

**AN ORDINANCE OF THE COUNTY OF CAROLINE ,VIRGINIA TO REPEAL AND
REPLACE CHAPTER A130, ARTICLE 1 OF THE CODE OF CAROLINE COUNTY,
PROVIDING FOR THE ESTABLISHMENT, REGULATION AND ADMINISTRATION
OF CABLE TELEVISION FRANCHISES AND ACTIVITIES UNDERTAKEN
PURSUANT THERETO**

BE IT RESOLVED, that Chapter A130, f the Code of Caroline County is hereby repealed and replaced as follows:

ARTICLE I

General Provisions

§ A130-1. Title.

This Chapter shall be known and may be cited as the “Caroline County Cable Television Ordinance.”

§ A130-2. Purpose.

This Chapter is intended to provide for the licensing and regulation of one (1) or more cable television systems in the unincorporated area of Caroline County, Virginia.

§ A130-3. Statutory authority.

This Chapter is enacted pursuant to Code of Virginia, §§ 15.2-2108, *et seq.*, 1950, as amended, and the Cable Communications Policy Act of 1984, 47 U.S.C.§§521 *et seq.*, as amended.

§ A130-4. Existing Rights.

Nothing in this Chapter shall be deemed to abrogate the constitutionally protected rights of a Cable System operating in the County on the date of the adoption or amendment of this Chapter.

§ A130-5. Word usage; definitions.

A. As used in this Chapter, the following words and phrases shall have the meanings herein specified, except where the context is clearly to the contrary. Consistent with the context, words used in the plural contemplate and include the singular, and words used in the singular contemplate and include the plural. Context notwithstanding, the word “shall” is mandatory, never directory.

B. As used in this Chapter, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below.

“**Access Channel**” means any channel on a Cable system set aside by a Grantee for noncommercial educational, or governmental use.

“**Basic Cable Service**” means the entry level of service including, but not limited to, mandatory Broadcast carriage signals and local access channels and such other service as the FCC may mandate and such additional signals, channels and services as the Grantee may elect to include. This shall not include optional

packages or pay-per-view or pay-per-channel services as herein defined, as long as they are sold separately from Basic Cable Service alone.

“Board” means the Board of Supervisors of Caroline County.

“Cable Act” means the Cable Communications Policy Act of 1984, as amended.

“Cable Service” means the one-way transmission to subscribers of (1) video programming or and (ii) other programming service, and Subscriber interaction, if any, which is required for the selection of such Video Programming or other programming service.

“Cable System” means any 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, except that such definition shall not include (i) a system that serves fewer than twenty Subscribers, (ii) a facility that serves only to retransmit the television signals of one or more television broadcast stations, (iii) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way, (iv) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 *et seq.*, except that such facility shall be considered a Cable System to the extent such facility is used in the transmission of video programming directly to Subscribers, (v) any facilities of any electric utility used solely for operating its electric systems, or (vi) any portion of a system that serves fewer than fifty Subscribers in any locality, where such portion is a part of a larger system franchised in an adjacent locality .

“Channel” means a portion of the electromagnetic frequency spectrum that is used in a Cable System and that is capable of delivering a television signal or television channel as that term is defined by the Federal Communications Commission.

“County” means Caroline County, Virginia.

“FCC” means Federal Communications Commission, or successor governmental entity thereto.

“Fair Market Value” shall mean the price that a willing buyer would pay to a willing seller for a going concern based on the system valuation and sale multiples prevailing in the industry at the time at which the new Grantee is required to purchase the current Grantee’s assets.

“Franchise” shall mean the initial authorization or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, franchise agreement, ordinance, permit, license, resolution, contract, certificate, or otherwise, which authorizes the nonexclusive right granted hereunder to construct, install, maintain and operate a Cable System or systems or other service to Subscribers, in any unincorporated areas of the County.

“Franchise Agreement” means a contract entered into pursuant to this Chapter between the County and a Grantee that sets forth, subject to this Chapter, the terms and conditions under which a Franchise will be granted and exercised.

“Franchising Authority” means the County of Caroline, Virginia or the lawful successor, transferee, or assignee thereof.

“Grantee” means an entity to whom a Franchise has been granted by the Franchising Authority, or the lawful successor, transferee, or assignee thereof.

“Person” means any individual, firm, partnership, cooperative, nonprofit membership corporation, joint venture, association, corporation, estate, joint stock company, trust, business trust, trustee in bankruptcy, receiver, auctioneer, syndicate, assignee, club, society, governmental entity, or any other group or combination acting as a unit.

“Public Way or Public Rights-of Way” shall mean the surface of, and the space above and below, any public street, highway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive, circle, or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the Franchising Authority in the Service Area which shall entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing, operating, repairing, and maintaining the Cable System. Public Way shall also mean any easement now or hereafter held by the Franchising Authority within the Service Area for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purposes of installing or transmitting Grantees’ Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

“Service” means any cable service, including any basic service, which is distributed over the cable system.

“Service Area” means the unincorporated area within the present boundaries of the County of Caroline, Virginia, and shall include any additions thereto by annexation or other legal means.

“Subscriber” means a person or user of the Cable System who lawfully receives Cable Services or other service therefrom with Grantee’s express permission.

“User” means any Person or organization using EG or leased access channels or equipment and facilities for purposes of producing or transmitting material, as contrasted with the receipt thereof in the capacity of a Subscriber.

“**Video Programming**” means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

ARTICLE 2

Franchises

§ A130-6. Franchise required.

A. No Person shall construct, install, maintain, expand, enlarge or otherwise increase or operate a Cable System through, on, over or under any Public Way or Public Right-of-Way in the unincorporated area of the County without first having applied for, been granted and accepted a Franchise under the provisions hereof and its Franchise is in full force and effect.

B. Any person who constructs, installs, maintains, expands, enlarges, or otherwise increases, or operates a Cable System through, on, over, or under any Public Way or Public Right-of-Way, or within any privately owned area in the County which has not yet become a public street but is designated or delineated as a proposed public street on any tentative subdivision map approved by the County, in the unincorporated area of the County without first having applied for, been granted, and accepted a Franchise under the provisions hereof, or a Franchise under the County’s preexisting cable ordinance, shall be guilty of a class 4 misdemeanor.

§ A130-7. Application procedures and fee.

A. In order to obtain a Franchise, an applicant shall first file with the County Administrator a request, in writing, to negotiate the terms and conditions of a negotiated Franchise Agreement.

B. All applications for an initial Franchise Agreement shall include the following minimum information:

(1) A map delineating all areas to which Cable Service shall initially be provided and anticipated future service areas, and a statement explaining the applicant’s line extension requirements.

(2) A detailed statement of Services proposed to be offered to Subscribers.

(3) A detailed statement of any services to be offered to the County, including but not limited to Access Channels, cable service outlets to public locations, capital grants/support, etc.

(4) A detailed statement of the service characteristics and capabilities of the applicant’s proposed Cable System.

(5) A schedule of initial rates, fees and other charges to be established by the applicant.

(6) A detailed statement of the applicant’s customer service standards.

(7) A detailed statement of the types of reports and records maintained by the applicant with regard to customer service, line extension deployment and annual performance summaries.

(8) Evidence of the financial stability, technical and other qualifications of the applicant.

(9) Full and true disclosure of the actual ownership of the applicant, including the identity of all principals and ultimate beneficial owners, however designated, specifically including all stock holders of corporations (nominal and beneficial) owning more than one percent (1%) of the issued and outstanding stock and all partners of any general or limited partnership.

(10) Any additional information that the County may require.

C. Submitted applications may be amended only with the consent of the Board.

D. Applications shall be signed by the applicant or by a duly authorized representative of the applicant, evidence of whose authority shall be supplied with the application.

E. Each Person applying for a Franchise shall pay a nonrefundable fee in the amount of two-thousand five hundred dollars (\$2,500.00) to defray expenses incurred by the County in processing applications. Such nonrefundable payment shall be used to offset any direct costs incurred by the Franchising Authority in connection with the application and this ordinance.

F. The applicant shall make itself available to participate in franchise negotiations with the County and/or its representatives.

G. At the time of filing an initial application for a Franchise area or areas pursuant to this Section, an applicant shall obtain, pay all premiums for, and deliver to the County written evidence of payment of premiums and originals of a bond or bonds running to the County with good and sufficient surety to protect the County from all damages or losses arising from the failure of the Grantee to accept the Franchise award in conformity with this Chapter, or to strictly adhere to the substance of its Franchise proposal. Such bond or bonds shall be maintained for a period of five years from the time of a Grantee's acceptance of a Franchise.

H. After considering the financial, technical and legal qualifications of the applicant, the Board may enter into a negotiated Franchise Agreement if it determines that the applicant's plans for constructing, operating, and maintaining its Cable System are adequate and will sufficiently meet the current and future cable-related needs and interests of the residents of the County.

I. Should an applicant intend to elect to obtain an ordinance cable franchise from the County in lieu of a negotiated agreement, it shall give the County written notice of such election at least forty five (45) calendar days prior to filing a notice electing an ordinance cable franchise. This requirement is not applicable if the County refuses to engage in negotiations with the applicant, or the applicant has an existing negotiated Franchise Agreement with the County.

J. After the forty five (45) day period set forth in subsection I above, an applicant, through its president or chief executive officer, shall file written notice with the County that the applicant elects to receive an ordinance cable franchise at least (thirty) 30 days

prior to offering cable service in the County. The notice shall be accompanied by a map or a boundary description showing:

(1) The initial service area in which the applicant intends to provide cable service in the County within the three (3) year period required for an initial service area; and

(2) The area in the County in which the applicant has its telephone facilities, if any.

The map or boundary description of the initial service area may be amended by the applicant by filing with the County a new map or boundary description of the initial service area.

K. The County will adopt an ordinance within one hundred twenty (120) days of the applicant's filing of the notice required in subsection I above. An ordinance adopted under this section that relates to a applicant's provision of cable service shall apply to such applicant retroactively to the date on which the applicant began to offer cable service in the County pursuant to this Ordinance.

L. Notice of any ordinance that requires a public hearing shall be advertised once a week for two successive weeks in a newspaper having general circulation in the County. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the County. All costs of such advertising shall be assessed against the applicant or Grantee.

§A130-8 Franchise Renewal.

A Grantee electing to renew its cable franchise shall do so (i) pursuant to the renewal procedures in 47 U.S.C. § 546, or (ii) by providing notice to the County that it will opt into an ordinance cable franchise pursuant to this Ordinance. A Grantee may file such notification that its cable franchise will be renewed by an ordinance cable franchise not more than one year in advance of the expiration date of its existing franchise. Except as provided by federal law, the restrictions in §§ 15.2-2015 through 15.2-2018, 15.2-2100 through 15.2-2105, 15.2-2106 and 15.2-2107 of the Code of Virginia, including, but not limited to, the advertisement and receipt of bids for cable franchises, shall not apply to renewal certifications except where a renewal would result in the County having granted a cable franchise and a renewal with combined terms in excess of forty (40) years.

§A130-9 Transfer or Change of Control of Cable System or Franchise.

Notwithstanding any other provision of this ordinance to the contrary, neither a Grantee nor any other person may transfer a Franchise without the prior written consent of the Franchising Authority, which consent shall not be unreasonably withheld, delayed or conditioned. A change in control of a Grantee, defined as an acquisition of 50% or greater ownership interest in Grantee, shall be deemed a transfer of the Franchise. Notwithstanding the foregoing, no consent shall be required for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of the Grantee in the Franchise or Cable System to secure indebtedness.

(A) Application.

(1) A Grantee shall notify the County as soon as possible of any proposed Transfer.

(2) At least one hundred twenty (120) calendar days prior to the contemplated effective date of a Transfer, the Grantee shall submit to the County a written application for approval of the Transfer. Such an application shall include details on the legal, financial, and technical qualifications of the proposed transferee.

(3) For the purposes of determining whether it shall consent to a Transfer, the County or its agents may inquire into the legal, technical and financial qualifications of the prospective transferee as the County may deem necessary to determine whether the Transfer is in the public interest and should be approved or denied. The Grantee and any prospective transferees shall assist the County in any such inquiry.

(4) Within thirty (30) days of receiving a request for transfer, the County shall, in accordance with FCC rules and regulations, notify the Grantee in writing of any additional information it requires to determine the legal, financial and technical qualifications of the transferee. If the County has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given unless the County and Grantee otherwise agree to an extension of time.

(B) Determination by County.

In making a determination as to whether to grant, deny, or grant subject to conditions an application for a Transfer, the County may consider the legal, financial, and technical qualifications of the transferee to operate the System and whether the Transfer is in the public interest.

§A130-10. Town Ordinances.

If the governing body of any town adopts an ordinance pursuant to the provisions of §§ 15.2-2108.19 *et seq.*, of the Code of Virginia, such town shall not be subject to any ordinance by the County within which such town lies.

§A130-11 Cable System Characteristics.

(A) All Cable Systems operating in the County shall meet or exceed the customer services standards set forth in 47 C.F.R. §§ 76.309, 76.1-1602, 76.1603, 76.1618 and 76.1619, and the technical requirements set forth 47 C.F.R. § 76.605.

(B) Unless otherwise provided for in an ordinance cable franchise granted pursuant to A130-7, the facilities and equipment of all Cable Systems operating in the County shall conform, at minimum, to the following characteristics:

(1) all facilities and equipment designed, built and operated in such a manner as to permit additional improvements necessary for high quality and reliable service throughout the Franchise term;

(2) all facilities and equipment designed, built and operated to protect against outages due to power failures, so that back-up power is available at a minimum for at least 24 hours at each headend, three (3) hours at each optical transmit node (“OTN”), and conforming to industry standards, but in no event rated for less than two hours, at each power supply site;

(3) all facilities and equipment designed and built of good and durable quality, generally used in high-quality, reliable, systems of similar design;

(4) all facilities and equipment designed, built and operated in such a manner as to ensure that the Grantee’s Cable System complies with all FCC technical standards, as such standards may be amended from time to time;

(7) all facilities and equipment designed to be capable of continuous twenty-four (24) hour daily operation in accordance with FCC standards except as caused by a force majeure condition;

(8) all facilities and equipment designed, built and operated in such a manner as to comply with all applicable FCC requirements regarding (i) consumer electronic equipment and (ii) interference with the reception of off-the-air signals by a subscriber;

(9) all facilities and equipment designed, built and operated in such a manner as to protect the safety of Grantee’s Cable System workers and the public;

(10) all facilities and equipment required to properly test the system and conduct an ongoing and active program of preventive maintenance and quality control and to be able to quickly respond to customer complaints and resolve system problems;

(11) facilities and equipment at the headend allowing the Grantee to transmit or cablecast signals without substantial deterioration. Similarly, all closed- captioned programming retransmitted on the Cable System shall include the closed-captioned signal in a manner that renders that signal available to Subscriber equipment used to decode the captioning;

(12) site equipment having adequate security provisions to permit parental control over the use of Grantee’s Cable Service. Such a system will at a minimum offer as an option that a Person ordering programming must provide a customer code provided by the Grantee only to a Subscriber. Provided, however, that the Grantee shall bear no responsibility for the exercise of parental controls and shall incur no liability for any Subscriber’s or viewer’s exercise or failure to exercise such controls;

(13) facilities and equipment to ensure that the Grantee substantially complies with all applicable laws, including applicable customer service requirements and including requirements for responding to system outages;

(14) antenna supporting structures (towers) designed in accordance with the Virginia Uniform Statewide Building Code, as amended, painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the Federal Communications Commission, and all other applicable codes and regulations.

§A130-12 CONSTRUCTION AND MAINTENANCE

(A) Construction Standards

(1) The construction, operation, maintenance, and repair of a Cable System shall be in accordance in all material respects with all applicable sections of the Occupational Safety and Health Act of 1970, as amended; the National Electrical Safety Code and National Electric Code; Obstruction Marking and Lighting, AC 70/7460 i.e., Federal Aviation Administration; Construction, Marking and Lighting of Antenna Structures, Federal Communications Commission Rules Part 17; the Virginia Uniform Statewide Building Code; conditions embodied in Virginia Department of Transportation permits; and other generally applicable federal, state, or local laws and regulations, all as hereafter may be amended or adopted. In the event of a conflict among codes and standards, accepted cable industry practices shall control (except insofar as such practices, if followed, would result in a Cable System that could not meet express requirements of federal, state or local law, or in instances in which such practices are expressly preempted by other standards). A Grantee must perform all work in an orderly and workmanlike manner throughout the Franchise term.

(2) All wires, cable lines, and other transmission lines, equipment, and structures shall be installed and located consistent with cable industry practices, and where feasible without additional cost to a Grantee, in such a manner as to cause minimum interference with the rights and convenience of property owners (including the County) and users of the public rights-of-way and other public property.

(3) All installation of electronic equipment shall use durable components. Cables and wires shall be buried, lashed or housed in a reasonable period of time.

(4) Antennae and their supporting structures (towers) shall be designed in accordance with the Virginia Uniform Statewide Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

(5) All of a Grantee's plant and equipment, including, but not limited to, the antennae site, head end and distribution system, towers, house connections, structures, poles, wires, cable, coaxial cable, fiber optic cable, fixtures, and apparatuses shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced and properly trained maintenance and construction personnel.

(6) A Grantee must maintain all wires, conduits, cables, and other real and personal property and facilities comprising Grantee's Cable System in good condition, order and repair. All safety practices required by law shall be used during construction, maintenance, operation and repair of Grantee's Cable System. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents.

(B) Restoration of Public and Private Property.

(1) Except in emergency situations, neither a Grantee nor any other Person acting as agent for Grantee shall open or otherwise disturb or damage any street, sidewalk, driveway, public rights-of-way or public land, public property or private property for any purpose whatsoever without obtaining required authorization to do so, and shall, at its own cost and expense, restore, repair and replace any property disturbed, damaged or in any way injured by or on account of its activities substantially to its condition immediately prior to the disturbance, damage or injury (including appropriate landscape restoration).

(2) Any repair or restoration required under this section shall be completed at the later of thirty (30) days from the date the damage is incurred or thirty (30) days from when the work causing such damage is completed. The Grantee must guarantee such restoration for at least one year against defective materials and workmanship.

(3) A Grantee must cooperate with all gas, electric, telephone, water, sewer and other utilities in the placement of facilities, equipment, or fixtures, to minimize the costs and disruption caused by any construction activities. The County will require the reciprocal cooperation of all parties listed above who have or will place facilities within public rights of way.

(4) A Grantee shall seek to shore up, sling, support, protect and make good, as directed, all water pipes, gas pipes, service pipes, sewers and sewer connections, conduits, ducts, manholes, drains, vaults, buildings, tracks or other structures, or sub-structures of public utility companies, and all service lines and structures, including sub-structures of private abutting owners, that are located within the lines of Grantee's Cable System construction that may be liable to disturbance or injury during the progress of the construction. All necessary supports and all labor and material necessary to reconnect and restore all such structures that become disturbed or damaged to substantially their original condition shall be provided by the Grantee at its own cost and expense.

(C) Removal and Relocation.

(1) Upon reasonable notice of any relocation project(s) that may require a Grantee to protect, support, temporarily disconnect, relocate, or remove any of Grantee's property, then the County shall promptly notify the Grantee of the extent and likelihood of any such projects. Upon reasonable notice in accordance with the preceding sentence (except in the case of emergency repairs), the Grantee shall, by a reasonable time specified by the County, protect, support, temporarily disconnect, relocate, or remove any of its property when reasonably required by the County by reason of traffic conditions; public safety; public rights-of-way or public land construction; public rights-of-way or public land maintenance or repair (including resurfacing or widening); change of public rights-of-way or public land grade; construction, installation or repair of sewers, drains, water pipes, power lines, signal

lines, tracks, or any other type of government-owned communications system, public work or improvement or any government-owned utility. Grantee shall be entitled to reimbursement of its costs and expenses related to such actions.

(2) If the Grantee abandons any portion of Grantee's Cable System located in public rights-of-way or on public land (i.e., permanently deactivates and leaves it in place), the County may require that such plant be removed at the Grantee's expense, at any time (i) if necessary, to make room for other facilities or (ii) if required by sound engineering practices, or (iii) to remove potential safety hazards.

(3) If any Person that is authorized to place facilities in the public rights-of-way or on public land requests the Grantee to remove, relocate, protect, support, or temporarily disconnect its facilities to accommodate the construction, operation or repair of the facilities of such other Person at any time, then the Grantee shall, upon request and reasonable notice from such party and consistent with applicable law, remove, relocate, protect, or alter the Grantee's Cable System, or any part thereof, and such Person shall reimburse the Grantee for the Grantee's costs and expenses related to such activities; provided, however, that Grantee may require such payment in advance.

(4) In the event of an emergency, or where the Grantee's Cable System creates or is contributing to an imminent danger to public health, safety, or property, or an unauthorized use of property, the Grantee shall remove or relocate any or all parts of Grantee's Cable System at the request of the County. If the Grantee fails to comply with the County's request, the County may remove or relocate any or all parts of the Grantee's Cable System upon reasonable notice to Grantee.

(5) The Grantee shall, on the request of any Person holding a valid building moving permit issued by the County, or on request of 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 Grantee shall have the authority to require such payment in advance, except in the case where the requesting person is the County, in which case the Grantee will invoice the County, and the County will pay, following completion of work. The Grantee shall be given a minimum forty-five (45) days advance notice in writing to arrange for such temporary wire changes.

(D) Permits and Obligations.

(1) The Grantee shall use, with the owner's permission, existing poles, conduits and other facilities whenever feasible and consistent with the design of Grantee's Cable System. The Grantee may not erect or emplace poles, conduits, or other facilities in public rights-of-way, on public land, or public easements without obtaining appropriate permits, where necessary. Any permits from the County shall not be unreasonably withheld, conditioned or delayed.

(2) No construction, upgrade, rebuild, reconstruction, or relocation of Grantee's Cable System, or any part thereof, within any public rights-of-way, on public land, in a public easement shall be commenced unless permits have been obtained from proper officials, except that in case of emergency, the Grantee may carry out such work to the extent necessary pending the issuance of such permits, as long as the Grantee acts to secure such permits as soon as possible. The Grantee shall pay the County fees associated with such permits.

(3) Prior to commencing any work on public property which is expected to last more than six (6) hours, the Grantee shall provide the County with twenty-four (24) hours prior notice of such work, when possible. If twenty-four (24) hours prior notice cannot be furnished, the Grantee shall provide the County with the maximum amount of notice feasible under the circumstances. If prior notice cannot be provided before commencing such work in the public rights-of-way or other public property, the Grantee shall notify the County as soon as possible thereafter. For purposes of this provision, notice shall include the street or public right of way location of the work proposed or performed, the date such work will begin and projected completion date.

(E) Aerial and Underground Construction.

(1) Grantee's Cable System's cable and facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead, but where no overhead poles exist all cables and facilities, excluding passive or active electronics of Grantee's Cable System that may be housed in low-profile, above-ground pedestals, shall be constructed underground unless prevailing conditions prevent normal underground construction. Whenever and wherever a property owner causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all Grantee's Cable System cables shall likewise be moved underground and the cost of movement of its cable shall be paid for by the requesting party. Grantee may require such payment in advance. Whenever and wherever the County causes or requests electric lines and telephone lines to be moved from overhead to underground placement, all Grantee's Cable System cables shall likewise be moved underground, and the County shall pay for the cost of movement of such cable. Except as federal law may otherwise require, in any area where the Grantee would be entitled to install a new drop above-ground, the Grantee shall provide a homeowner with reasonable notice of the option of having the drop installed underground, and may charge the homeowner the difference between the actual cost of the above-ground installation and the actual cost of the underground installation.

(2) The Grantee shall be a member of the regional notification center for subsurface installations and shall field mark the locations of its underground facilities upon request in accordance with state regulations.

(3) Prior to erection or placement of any poles or conduits, the Grantee shall first submit to the County a description of Grantee's Cable System facilities proposed to be erected or installed indicating the proposed location of such facilities.

(4) The County does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures.

(F) Contractors and Subcontractors.

Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of Grantee's Cable System equipment must be properly licensed under the laws of the Commonwealth of Virginia and all local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the Grantee would have if the work were performed by the Grantee. The Grantee shall seek to employ contractors, subcontractors and employees to perform work for it who are trained and experienced. The Grantee shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with the Franchise and applicable laws, regulations, policies and procedures.

(G) Notice

Except for emergency maintenance or repairs, the Grantee shall provide reasonable notice to residents in any construction area prior to first entering onto their property to perform any work in conjunction with system construction or rebuild, and shall provide reasonable notice to affected residents in advance of any work which will involve excavation, or replacement of poles. The Grantee shall provide affected residents with a name and phone number or a toll-free number they can call to discuss the Grantee's actions with a representative of the Grantee who is qualified to answer questions concerning proposed construction.

§A130-13. Enforcement.

In addition to any other penalties allowed, the County may apply any one or a combination of the following remedies should the County believe that the Grantee has violated or is violation of this ordinance:

(A) Revoke the Franchise pursuant to the Act.

(B) Seek legal or equitable relief from any court of competent jurisdiction.

ARTICLE 3

Miscellaneous Provisions

§A130-14. Removal or Damage of Facilities in Case of Fire or Other Disaster.

Whenever, in case of fire or other disaster, it becomes necessary, in the judgment of the Caroline County Director of Public Safety, to remove or damage any of the Grantee's facilities, no charge shall be made by the Grantee against the Franchising Authority for the restoration and/or repair of any such facilities.

§A130-15. Discriminatory Practices Prohibited.

The Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers on the basis of race, color, religion, national origin, sex, or age. The Grantee shall comply at all times with all other applicable federal, state and County laws, and all executive and administrative orders relating to nondiscrimination. The Grantee shall adhere to the equal employment opportunity requirements of the FCC.

§A130-16. Subscriber Privacy.

The Grantee shall comply with all privacy provisions of Section 631 of the Communications Act, 47 U.S.C. Section 551, as amended.

§A130-17. Incorporation of Amendments to State Code, Federal Law and Regulations.

Sections 15.2-2108.19 through 15.2-2108.31 of the Code of the Virginia, 1950, as amended, and all of the provisions and standards referenced therein, are hereby adopted and incorporated as fully as if set out at length herein. All future amendments to such sections and provisions are hereby automatically incorporated into this Ordinance.

§A130-18. Eminent Domain.

Nothing in this Chapter shall be deemed or construed to impair or affect, in any way or to any extent, the County's rights of eminent domain.

§A130-19. Acceptance of Franchise and conditions.

By the written acceptance of the Franchise, the Grantee acknowledges and concedes the validity of the terms and conditions of the Franchise and this ordinance (as enacted on the date the Franchise is accepted) in their entirety and agrees that it will not, at any time, proceed against the Franchising Authority in any claim or proceeding challenging any term of the Franchise and this ordinance (as enacted on the date the Franchise is accepted) as unreasonable, arbitrary or void or asserting that the Franchising Authority did not have the authority to impose such term or condition, unless, however, the challenge is a good faith one made for the purpose of determining whether this Franchise complies with federal and/or state law. By accepting a Franchise granted pursuant to this ordinance, the Grantee agrees that, notwithstanding the terms of the Franchise, it is at all times subject to the lawful exercise of the County's police power.

§A130-20. Descriptive Headings.

The captions to Sections contained herein are intended solely to facilitate the reading thereof. Such captions shall not affect the meaning or interpretation of the text herein.

§A130-21. Severability.

If any Section, sentence, paragraph, term, or provision hereof is determined to be illegal, invalid, or unconstitutional by any court of competent jurisdiction or by any state

or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other Section, sentence, paragraph, term, or provision hereof, all of which will remain in full force and effect for the term, or provision hereof, all of which will remain in full force and effect for the term of the Franchise, or any renewal thereof.

ARTICLE 4

Tele Media Company License

§A130-22. Findings.

The Board of County Supervisors does hereby determine that the best interests of Caroline County are served and enhanced by licensing more than one cable television service provider.

§ A130-23. Grant.

The Tele Media Company is hereby granted a cable television license, subject to the terms, conditions and provisions of this chapter, to serve the area described herein, as such service may be extended or expanded, such license to be effective, unless otherwise revoked or terminated, for 15 years from the date upon which Tele Media Company files a formal instrument of license acceptance with the county.

§ A130-24. Conditions.

As a condition of licensure, Tele Media Company shall begin construction of its system within six months of the date of the adoption of this ordinance. Said system is to be completed within one year from the date of the adoption of this ordinance and shall service 20 homes per mile.

§ A130-25. Transferability.

Such license shall be transferable without prior approval of the county, provided that any transferee shall amend the transferor's license application to reflect such information as to ownership and other particulars required under this chapter sufficient to determine the character, ownership and business responsibility of the transferee.

§ A130-26. Service Area

The service area will cover the area outlined on the maps which are on file in the office of the County Administrator.

The boundary line shall begin at the intersection of State Route 673 and the Spotsylvania County line. The line shall proceed in a southerly direction along the Spotsylvania County line to the power line. The boundary line shall then proceed in a southerly direction along the power line to State Route 714. The line shall then follow State Route 714 in an easterly direction to State Route 207 and then northerly along

State Route 207 to State Route 676 and then easterly along State Route 676 to State Route 628. The line shall then proceed easterly along State Route 628 to State Route 301 and then southerly along State Route 301 to State Route 721. The line shall proceed easterly along State Route 721 to State Route 641. The line shall then follow State Route 641 in an easterly direction to State Route 640 and proceed in a westerly direction along State Route 640 to the A. P. Hill western boundary line and proceed along the A. P. Hill boundary line to State Route 673 and then west along State Route 673 to the Spotsylvania border.

ARTICLE 5

Mid-Atlantic Cable License

§ A130-27. Findings.

The Board of County Supervisors does hereby determine that the best interests of Caroline County are served and enhanced by licensing more than one cable television service provider.

§ A130-28. Grant.

Mid-Atlantic Cable L. P. is hereby granted a cable television license, subject to the terms, conditions and provisions of this chapter, to serve the area described herein, as such service may be extended or expanded, such license to be effective, unless otherwise revoked or terminated, for 15 years from the date upon which Mid-Atlantic Cable L. P. files a formal instrument of license acceptance with the county.

§ A130-29. Conditions.

As a condition of its license, Mid-Atlantic Cable L.P. shall begin construction of Phase I, as outlined in its application, within six months of the date of the adoption of this ordinance. Additionally, Phase I shall be completed within 18 months and Phase II within 36 months from the date of the adoption of this ordinance. As a further condition of licensure, Mid-Atlantic Cable L. P. shall provide service where there are at least 20 homes per mile within its licensed area as well as providing service to homes within 500 feet on either side of roads in its area.

§ A130-30. Service area.

The service area will cover the area outlined on the maps which are on file in the office of the County Administrator and as described below:

The boundary begins at the intersection of the power line and the western boundary line for Caroline County and moves in a southwesterly direction along the boundary line of Caroline County to the North Anna River, then southeasterly along the North Anna River to the Pamunkey River, and then the line shall follow the Pamunkey River to the King William County line. The line shall proceed in a northeasterly direction along the King William boundary line to the Mattaponi River. The line shall then proceed along the Mattaponi River in a northwesterly direction to the intersection with State Route 654. The line shall then follow State Route 654 to State Route 601 and proceed along State Route 601 in a northwesterly direction to State Route 714. The line shall proceed in a westerly direction to the power line and then in a northerly direction along the power line to the beginning point of the Spotsylvania line.

Adopted: _____, 2010

Chairman
County of Caroline
Board of Supervisors

Attest:

Clerk