

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO FRANCHISEE, THE NON-EXCLUSIVE RIGHT TO ERÉCT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, ACROSS THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE COUNTY OF WASHINGTON, AND THE SUBSEQUENT ADDITIONS THERETO, TOWERS, CABLES AND ANCILLARY FACILITIES FOR THE PURPOSE OF CONSTRUCTING, OPERATING, MAINTAINING AND REPAIRING BROADBAND TELE-COMMUNICATIONS NETWORK, TRANSMISSION AND DISTRIBUTION BY CABLE OF TELEVISION SIGNALS FOR A PERIOD OF FIFTEEN (15) YEARS REGULATING THE SAME AND PROVIDING FOR COMPENSATION OF THE COUNTY.

BE IT ORDAINED BY THE GOVERNING BODY OF THE COUNTY OF WASHINGTON, NC,

SECTION I. - DEFINITIONS

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- A. "Basic Cable Service" means the service tier which includes the retransmission of local broadcast signals.
- B. "Grantor" is the County of Washington.
- C. "Board" is the Board of Commissioners, Washington County.
- D. "System" is a facility consisting of a set of closed transmission paths and utilizing certain electronic and other components which deliver to subscribing members of the public various broadband telecommunications services.
- E. "Cable Television Reception Service" means the delivery by Franchisee to television receivers (or any other suitable type of electronic terminal or receiver) of the electronic signals and other communications services carried over said system.
- F. "FCC" shall mean the Federal Communications Commission.

- G. "Franchisee" is Mediacom Southeast LLC or anyone who succeeds it in accordance with the provisions of this Ordinance.
- H. "Person" is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.
- I. "Subscribers" are those persons legally receiving cable television reception services furnished under this Ordinance by Franchisee.

SECTION II. - GRANT OF NON-EXCLUSIVE AUTHORITY

- A. There is hereby granted by Grantor to Franchisee and its successors, assigns or designees, the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, and other public places in the County, including subsequent additions thereto and easements dedicated for compatible uses, towers, poles, lines, cable, wires, manholes and all other fixtures and equipment necessary for the maintenance and operation of a System for the purpose of transmission and distribution of analog and digital, audio, visual, electronic and electric impulses in order to furnish television and radio programs and various other communications services for a period ending 11/8, 2013, commencing from and after the effective date of this Ordinance. (2013)
- B. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive.
- C. Grantor shall not permit any person to provide services similar to those provided by Franchisee without first having secured a non-exclusive franchise from Grantor. Such franchise shall be upon substantially the same terms and conditions with the same obligations and burdens, as contained herein. If such franchise contains less burdensome or more favorable conditions, Grantee may, at its sole discretion, adopt and substitute any such conditions as part of its franchise upon providing Grantor with written notification of the adoption and substitution.
- D. In the event that a non-franchised multi-channel video programmer provides service to residents of the community, the Franchisee shall have a right to request Franchise Agreement amendments that relieve the Franchisee of regulatory burdens that create a competitive disadvantage to the Franchisee. In requesting amendments, the Franchisee shall file a petition seeking to amend the franchise. Such petition shall: i) indicate the presence of a, non-satellite, non-franchised competitor(s), ii) identify the basis for Franchisee's belief that certain provisions of this Franchise Agreement place Franchisee at a competitive disadvantage, iii) identify the regulatory burdens

to be amended or repealed in order to eliminate the competitive disadvantage. The Grantor shall not unreasonably withhold granting the Franchisee's petition and so amending the Franchise Agreement.

SECTION III. - COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

Franchisee shall during the term hereof, except in those areas which have been preempted by federal law, including the Cable Communications Policy Act of 1984, as amended or which are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of Grantor to the extent authorized by this ordinance.

SECTION IV. - TERRITORIAL AREA INVOLVED

A. This Ordinance relates to the present territorial limits of Grantor and to any area annexed thereto during the term of this Ordinance. Franchisee shall not be required to service residents of newly annexed areas of Grantor that are beyond four hundred feet (400') from existing distribution lines except upon payment by such residents of the capital costs incurred by Franchisee in bringing service to such residents.

B. It shall be the obligation of the Franchisee to serve all residents of the designated area of the County except to the extent that the density of homes, adverse terrain, or other factors, render providing service impractical, technically non-feasible, or economically noncompensatory. For purpose of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the designated areas of the County, the Franchisee shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification where the number of homes to be passed by such new extension is 20 homes per mile, and where such extension is contiguous to existing cable plant.

C. Areas of the County that do not meet the homes per mile requirement set forth in the franchise agreement may be designated as "Low Density Areas". The designated "Low Density Areas" will consist of certain areas in the County which do not currently meet the franchise requirement of twenty (20) homes per mile. The franchisee will contribute the amount of money it would contribute, per subscriber, to build an area that meets the homes per mile requirement of the franchise, provided the franchisee will invest no more than a maximum of \$100,000 of capital expenditures per year for "Low Density Area" builds.

i) The remaining money needed to build to "Low Density Areas" will then be incurred by the residents of the area who agree to subscribe to service prior to construction of the "Low Density Area", which remaining cost shall be equally divided among subscribers. Residents will pay a one time per home fee in addition to install charges applicable to all subscribers. Rates for the construction of "Low Density Areas" will be based upon the number of homes that agree to subscribe to service prior to the construction of the "Low

Density" build, not the number of homes per mile in such "Low Density Areas'. Each additional home built in the area will also be obligated to pay the one time "Low Density" fee to receive service.

ii) During a five-year period commencing at the completion of a particular line extension, pro rata refunds shall be paid to previous subscribers annually as new subscribers are added to the particular line extension; the amount of the refund, if any, shall be determined by recalculating the subscriber contribution based on the additional subscribers, or former subscribers, entitled to receive them. The franchisee shall not be required to provide refunds to any previous subscriber otherwise entitled to a refund, who is no longer at the same address, and who has not informed the franchisee of the subscriber's address.

SECTION V. - LIABILITY AND INDEMNIFICATION

Franchisee shall, at all times, keep in effect the following types of coverage:

- A. Worker's Compensation.
- B. Property Damage Liability Insurance to the extent of Two Hundred Fifty Thousand Dollars (\$250,000.00) as to each occurrence and Two Hundred Fifty Thousand Dollars (\$250,000.00) aggregate, and Personal Injury Liability Insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) as to each occurrence and Five Hundred Thousand Dollars (\$500,000.00) aggregate. Excess Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) each occurrence and One Million Dollars (\$1,000,000.00) aggregate. Automobile Bodily Injury and Property Damage Liability combined One Million Dollars (\$1,000,000.00) each occurrence.

Franchisee shall indemnify, protect, and save harmless Grantor from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Worker's Compensation law which may arise out of the erection, maintenance, use or removal of said attachments or poles within the territory of Grantor, or by any act of Franchisee, its agents or employees. Franchisee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Franchisee shall also carry such insurance as it deems necessary to protect it from all claims under the Worker's Compensation laws in effect that may be applicable to Franchisee. Insurance certificates evidencing such insurance coverage shall be provided to Grantor upon request.

These damages or penalties shall include, but shall not be limited to, damages arising out of copyright, infringements, and all other damages arising out of the installation,

operation, or maintenance of the System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance.

SECTION VI. - GENERAL SYSTEM SPECIFICATIONS

A. The facilities used by Franchisee shall have a minimum capacity of 330 MHz, and that 40 channels of entertainment and information will be available on the effective day of the Ordinance. The System shall also be capable of distributing color television signals, and when the signals Franchisee distributes are received in color, they shall be distributed in color where technically feasible.

B. The system shall be upgraded to 550 MHz, offering a capacity of at least 75 channels. The design phase shall be completed within twelve (12) months of the effective date of this Franchise Agreement. The construction will be completed within (24) months after completion of the design phase.

C. The franchisee shall upgrade the System from time to time in order to provide channel capacity similar to that offered in communities of similar size in the state, and similar capacities offered in cable systems of comparable size provided, however, that any such investment be economically feasible.

SECTION VII. - TECHNICAL STANDARDS

Franchisee shall be governed by technical standards established by the FCC which are attached hereto as Exhibit 1.

SECTION VIII. - CUSTOMER SERVICE STANDARDS/OPERATION AND MAINTENANCE OF SYSTEM

- A. Franchisee shall render efficient service, make repairs promptly, and interrupt service only for good cause for the shortest time possible, such interruptions, insofar as practical, shall occur during periods of minimum use of the System.
- B. All service requests and complaints should be responded to promptly, generally within twenty-four (24) hours of receipt.
- C. Failure on the part of Franchisee to return a subscriber who has a complete outage to service within twenty-four (24) hours of receipt of complaint will, upon request by the subscriber, result in the issuance of a credit to that customer's account for the portion of a month they were without cable service.

SECTION IX. - ACCESSIBILITY

During the term of this franchise, and any renewal thereof, Franchisee agrees to maintain a local or toll-free telephone number-telephone line to be used by customers of

the franchisee to handle the receipt and investigation of complaints with respect to the quality of service, malfunctioning of equipment and other matters relating to the operation of the system.

SECTION X. - SERVICE TO SCHOOLS AND CITY

Franchisee shall, subject to the line extension provisions of Section IV, provide basic cable service at no cost to public and parochial elementary and secondary schools, at one terminal junction per school for educational purposes upon request of the school system.

SECTION XI. - EMERGENCY USE OF FACILITIES

In the case of any emergency or disaster, Franchisee shall, upon request of the Board make available its facilities to Grantor for emergency use during the emergency or disaster. If Grantor wishes to operate a Civil Emergency Alert System on a plan that is mutually acceptable to Grantor and Franchisee and provides Franchisee with the necessary equipment for such system, Franchisee will permit the emergency system to be used on the system. Further, Franchisee will maintain said equipment and provide for regularly scheduled testing by Grantor to insure that the equipment is functioning properly. In no event shall Grantor impose more stringent requirements for an emergency alert system or its operations than those authorized pursuant to FCC regulations.

SECTION XII. - SAFETY REQUIREMENTS

Franchisee shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries, or nuisances to the public.

SECTION XIII. - LIMITATIONS ON RIGHTS GRANTED

- A. All transmission and distribution structures, lines and equipment erected by Franchisee within Grantor shall be located as to cause minimum interference with the proper use of streets, alleys and the public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and said poles or towers shall be removed by Franchisee whenever Grantor reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places within Grantor.
- B. Construction and maintenance of the System shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of Grantor, affecting electrical installation, in effect at the time of the pole line's construction.

- C. In case of disturbance of any street, sidewalk, alley, public way or paved area, Franchisee shall, at its own cost and expense replace and restore such street, sidewalk, alley, public way or paved areas in as good a condition as before the work involving such disturbance was done.
- D. If at any time during the period of this Ordinance Grantor shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, Franchisee, upon reasonable notice by Grantor, shall as necessary remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- E. Franchisee shall on the request of any person holding a building moving permit or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, the Franchisee shall have the authority to require such payment in advance. Franchisee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.
- F. Subject to Grantor approval, Franchisee shall have the authority to trim trees that are overhanging the streets, alleys, sidewalks and public ways and places so as to prevent the branches of such trees from coming in contact with the wires and cables of Franchisee, except that at the option of Grantor, with the consent of Franchisee, such trimming may be done by it or under its supervision and direction at the expense of Franchisee.
- G. Franchisee, shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Franchisee when required by Grantor by reason of traffic conditions, change of establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided, however, that Franchisee shall in all cases have the privileges and be subject to the obligations to abandon any property of Franchisee in place as hereinafter provided.
- H. In all sections of Grantor where Grantor designates an area where all presently above ground services are to be placed underground, Franchisee shall place its wires underground on the same time schedule and on the same conditions that are applicable to the providing of other above ground services in the designated areas.

- I. In the event that the use of any part of the System is discontinued for any reason for a continuous period of twelve (12) months, or in the event such System or property has been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been subject to the rights of the Grantor to acquire or transfer the system as specified in Section XV, Franchisee shall promptly remove from the streets, or public places, all such property and poles of such System other than any which the County may permit to be abandoned in place. In the event of such removal, Franchisee shall promptly restore the street or other areas from which such property and poles are removed satisfactory to Grantor.

- J. Any property of Franchisee to be abandoned in place shall be abandoned in such a manner as Grantor may reasonably prescribe. Upon permanent abandonment of the property of Franchisee in place, it shall submit to Grantor an instrument to be approved by Grantor, transferring to Grantor the ownership of such property.

SECTION XIV. - OWNERSHIP AND REMOVAL OF FACILITIES

Contracts between Franchisee and property owners shall govern ownership and control of customer premises wiring and equipment. All contracts shall conform with any applicable FCC regulations governing ownership and control of internal wiring.

SECTION XV. - TRANSFER OF ORDINANCE

The Grantee's right, title, or interest in the Franchise shall not be sold, transferred, assigned, or otherwise encumbered, other than to an entity controlling, controlled by, or under common control with the Grantee, without the prior consent of the Franchising Authority, such consent shall not be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any right, title, or interest of the Grantee in the Franchise or Cable System in order to secure indebtedness. Within 30 days of receiving the request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications of the transferee. If the franchising Authority has not taken action on the Grantee's request for transfer within 60 days after receiving such request, consent by the Franchising Authority shall be deemed given.

XVI. - PAYMENT TO THE COUNTY

"See attached amendment"

The Franchisee shall pay Grantor three percent (3%) of the gross revenues received by it for cable television services provided to all subscribers located within Grantor. Such payment shall be made quarterly within fifteen (15) days after the end of each quarter. All

other license fees or taxes levied, with the exception of personal and/or real property or vehicle taxes, upon Franchisee by Grantor shall be credited against the payment required herein.

SECTION XVII. - DURATION AND RENEWAL OF ORDINANCE

The rights granted to Franchisee herein shall become effective upon the passage of this Ordinance and shall continue for a period of fifteen (15) years. The Franchising Authority and the Grantee agree that any proceedings shall be governed by and comply with all provisions of Section 626 of the Cable Act as amended.

SECTION XIII. - ERECTION, REMOVAL AND COMMON USE OF POLES

- A. No poles or other wire-holding structures shall be erected by Franchisee without prior approval of the designated representative of the Board with regard to locations, height, type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire-holding structure of Franchisee shall be a vested interest and such poles or structures shall be removed or modified by Franchisee at its own expense whenever the Board or its designated representative determines that the public convenience would be substantially enhanced thereby.
- B. Where poles or other wire-holding structures already existing in use in serving Grantor are available for use by Franchisee, but it does not make arrangements for such use, the Board may require Franchisee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to Franchisee are just and reasonable.
- C. Where Grantor or a public utility serving Grantor desires to make use of poles or other wire-holding structures of Franchisee but agreement therefor with Franchisee cannot be reached, the Board may require Franchisee to permit such use for such consideration as is just and reasonable and upon such terms as the Board determines the use would enhance the public convenience and would not unduly interfere with Franchisee's operations.

SECTION XIX. - RATES AND CHARGES

A schedule of the rates and charges currently imposed by Franchisee is set forth in Attachment A to this Ordinance. Grantor reserves the right to regulate such rates and charges to the extent permitted by any present or future regulatory law.

The Franchisee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984, as amended, and Federal Communications Commissions regulations.

SECTION XX. - BOOKS AND RECORDS

The Franchisee shall keep full, true, accurate, and current books of accounts, which books and records shall be made available for inspection by Grantor's Director of Finance or its authorized representative at all times.

SECTION XXII. - MISCELLANEOUS

Franchisee's legal, financial, technical and other qualifications, and the adequacy and feasibility of its construction arrangements, if any, have been approved by the Board after consideration in a full public proceeding affording due process to all interested persons.

SECTION XXIII. - MODIFICATION OF OBLIGATIONS

In addition to any other remedies provided by law or regulation, Franchisee's obligations under this Ordinance may be modified, at its request, in accordance with Section 626 of Cable Communications Policy Act of 1984 as it now exists, or as hereafter amended.

SECTION XXIV. - SEVERABILITY

If any Section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, or amended by the United States Congress or is superseded or preempted by Federal Communications Commission regulation, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XXV. - PUBLICATION

Franchisee shall assume the costs of any required publication of this Ordinance.

SECTION XXVI. - NOTICES

All notices and other communications required under this Ordinance shall be in writing and shall be deemed to have been given on the date of actual delivery if mailed, first class, registered or certified mail, return receipt requested, postage paid to the following respective addresses:

To Grantor:

County of Washington
P.O. Box 1007
Plymouth, NC 27962

To the Franchisee:
Mediacom Southeast LLC
P.O. Box 580
Plymouth, NC, 27962
Attention: General Manager

With a copy to:
Mediacom
100 Crystal Run Road
Middletown, NY 10941
Attention: Legal Department

Either of the foregoing parties to this Ordinance may change the address to which all communications and notices may be sent to it by addressing notices of such change in the manner provided hereunder.

SECTION XXVII. - PRIOR ORDINANCES

All ordinances and parts of ordinances in conflict herewith are hereby repealed as of the effective date of this Ordinance.

SECTION XXII. - EFFECTIVE DATE

This Ordinance shall take effect after its passage, approval, publication and acceptance as provided by law.

Published prior to passage on the 22nd day of July, 1998.
Read and approved on the first reading on this 8th day of September 1998.
Read and approved on the second reading on this 5th day of October, 1998.



Honored J. Davesport

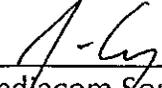
ATTEST:

P. C. Atkins

Clerk, Board of Commissioners

ACCEPTANCE

The Non-Exclusive Franchise as granted under this Ordinance is approved and accepted on this 4th day of Nov, 1998, by Mediacom Southeast LLC.

BY: 
Mediacom Southeast LLC
(by its authorized representative)

caf\franchis\standard\us-fran.st

AMENDMENT TO:
AN ORDINANCE GRANTING TO FRANCHISEE, THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, ACROSS THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE COUNTY OF WASHINGTON, AND THE SUBSEQUENT ADDITIONS THERETO, TOWERS, CABLES AND ANCILLARY FACILITIES FOR THE PURPOSE OF CONSTRUCTING, OPERATING, MAINTAINING AND REPAIRING BROADBAND TELE-COMMUNICATIONS NETWORK, TRANSMISSION AND DISTRIBUTION BY CABLE OF TELEVISION SIGNALS FOR A PERIOD OF FIFTEEN (15) YEARS REGULATING THE SAME AND PROVIDING FOR COMPENSATION OF THE COUNTY

Approved October 5, 1998

WHEREAS, G.S. 105-164.21B-Credit for Local Cable Television Franchise Taxes- allows a cable service provider a credit against the sales tax imposed for the amount of local franchise tax payable to local governments on its gross receipts for cable service. The cable service provider may collect from its subscribers the rate of sales tax less the rate of the local franchise tax payable on its gross receipts.

WHEREAS, it has been recommended by both the NC Association of County Commissioners and the NC League of Municipalities that there is no longer any reason for cities and counties to have less than a 5% franchise tax for their cable systems, since the residents will now all be charged a 7% tax by the state. Any difference between 7% and the franchise tax charged by government entities will now go to the state.

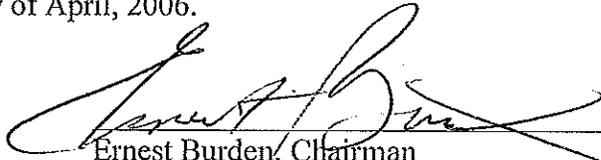
NOW THEREFORE BE IT RESOLVED:

SECTION XVI.-PAYMENT TO THE COUNTY is amended to read:

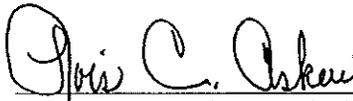
The Franchisee shall pay Grantor five percent (5%) of the gross revenues received by it for cable television services provided to all subscribers located within Grantor as a franchise tax-allowed under G.S. 105-164.21B.

This amendment is effective July 1, 2006.

Approved this the 20th day of April, 2006.


Ernest Burden, Chairman
Washington County Board of Commissioners

ATTEST:


Lois C. Orskov
Clerk, Board of Commissioners