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PART THREE. That this Ordinance shall become effective upon its adoption by the Board of Commissioners of the Town of Youngsville, North Carolina.

Adopted this 13<sup>th</sup> day of March, 2014.

## **CHAPTER 10 – CABLE TELEVISION**

### **METHOD OF FRANCHISING**

AN ORDINANCE PROVIDING FOR THE METHOD OF FRANCHISING THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A CABLE TELEVISION SYSTEM IN THE TOWN OF YOUNGSVILLE,

STATE OF NORTH CAROLINA

PREPARED BY EDWARD PASCHALL  
Town Attorney 1981

Based on information received from the N.C. League of Municipalities, the Institute of Government and copies of ordinances from other towns and cities.

BE IT ORDAINED by the Town Board of the Town of Youngsville, North Carolina as follows:

**10.101 Short Title.** This ordinance shall be known as the Town of Youngsville Cable Television Ordinance.

#### **10.102 Intent and Purpose.**

For the better protection of the public interest, health, safety, welfare and convenience, the following rules and regulations are hereby adopted setting forth the conditions, requirements and limitations under which a person may construct, have constructed, operate and maintain cable television system and engage in the business of providing a cable television service in the Town of Youngsville.

#### **10.103 Definitions.**

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

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The word "shall" is always mandatory and not merely directory.

- (a) CATV shall mean cable (community antenna) television.
  - (b) Cable (community antenna) television service shall mean the business of furnishing to the public for compensation, by means of a master antenna and cables, broadcast TV programs obtained off the air, together with such other program material and advertising as may be allowed by rules and regulations of the Federal Communication Commissioner from time to time.
  - (c) "Cable Television System" or "CATV System" shall mean a system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the Town. Said definition shall not include any such facility that serves or will serve only subscribers in one or more multiple unit dwelling under common ownership, control or management, or does not use Town rights-of-way.
  - (d) Franchise shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct, or have constructed, operate and maintain a system in the Town for the purpose of providing cable television service to the citizens of Youngsville. Any such authorization, in whatever terms granted, shall not include any license or permit authorization required for the privilege of transacting and carrying on a business within the Town in accordance with Privilege License Ordinance adopted annually by the Town Board of Youngsville.
  - (e) Grantee shall mean the person to whom a franchise is granted by the Town Board under this ordinance, and the lawful successor, transferee or assignee of said person.
  - (f) Gross annual receipts shall mean any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a grantee from subscribers or users in payment for any and all cable services in the community (including all forms of consideration, such as initial lump sum payments).
  - (g) Property of grantee shall mean all property owned and installed by a grantee in the conduct of a CATV business in the Town under the authority of a franchise granted pursuant to this ordinance.
  - (h) Street shall mean the surface of and the space above and below any public street, right-of-way, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway, drive, existing as such within the franchise area.
  - (i) Subscriber shall mean any person or entity receiving for any purpose the CATV service of a grantee.
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- (j) Person shall mean any person, firm, partnership, association, corporation or organization of any kind.

**10.104 Franchise required; application.**

- (a) It shall be unlawful for any person to engage or otherwise participate in the construction, operation or maintenance of a community antenna television system in the Town unless such person or the person for whom the work is being done shall have first obtained a franchise from the Town Board. It shall also be unlawful for any person to engage in the business of providing a community antenna television service in the Town unless such person shall have first obtained a franchise from the Town Board.
- (b) A person seeking issuance of a franchise hereunder shall file a written application, in duplicate, with the Town Clerk. The application shall contain the following information:
- (1) The name and address of the applicant. If the applicant is a partnership, the name and address of each partner. If the applicant is a corporation, the application shall also state the names and addresses of its directors, officers, parent and subsidiary companies and of stockholders owning or controlling as much as three percent (3%) of the outstanding stock, and shall include a certified copy of the articles of incorporation.
  - (2) A statement showing the applicant's experience in establishing a system and in providing service.
  - (3) A certified financial statement prepared by a certified public account, or person otherwise satisfactory to the Town Board, showing applicant's financial status and its financial ability to complete the construction and installation of the proposed system and to provide the proposed service. In connection therewith, information with respect to financial projections, including nature and sources of capital or equity financing, shall be submitted along with the application.
  - (4) A statement and description of the system, prepared by or approved by a licensed professional engineer in the electronics field, proposed to be constructed, installed, maintained or operated by the applicant; the manner in which applicant proposes to construct, install, maintain and operate the same; and particularly the extent and manner in which existing or future poles or other facilities of other public utilities will be used for such system.
  - (5) A copy of any arrangement, agreement or contract, if existing, between the applicant and any public utility providing for the use of activities of such public utility, such as poles, lines, cables or conduits.
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- (6) A statement setting forth all agreements and understandings, whether written, oral or implied, existing between the applicant and any person, with respect to the ownership, control or transfer of the proposed franchise or the proposed CATV system and service. If a franchise is granted to a person posing as a front or as the representative of another person and such information is not disclosed in the original application, such franchise shall be deemed void and of no force and effect whatsoever.
- (7) A statement or schedule of proposed rates and charges to subscribers for installation and services.
- (8) Any additional information which the Town Board, at any time, may deem reasonably necessary to determine whether the requested franchise should be granted.
- (c) Upon consideration of any such application, the Town Board shall determine the applicant's qualifications to construct, operate, and maintain a CATV system and to provide a CATV service in accordance with the provisions of this ordinance. If the Town Board determines that the applicant is not so qualified, it may refuse to grant the requested franchise. If the Town Board determines that the applicant is so qualified, it may, by ordinance, grant a franchise to such applicant, to be effective as herein provided. Provided, however, no provision of this ordinance may be deemed or construed as to require the granting of a franchise when the Town Board determined that to do so would not be in the public interest. Any franchise granted shall include the following condition:

"The CATV system and service herein franchised shall be used and operate solely and exclusively for the purpose expressly authorized by ordinance of the Town of Youngsville and no other purpose whatsoever."

**10.105 Acceptance; Indemnification; Effective Date.**

- (a) Within twenty-five (25) days after the Town Board has taken final action to approve the granting of a franchise, the grantee shall file a written acceptance of the conditions required for the franchise, acknowledged before a notary public, with the Town Clerk. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this ordinance and the franchise and shall be in such form and content as to be satisfactory to and approved by the Town Attorney.
- (b) Concurrently with the filing of the written acceptance, the grantee shall file with the Town Clerk the bond and insurance policies required by this ordinance.

**10.106 Duration of franchise; termination; transfer.**

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(a) The franchise shall be nonexclusive, shall be for a term as specified in the franchise not to exceed twenty (20) years.

(b)

(1) Except as herein provided, no transfer or control of the CATV system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance or any other form of disposition, without prior notice to and approval by the Town Board. The notice shall include full identifying particulars of the proposed transaction, and the Town Board shall either approve or disapprove said transfer by resolution, within sixty (60) days of the receipt of the notice.

(2) The consent of approval of the Town Board to any assignment, lease, transfer, sub- lease, or mortgage of the grantee shall not constitute a waiver or release of the rights of the Town in and to the streets.

(3) For the purpose of this the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(4) A rebuttal presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of 10 percent of the voting shares of any corporate grantee.

(5) In the absence of extraordinary circumstances, the Town Board will not approve any transfer or assignment of the grantee before completion of initial construction of the energized cable.

(6) Notwithstanding anything to the contrary herein, franchise may hypothecate or pledge its interest in this franchise for the purpose of obtaining financing, the proceeds of which shall be utilized in the construction maintenance and operation of a cable television system authorized under the terms of this ordinance. Any change in ownership or control of the system resulting from such pledge or hypothecation shall not become absolute without:

i. the approval of the Town.

ii. any new grantee filing with the Town its written acceptance of this ordinance, the franchise and all the conditions thereto. Such acceptance shall be filed within sixty (60) days following the date of such change.

(c) The Town Board may terminate the franchise prior to the date of expiration upon a finding, made after thirty (30) days' notice of any proposed termination and public hearing, that:

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- (1) The grantee has failed to comply in some material respect with any of the provisions of this ordinance, or has, by any act or omission, violated in some material respect any term or condition of any franchise or permit issued hereunder; or
  - (2) The grantee has made a material, false statement in the application for the franchise, knowing it to be false; or
  - (3) The grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate and proper service.
- (d) In the event that the use of any tangible part of the CATV system is discontinued for any reason for a continuous period of 90 days, or the franchise has been terminated, canceled or has expired, the grantee shall promptly remove from the streets or public places all such property of the system, other than that which the Town Board may permit to be abandoned in place, and as directed by the Town Board shall either restore the street or pay the Town for restoring the street or other area from which such property has been removed to a condition for public use as good as the abutting portions thereof. Any property remaining in place sixty (60) days after the termination or expirations of the franchise shall be considered permanently abandoned.

**10.107 Authority granted by franchise.**

- (a) The grantee of any franchise issued pursuant to the provisions of this ordinance shall be authorized, subject to approval of plans by the Town Board to construct, or have constructed, operate and maintain a CATV system and to engage in the business of providing a CATV service in the Town, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, on, under, upon, across and along any public street, such wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property, excepting poles, as may be necessary and appurtenant to the CATV system; and in addition, so to use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to any public utility or other grantee franchised or permitted to do business in the Town.
- (b)
- (1) The grantee may initially charge subscribers and users of the CATV system for services up to the amounts specified in its schedule of rates and charges as proposed in its franchise application and approved by the Town Board. Such maximum rates shall be in effect for a minimum period of two years from the date of completion of installation of the CATV systems capable of effectively serving no less than 60 percent (60%) of the customers proposed in the approved initial plans.
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(2) The grantee may establish rates for service from time to time thereafter by filing with the Town Clerk a schedule of rates thirty (3) days prior to their implementation.

(3) At any time after a minimum period, described in 7 (b) (1), the Town Board may determine whether it will assume rate modification authority, the rates may be modified by grantee as specified in 7(b) (2). If the Town Board assumes rate modification authority, then for the term designated rates shall be subject to modification only by the Town Board and in accordance with the following procedures:

i. The grantee may petition the Town Board for a change in rates by filing a revised rate schedule including its justification(s) for said proposed new schedule.

ii. Within ten (10) days of notification by the Town Board of the place and time established for a hearing on said petition, the grantee shall notify its subscribers of the hearing on said petition, the grantee shall notify its subscribers of the hearing on said petition, the grantee shall notify its subscribers of the hearing by announcement on the three major network channels of its system, between the hours of 7:00 and 9:00 p.m., for five

(5) consecutive days. Additionally, hearings shall be announced in newspaper of general circulation at least five (5) days (not including the day of publication or the day of the hearing) before the date of the hearing and at the expense of grantee. Following all proper notice, but in no event later than ninety (90) days from the date of said petition, the Town Board shall hold an appropriate public hearing to consider the proposed new rates, at which hearing all parties desiring to be heard, including the grantee, shall be heard on any matters relating to performance under this franchise, the grantee's services, and the proposed new rates.

iii. Within ninety (90) days after said hearing, the Town Board shall render a written decision on the grantee's petition, either accepting, rejecting, or modifying the same and reciting the basis of its decision.

iv. If the Town Board fails to act within 180 days of the grantee's petition pursuant to paragraph (i) above, the grantee shall thereafter be entitled to put its proposed new rates into effect on a provisional basis, provided that it shall keep a full and accurate accounting of all income resulting from said provisional rates and shall be obliged for a period of 180 days thereafter to refund the amount by which said provisional rates exceed the rates ultimately established by the Town Board. Upon request by the Town Board, the grantee shall provide a bond or other reasonable surety to ensure that possible refunds due under this subsection shall be

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promptly made, the bond or surety shall be in an amount not to exceed the difference between the amount of revenues generated in 180 days at the previously existing rates and the amount of revenues expected to be generated in 180 days at the provisional rates.

(4) The criteria for the Town Board's decision in such matters shall be the establishment of rates which are "fair and reasonable" to both the grantee and its subscribers and shall be generally defined as the minimum rates necessary to meet all applicable costs of service, including fair return on all invested capital, all assuming efficient and economical management.

(5) In order for the Town Board to determine whether proposed rate changes conform with the criteria established 7(b) (4), the grantee's petition for a rate increase shall include the following financial reports, which shall reflect the operations of the Youngsville system only:

- i. Balance Sheet;
- ii. Income Statement;
- iii. Statement of Sources and Applications of Funds;
- iv. Detailed Supporting Schedules of Expenses, Income, Assets and other items as may be required; and
- v. Statement of Current and Projected Subscribers and Penetration.

The grantee's accounting records applicable to the Youngsville system shall be available for inspection by the Town at all reasonable times. The Town shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the Town of Youngsville operation. The documents listed above shall include sufficient detail and/or footnotes as may be necessary to provide the Town with the information needed to make accurate determinations as to the financial condition of the system. All financial statements shall be certified as accurate by the chief financial officer of grantee.

(6) Any disagreement between the Town and the grantee concerning interpretations and calculations of the financial and statistical information provided by the grantee may be submitted to a court of competent jurisdiction when permitted by law.

(c) The grantee shall not engage in the sale, service, repair, rental or lease of televisions receivers, radio receivers, parts or accessories nor shall any employee or stockholder hold any interest in any such business venture in Franklin County. Grantee shall not

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require or attempt to influence its subscribers to deal with any particular person in regard to the above mentioned services.

(d) Construction and maintenance of the CATV system, including house connection, shall be in accordance with the provisions of:

- (1) The National Electrical Safety Code of the Institute of Electrical and Electronic Engineers;
- (2) The National Electronic Code of the National Fire Protection Association; and
- (3) Local utility system's code of pole line construction.

**10.108 Conditions to use of streets.**

- (a) The poles used for distribution system shall be those erected and maintained by the Town, the power company, the telephone company, or either, whenever agreement can be reached with the owners of such poles. Any poles, wires, cables, conduits or other properties to be realigned or reset to permit their use for purposes of grantee under an agreement with the owner thereof shall be constructed or installed only at such locations and depths and in such manner as shall be approved by the owner and the Town Board. They shall be located so as to cause minimum interference with the proper use of streets and to cause minimum interferences with the rights or reasonable convenience of the general public and of property owners who adjoin such streets.
  - (b) The installation of the facilities, including service drops to subscribers, shall be made underground in areas where facilities of both the telephone company or the power company are underground or hereafter may be placed underground. In addition to the foregoing, installation of the facilities shall be made underground when required by Town ordinances or polices.
  - (c) The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the grantee when required by the Town by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, or any other type of structures or improvements by the Town, and the Town shall not be liable for any disturbance of the grantee's installations resulting thereafter. The grantee shall carry out the instructions and directions of the Town Board whenever it is necessary to raise or remove any of the grantee's wires or cables temporarily for the purpose of moving or removing buildings or structures on the public streets of the Town, and shall perform such tree trimming or other maintenance work as shall be required or as shall be directed by the Town Board, all at the grantee's expense.
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- (d) Whenever a grantee takes up or disturbs any pavement, sidewalk or other improvement in any street, the same shall be replaced and the surface restored in as good condition as before entry in accordance with ordinances, regulations, technical standards and fee schedules of the Town as administered the Town. Any opening or obstruction in the streets shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which shall be clearly designed by warning lights of approved types.

**10.109 Permits, installation and service.**

- (a) Within thirty (30) days after the effective date of the franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements.
- (b) Within ninety (90) days after obtaining all necessary permits, licenses and authorizations, grantee shall commence construction and installation of the CATV system.
- (c) Within one year after obtaining all necessary permits and authorization, grantee shall proceed to render to subscribers in at least forty (40) percent of the franchise area, and the completion of the system shall be pursued with reasonable diligence thereafter with extension of service to the remaining franchise area within the next succeeding year.
- (d) Failure on the part of the grantee to commence and diligently pursue each of the following requirements and to complete each of the matters set forth herein, shall be grounds for termination of such franchise, under and pursuant to the terms of 6 hereof; provided, however, the Town Board may extend the time for the commencement and completion of construction and installation for additional periods in the vent the grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.
- (e) The grantee shall file a map with the Town at the close of each franchise year, showing the areas and locations of the Town being served by the CATV system and the location and identification of component parts of the system.

**10.110 Operational requirements.**

- (a) The grantee shall install and maintain a CATV system which shall be in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In addition, the grantee shall comply with all requirements of duly constituted regulatory agencies having jurisdiction over the operator of CATV systems.
- (b) The grantee must obtain individual permits for street openings, must have the installation or construction plans approved prior to construction, must secure all necessary permits at its expense and must pay all fees charged for closing pavement cuts.
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- (c) When any portion of the CATV system is to be installed on public utility poles and facilities, a certification that agreements for such, joint use have been entered shall be filed with the Town.
- (d) The grantee shall maintain a local office either within the Town limits of Youngsville or at a location approved by the Town Board for the purposes of handling subscriber complaints and providing prompt maintenance service. The local office shall be open during all regular business hours, and have a publicly listed telephone which shall be so operated that complaints and requests for repairs or adjustments may be received on a twenty-four (24) hours basis. The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the Town Board which shall include but not be limited to maximum response time to service complaint of twenty-four (24) hours. The grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.

#### **10.111 Remuneration to Town.**

Within sixty (60) days after the close of its first fiscal year after acceptance of a franchise, and each succeeding fiscal year thereafter during the life of the franchise, the grantee shall pay to the Town for the privilege of construction, operating and maintaining the CATV system as defined in this ordinance during the preceding fiscal year a percentage, as defined in this ordinance and determined annually by the Town Board, of grantees, gross annual receipts, which percentage shall not be less than 3 percent or more than the percentage of the annual franchise tax levied under S.S. 105-116(c) on electric light and power companies.

Within forty-five (45) days after the expiration of the grantee's fiscal year, the grantee shall file with the Town a certified financial statement prepared by a certified public account, or other person satisfactory to the Town Board, showing in detail the gross annual receipts, as defined herein, of grantee during such fiscal year. The payment of this fee is in addition to any ad valorem taxes which the Town may levy on the grantee's real or personal property. At any time during the three (3) fiscal years following the payment of the annual fee, the Town shall have the right to inspect the grantee's records showing the gross annual receipts from which these payments are computed and the right of audit and re-computation of any and all amounts under this article. Acceptance of payments hereunder shall not be construed as a release or of accord and satisfaction of any claim the Town may have for further or additional sums payable under this ordinance or for the performance of any other obligations hereunder. In the event of holding over after expiration or other termination of any franchise granted hereunder, without the consent of the Town, the grantee shall pay to the Town reasonable compensation and damages, of not less than one hundred percent (100%) of its total gross profits during said period.

#### **10.112 Rights reserved to Town.**

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- (a) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, any right to the Town to acquire the property of the grantee, either by purchase or through the exercise of eminent domain.
- (b) The Town reserves the right to amend any or part of this ordinance
- (c) At all reasonable times, the grantee shall permit any duly authorized representatives of the Town:
- (1) To examine any and all financial records maintained by or under the control of the grantee relating to all revenue obtained by it from its operations under the franchise;
  - (2) To inspect and obtain copies of any or all maps or other diagrams maintained by or under the control of the grantee showing the location and the layout of the various components of the CATV system operated by it under its permit;
  - (3) To inspect any and all installations owned, maintained, or used by the grantee in its operations under its franchise including all towers, cables and other components of the grantee's CATV system.
- (d) The grantee shall indemnify and save harmless the Town, its officers and employees, from and against any and all claims, demands, actions, suits, and proceedings by others, and against all liability to others, arising out of the exercise or enjoyment of its franchise, including but not limited to any liability for damages by reason of or arising out of any failure of the grantee to secure consents from the owners, authorized distributors or licensees of programs to be delivered by the grantee's CATV system, and against any loss, cost, expense and damages resulting thereafter, including reasonable attorney's fees.
- (e) Concurrently with the filing of the written acceptance as required in 5, the grantee shall file with the Town Clerk, and at all times thereafter maintain in full force and effect for the term of such franchise or any renewal thereof, a good and sufficient liability insurance policy or policies, providing a minimum three hundred thousand dollars (\$300,000.00) coverage for personal injuries to each person; five hundred thousand dollars (\$500,000.00) coverage for all personal injuries in each accident; and five hundred thousand dollars (\$500,000.00) coverage for all property damage in each accident. The policy or policies shall name the Town as an additional insured and shall be for the purpose of insuring the Town against any damages to it and any and all legal liability, court costs, claim or demand for personal injury, death or property damage arising out of the operations of the grantee under this ordinance or its franchise. Any coverage of the grantee in addition to the above minimum limits shall also name the Town as an additional insured and/or beneficiary.
- (f) Faithful performance bond. The grantee shall, concurrently with the effective date of the franchise ordinance, post with the Town and at all times thereafter maintain in full force
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and effect for the term of the franchise or any renewal thereof, at grantee's sole cost and expense, a corporate surety bond issued by a responsible insurance company licensed to do business in North Carolina and approved by the Town in the amount of one hundred thousand dollars (\$100,000.00), renewable annually, and conditioned upon the faithful performance of the grantee of all the provisions of the franchise agreement and this ordinance, and upon the further condition that in the event grantee shall fail to comply with any one or more of the provisions of the franchise agreement or this ordinance, there shall be recoverable jointly and severally from the principal and surety of such bond any damages or loss suffered by the Town as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, said condition to be a continuing obligation for the duration of the franchise and any removal thereof and thereafter until the grantee has liquidated all of its obligations arising out of the acceptance of this franchise or renewal by the grantee or from the exercise of any privileges or right herein granted or the performance of any covenants or obligations imposed hereby. The bond shall provided that at least thirty (30) days prior written notice of intention not to renew, cancellation or material change, be given the Town by filing the same with the Town Clerk.

**10.113 Franchise area and extension of service.**

- (a) Unless otherwise limited by the franchise ordinance, the franchise area shall include the present corporate limits of the Town of Youngsville and any area henceforth added thereto during the term of the franchise of any extension thereof, including territory annexed pursuant to "satellite" annexation authority. Neither the franchise ordinance nor this ordinance shall affect the rights of any other cable television grantor holding a governmental franchise in an annexed area nor does the Town guarantee that no such franchise operators shall exist in such annexed area.
- (b) Subject to 9 (c) the grantee shall make cable television service available to all residents of the franchise area who apply therefore and are willing to pay the various service rates and installation and/or reconnecting charges established by the grantee pursuant to the terms of the ordinance, the grantee's application and franchise ordinance.

**10.114 Expense reimbursement to Town.**

- (a) The grantee shall pay the Town a sum of money which will reimburse all costs and expenses incurred by it in connection with preparation of this ordinance, the franchise agreement, and the granting of a franchise, including, but not limited to, consultant fees, attorney's fees, publication fees, travel expenses and all other direct costs. Such payment shall be made within thirty (30) days after the Town furnished the grantee with a written statement of such expenses.
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**10.115 Violations.**

- (a) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, acoustically, inductively or otherwise, with any part of a franchised CATV system within the Town for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound.
- (b) It shall be unlawful for any person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised CATV system within the Town for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system.
- (c) It shall be unlawful for any person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, pictures, programs or sound.

**10.116 All ordinances and parts of ordinances in conflict with this ordinance are hereby repealed.**

**10.117 This ordinance shall be in full force and effect from the date of its adoption.**

This ordinance was introduced and passed its first reading at a meeting of the Town Board held on the 7th day of December, 1981 was continued for further hearing until the meeting of the 4th day of January, 1982. At the meeting of the Town Board held on the 4th day of January, 1982, this ordinance passed its second reading, was adopted, and ordered published as by law provided.

Dated January 4, 1982. \_\_\_\_\_

Mayor

Attest:

Elizabeth P. Cheatham

Clerk

**10.201 Regulation.**

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF BASIC SERVICE TIER RATES AND RELATED EQUIPMENT, INSTALLATION AND SERVICE CHARGES OF ANY CABLE TELEVISION SYSTEM OPERATING IN THE TOWN OF YOUNGSVILLE

WHEREAS, on October 5, 1992, Congress enacted the Cable Television Consumer Protection and Competition Act of 1992 which, among other things, provided that the basic

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service tier rates, and the charges for related equipment, installation and services, of a cable television system (hereinafter, "Basic Service Rates and Charges") shall be subject to regulation by a franchising authority in accordance with regulations prescribed by the Federal Communications Commission (hereinafter the "FCC"); and

WHEREAS, on April 1, 1993, the FCC prescribed such regulations in the Report and Order, In the Matter of Implementation of s of Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket 922-266, FCC 93-177 (released May 3, 1993) (hereinafter the "FCC Rate Regulations"); and

WHEREAS, the Town of Youngsville (hereinafter, the "Town") is a franchising authority with the legal authority to adopt, and the personnel to administer regulations with respect to the Basic Service Rates and Charges of any cable television system operating in the Town, including, without limitations, the system currently being operated by CMA-Winston-Salem (hereinafter "The Company") pursuant to the Franchise Agreement; and

WHEREAS, the Town desires to regulate the Basic Service Rates and Charges of the Company and any other cable television system operating in the Town and shall do so in accordance with the FCC Rate Regulations, notwithstanding any different or inconsistent provisions in the Franchise Agreement;

NOW, THEREFORE, BE IT ORDAINED by the Board of Commissioners of the Town of Youngsville that:

1. The Town will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of the Company and any other cable television system operating in the Town, notwithstanding any different or inconsistent provisions in the Franchise Agreement; and
2. In connection with such regulation, the Town will ensure a reasonable opportunity for consideration of the views of interested parties; and
3. The Mayor, or his designee, is authorized to execute on behalf of the Town and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations now or may hereafter be required by the FCC Rate Regulations in order to enable the Town to regulate Basic Service Rates and Charges; and
4. This Ordinance shall be effective on the date of its adoption, this the 14th day of October, 1993.

James E. Underwood

James E. Underwood, Mayor Pro-Tem

ATTEST:

Deborah G. Pearce

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