

Ordinance #12

An Ordinance Granting to Community Antenna, Incorporated, a Franchise to Erect a Community Antenna Television System.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF SCOTLAND, NORTH CAROLINA: As follows:

WHEREAS, Community Antenna, Incorporated, the City of Laurinburg, North Carolina, desires to operate a television system through the media of transmission through cables and/or wires commonly called a Master Antenna Cable System; and,

WHEREAS, Section 76.11 (b) of the Federal Communications Commission Rules and Regulations, provides that no cable television system lawfully carrying television broadcast signals in a community prior to March 31, 1972, shall continue carriage of such signals beyond the end of its current franchised period, or March 31, 1978, whichever occurs first, unless it receives a Certificate of Compliance; and,

WHEREAS, said Certificate of Compliance will not be granted unless the community antenna television system's franchise complies with the Federal Communications Commission Rules and Regulations; and,

WHEREAS, said cable system is already attached to the existing pole facilities of public utility companies and its cables or wires and other appurtenances crossing over the streets, sidewalks, public land, and highways in the County of Scotland, North Carolina, pursuant to an interim authorization for cable television service granted the third day of January, 1976, by this Board of Commissioners; and,

WHEREAS, the City Council of the City of Laurinburg, North Carolina, has granted a franchise to Community Antenna, Incorporated, for the operation of its system in the City of Laurinburg, and Community Antenna, Incorporated applied December 17, 1976, to the Federal Communications Commission for Certificate of Compliance for its system in the City of Laurinburg, at which application has been granted.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF SCOTLAND, NORTH CAROLINA:

Section 1. In consideration of the faithful performance and observance of the conditions, restrictions, and reservations hereinafter specified, there is hereby granted to Community Antenna, Incorporated, and its successors and assigns, hereinafter called the grantee, the right and privilege for a period of fifteen (15) years from the effective date of the ordinance adopted on the 16th day of November, 1976, by the City of Laurinburg, North Carolina granting a franchise to Community Antenna, Incorporated, or until March 31, 1992, whichever is later, to erect structures in the said County and to construct, maintain and operate in over, under, along, across, and upon the streets, lanes, avenues, alleys, bridges, highways, and other public places in the County of Scotland, North Carolina, towers, poles, lines, cables, necessary wiring and other apparatus for the purpose of receiving, amplifying, and distributing television, electronic, electrical and radio signals, audio and video, to said County and the inhabitants thereof in accordance with the laws of the United States of America, the State of North Carolina, and the Ordinances of the Board of Commissioners of the County of Scotland, North Carolina. Should the grantee, its successors or assigns, desire to extend the privilege granted for additional periods of not longer than fifteen (15) years each, it may secure two (2) such extensions of not more than fifteen (15) years each, by giving written notice to the County at least ninety (90) days prior to the expiration of the privileges herein granted, or of any extension of this privilege. The County of Scotland may then conduct a full public proceeding affording due process, to determine whether to grant such extension.

Section 2. The privileges and rights herein granted by this Ordinance shall be exclusive. As additional consideration for the granting of the exclusive privileges and rights herein, the Grantee agrees to pay to the County of Scotland annually, three (3) percent of its gross receipts from subscribers living within the corporate limits of the County of Scotland (excluding residents of incorporated places therein) on the first day of the Grantee's fiscal year; provided, however, that no fees shall be payable until July 1, 1978. Grantee shall make payment to the County within thirty (30) days after the end of its fiscal year during the remaining years of this Ordinance.

Section 3. That poles, towers, wires and other facilities shall be so erected as not to interfere unreasonably with the public use of the streets and alleys, and the location of all poles and towers shall be fixed with the prior approval and under the supervision of the County of Scotland as to such location; provided further, that such location shall not be a vested interest, and the same shall be removed by grantee whenever the same restricts or obstructs the operation or location of any future operation or location of said streets and alleys or the use thereof by the public.

Section 4. That permission is hereby granted the said Grantee and its assigns to attach or otherwise affix cables or wires to the pole facilities of any public utility company even though the same may cross over the street, sidewalks, public lands, and highways of the County of Scotland, provided the said Grantee or assigns secures the permission and easement of said aforementioned public utility companies concerned to affix the said cables and/or wires or other apparatus to their pole facilities.

Section 5. Whenever the Grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley, highway, or other public place, the same shall be replaced and the surface restored in as good condition as before entry within forty-eight (48) hours after completion of the Grantee's work. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within such time, if the restoration cannot be made within such time, or upon the Grantee's delay of more than twenty-four (24) hours in the continuation of a restoration begun, the County may serve upon the Grantee notice of the County's intent to cause restoration to be made and, unless the Grantee within twenty-four (24) hours after receipt of such notice begins or resumes the proper restoration, the County may cause the proper restoration to be made, including the removal of excess debris, and the expense of same shall be paid by the Grantee upon demand by the County.

Section 6. The Grantee shall have the right to prescribe service rules and regulations for the conduct of its business not inconsistent with the provisions of this Ordinance. The Grantee shall file with the County copies of such rules and regulations as may be adopted for the conduct of its business; and shall also file with the County at the end of July and December of each year, a map showing the areas of the County being served by the Grantee.

Section 7. The Grantee's distribution system shall conform to the rules prescribed by the Federal Communications Commission with respect to maximum tolerances for spurious radiation.

Section 8. When the Grantee's cables are extended along a street which adjoins a public school in the County of Scotland, Grantee shall make one connection from its system to such public school free of charge and shall thereafter render free service to such school.

Section 9. Grantee shall provide for the County of Scotland and such public agencies as the County may designate, audio services which can communicate relevant information necessary to the civil defense of the community or the protection and relief of the community from disaster.

Section 10. The Grantee shall construct said system according to the specifications of the National Electrical Code and in compliance with all applicable regulations of the County of Scotland.

Section 11. The Grantee shall hold the County of Scotland harmless from all claims for damages arising out of the construction, maintenance or operation of said cable lines or other appurtenances and shall carry public liability insurance in an amount satisfactory to the County of Scotland.

Section 12. The charge by Grantee to a residential subscriber for installing a service connection to a single television receiver shall not exceed Twenty Dollars (\$20.00), and the monthly service and maintenance charge for a single television receiver shall not exceed Seven Dollars (\$7.00). The Grantee shall not increase said rates in excess of five (5) percent during any calendar year without first securing the permission of the Board of Commissioners of the County of Scotland, North Carolina.

Section 13. The Grantee shall file with the County of Scotland satisfactory performance bond in the amount of Five Thousand (\$5,000.00) conditioned upon Grantee's performance of its obligations hereunder.

Section 14. The distribution system of the Grantee to be hereafter installed shall not be abandoned either in whole or in part without the consent of the Board of County Commissioners of the County of Scotland, North Carolina. In the event of the failure of the Grantee to render community television antenna service to the County of Scotland and the inhabitants thereof, as contemplated and provided for by this Ordinance, within a period of one year from the date that the Federal Communications Commission approves the Ordinance, the Board of County Commissioners, of the County of Scotland, shall have the right,

on reasonable notice to the Grantee, to declare this Ordinance and the rights and franchise granted thereunder forfeited. Failure to comply with these terms by reason of circumstances beyond the reasonable control of the Grantee which could not be anticipated at the time of the acceptance of its terms by the Grantee, shall not be sufficient grounds to declare a forfeiture.

Section 15. The Grantee shall not engage in the business of selling or leasing television receiving sets, nor shall it engage in the business of repairing television receiving sets for a charge.

Section 16. This Ordinance is deemed adopted in the interest of the public welfare and convenience.

Section 17. Any ordinance, or part of any ordinance, in conflict with this Ordinance, to the extent of such conflict, is hereby repealed.

Section 18. This Ordinance shall be in full force and effect from and after the date of its final adoption and publication.

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On motion by Commissioner Floyd W. Nichols, duly seconded by John William Calhoun, the above Ordinance was unanimously adopted at the regular meeting of the Scotland County Board of Commissioners held on Monday, March 6, 1978.

ATTEST:

John D. Byrd
Clerk to the Board

Albert M. McMillan
Chairman, Board of County Commissioners

Approved as to form:

Ed Johnston
Ed Johnston, County Attorney