibility for the continuing administration of the franchise and the procedures for resolving complaints, and thereafter to meet jointly with a representative of the County and a representative of the Company within thirty (30) days to fully discuss and resolve such matters. The Company shall notify each subscriber, at the time of initial subscription to the service of the Company, of the procedures for reporting and resolving such complaints.

#### Section 17. MISCELLANEOUS PROVISIONS.

(a) When not otherwise prescribed herein, all matters herein required to be filed with the County shall be filed with the Commission.

(b) The Company shall provide without charge one outlet to each governmental office building, fire station, police station, and public and private school building that is passed by its cable. If more than one outlet is required at any of the said locations, the Company shall install additional outlets at the cost of time and material only and in no event will there be a monthly service charge at said locations. The distribution of the cable facility inside such buildings and the extent thereof shall be the responsibility of the building owner.

(c) The Company will provide such facilities and channels for public access cable casting as are required by the rules and regulations of the Federal Communications Commission.

(d) In the case of any emergency or disaster, the Company shall, upon request of the County make available its facilities to the County for reasonable emergency use during the emergency or disaster period.

(e) The Company shall furnish to the County such reasonable information concerning its operations and services under its franchise as the County may request.

**Section 18. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.** The Company shall at all times during the life of this franchise be subject to all County ordinances and regulations and lawful exercise thereof which shall be reasonable and not destructive to the rights granted to the Company herein.

#### Section 19. VIOLATIONS.

(a) From and after the effective date of this ordinance, it shall be unlawful for any person to construct, install or maintain any equipment or facilities for distributing any television signals or radio signals through CATV system within any Public Way or within any other public property of the County, or within any privately owned area within the County which has not yet become a Public Way but is designated or delineated as a proposed Public Way on any tentative subdivision map approved by the County, unless a franchise authorizing such use of such Public Way or property or area has first been obtained, and unless such franchise is in full force and effect.

(b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of the Company's CATV system within this County for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the Company.

(c) It shall be unlawful for any person, without the consent of the Company, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs or sound.

#### Section 20. PENALTIES.

Any person violating or failing to comply with any of the provisions of Section 19 of this Ordinance shall be guilty of a misdemeanor as defined and punishable by general law. Each day of violation shall constitute a separate offense.

#### Section 21. SEVERABILITY.

If any section, subsection, sentence, clause or phrase of this chapter of this Ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The Commission hereby declares that it would have passed this Ordinance and each section, subsection, sentence, clause, and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared illegal, invalid or unconstitutional. The invalidity of any portion of this Ordinance shall not abate, reduce or otherwise affect any consideration of other obligation required of the Company. All ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

#### Section 22. FEDERAL REGULATION.

Any lawful modification resulting from amendment of Section 76.31 ("Franchise Standards") of the Rules and Regulations of the Federal Communications Commission shall be incorporated into this franchise as of the date such modifications become obligatory under F.C.C. regulations, or in the event no obligatory date is established, within one year of adoption or at the time of franchise renewal, whichever occurs first.

#### Section 23. EFFECTIVE DATE.

This Ordinance shall take effect immediately upon receipt of official acknowledgment from the Office of the Secretary of State of the State of Florida that this Ordinance has been filed with that Office.

**PASSED AND DULY ADOPTED**, by the Board of County Commissioners of Manatee County, Florida, this the \_\_\_\_ day of \_\_\_\_, 1978.

**BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA**

By:

Chairman

ATTEST: R. B. SHORE

Clerk of the Circuit Court

Said hearing may be continued from time to time pending adjournment.

Clerk of Circuit Court

Ex-Officio Clerk of Board of County Commissioners Manatee County, Florida

4/28-'78.