

ORDINANCE 93-30(B)

FILED

OCT 7 10 00 PM '93

SECRETARY OF STATE

FILED FOR RECORD
R.B. SHIPE
CLERK CIRCUIT COURT
MANATEE CO. FLORIDA
OCT 11 4 00 PM '93

AN ORDINANCE OF MANATEE COUNTY, FLORIDA, AMENDING VARIOUS TERMS OF THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY, FLORIDA; AMENDING THE DEFINITION OF "CABLE ACT", "ADJUSTED GROSS REVENUE" AND "GROSS REVENUE" SET FORTH IN THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY; CORRECTING A SCRIVENER'S ERROR IN SECTION 2-7-9(f) OF THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY; AMENDING SECTION 2-7-13(d) OF THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY BY REQUIRING THAT FRANCHISEES' STATEMENTS OF COMPUTATION OF ADJUSTED GROSS REVENUE BE CERTIFIED BY OR ACCOMPANIED BY A LETTER OF ATTESTATION BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT; AMENDING SECTION 2-7-13(h) OF THE CABLE TELEVISION ORDINANCE OF MANATEE COUNTY SO AS TO ALLOW EXPENDITURE OF FRANCHISE FEE PROCEEDS FOR OTHER PURPOSES RELATED DIRECTLY TO THE DISSEMINATION OF INFORMATION TO THE PUBLIC, IN ADDITION TO CABLE RELATED PURPOSES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Manatee County previously adopted Ordinance 91-24, known as the Cable Television Ordinance of Manatee County which was codified as Manatee County Code Sections 2-7-1 through 2-7-33; and

WHEREAS, the definitions set forth in Ordinance 91-24 defined the term "Cable Act" to mean "the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, et seq."; and

WHEREAS, subsequent to the enactment of Ordinance 91-24, Congress has enacted the Cable Television Consumer Protection and Competition Act of 1992 which adds to and amends the Cable Communications Policy Act of 1984; and

WHEREAS, the Cable Television Consumer Protection and Competition Act of 1992 is applicable to Manatee County and the franchises operating therein; and

WHEREAS, it is desirable to clarify that references to the "Cable Act" in the Cable Television Ordinance of Manatee County, Ordinance 91-24, as amended, should be construed to include not only the Cable Communications Policy Act of 1984 but also the Cable Television Consumer Protection and Competition Act of 1992; and

WHEREAS, under the definitions of "adjusted gross revenue" and "gross revenue" in the Cable Television Ordinance of Manatee County some franchisee statements of computation of adjusted gross revenue are not readily susceptible to verification by financial audit; and

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WHEREAS, a revision of said definitions would enable the County to verify franchisee statements of computation of adjusted gross revenue; and

WHEREAS, the Cable Television Ordinance of Manatee County has been found to contain a scrivener's error in that Section 2-7-9(f) makes reference to "a hearing in accordance with section 2-7-32(b) and (c) hereof" when it should make reference to "a hearing in accordance with section 2-7-23(b) and (c) hereof"; and

WHEREAS, under Section 2-7-13(d) of the Cable Television Ordinance of Manatee County, it is required that a franchisee must periodically file "a statement of the computation of adjusted gross revenue used to calculate the franchise fee for the preceding year certified by a certified public accountant or the franchisee's chief financial officer"; and

WHEREAS, the Board finds that it is not consistent with good business practice, nor in the best interest of Manatee County to rely on such a statement certified by the franchisee's chief financial officer and that such certified statement should be certified by, or accompanied by, a letter of attestation by a certified public accountant as a matter of policy; and

WHEREAS, under Section 2-7-13(h), the expenditure by Manatee County of franchise fee revenues is limited to "cable related purposes"; and

WHEREAS, it is the finding of the Board of County Commissioners that the foregoing limitation is too restrictive and that it would be in the best interest of Manatee County to be able to expend franchise fee revenues on cable related purposes and other purposes related directly to the dissemination of information to the public.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida, as follows:

1. Section 2-7-3, the "Definitions" section of the Cable Television Ordinance of Manatee County, is amended by changing the definition of "Cable Act" to read as follows:

Cable Act means the Cable Communications Policy Act of 1984, 47 U.S.C. § 521, et seq., as amended by the Cable Television Consumer Protection and Competition Act of 1992, and as

subsequently amended by other applicable Federal law.

2. Section 2-7-3, the "Definitions" section of the Cable Television Ordinance, is amended by changing the definitions of "adjusted gross revenue" and "gross revenue" to read as follows:

Adjusted Gross Revenue: Through December 31, 1993, adjusted gross revenue means gross revenue less copyright fees and direct programming costs. Commencing January 1, 1994 and thereafter, adjusted gross revenue means gross revenue less bad debt expense and advertising agency commissions.

Gross Revenue: Through December 31, 1993, gross revenue means all direct revenue received by a franchisee, or its Manatee County affiliates for delivery of cable service or from the operation of its cable system within the unincorporated areas of the County, including, but not limited to, revenue derived from cable service, home shopping channels, institutional services, installation fees, ancillary services or the rental or lease of equipment related to the delivery of cable service. Commencing January 1, 1994 and thereafter, gross revenue means all revenue earned from the operation of a franchisee's cable system within the unincorporated areas of the County, including, but not limited to revenue derived from cable service, home shopping channels, national and local advertising, institutional services, installation fees, ancillary services or the rental or lease of equipment related to the delivery of cable service.

3. Section 2-7-9(f) of the Manatee County Code is amended to read as follows:

If the Board grants a franchise application, the County Administrator and the applicant must agree on the terms of a franchise agreement within ninety (90) calendar days from the date of the resolution making the grant. This period may be extended for good cause by the County. If agreement is not reached with the County Administrator within ninety (90) calendar days or if the period is not extended by the County, the franchise grant will be null and void without further action by the County unless, prior to the expiration of such ninety (90) day period or any extension thereof, the grantee or franchisee shall appeal such automatic termination by written request for a hearing in accordance with Section 2-7-23(b) and (c) hereof.

4. Section 2-7-13(d) of the Manatee County Code is amended to read as follows:

A franchisee must file within three (3) months of the end of its fiscal year a statement of computation of adjusted gross revenue used to calculate the franchise fee for the preceding

year. This statement of computation must be certified by an independent certified public accountant or accompanied by a letter of attestation by an independent certified public accountant attesting to the completeness and accuracy of accounts and amounts contained in the statement of computation.

5. Section 2-7-13(h) of the Manatee County Code is amended to read as follows:

All franchise fee proceeds received by the County shall be expended for cable-related purposes and other purposes related directly to the dissemination of information to the public.

6. This ordinance shall become effective 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 28th day of September, 1993.

BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA

By: _____

Lani Ann Davis
Chairman

Attest: R. B. SHORE,
Clerk of the Circuit Court

[Signature]

CLERK OF THE CIRCUIT COURT
MANATEE COUNTY, FLORIDA

STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.
Witness my hand and official seal this 5th day of

October 19 93.
R. B. SHORE
Clerk of Circuit Court
By: Julia M. Lloyd D.C.

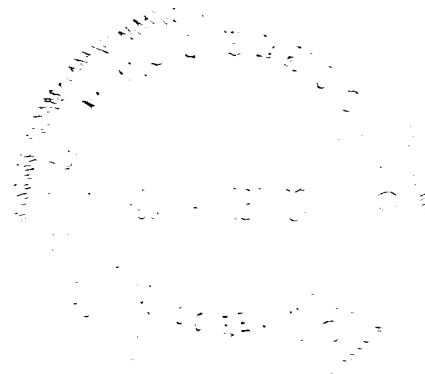
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DATE 10/11/93

BY gml

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RW





FLORIDA DEPARTMENT OF STATE

Jim Smith, Secretary of State
DIVISION OF ELECTIONS
Bureau of Administrative Code
The Elliot Building
Tallahassee, Florida 32399-0250
(904) 488-8427

FILED FOR RECORD
R.B. SHORE
CLERK OF CIRCUIT COURT
MANATEE COUNTY FLORIDA
OCT 11 3 59 PM '93

October 7, 1993

Honorable R. B. "Chips" Shore
Clerk of the Circuit Court
Manatee County Courthouse
Post Office Box 1000
Bradenton, Florida 34206

Attention: Evelyn Lloyd, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of October 4, 1993 and certified copies of Manatee County Ordinance Numbers 93-30, 93-45 and 93-47, which were received and filed in this office on October 7, 1993.

The duplicate copies showing the filing date are being returned for your records.

Sincerely,

A handwritten signature in cursive script that reads "Liz Cloud".

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb

Enclosures (3)

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