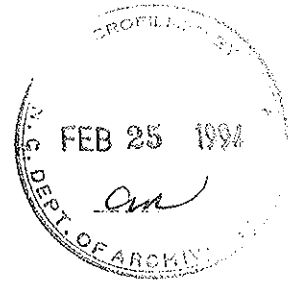


MINUTES OF A REGULAR MEETING
OF THE BOARD OF COMMISSIONERS OF THE
TOWN OF LAKE LURE, N.C.
AUGUST 24, 1982



The regular meeting of the Board of Commissioners was held in the Community Building August 24th at 7:30. The following members were present: Mayor Charles F. Hicks, Commissioners Sadye Gruver, Frankie Queen, Woodrow Price and Town Attorney Jervis Arledge.

Minutes of meetings held on July 27th, July 28th, August 5th and August 10th were read. The August 10th minutes were corrected as follows: Mayor Hicks said it was not his intention the hiring of a mechanic be a proposal but rather a thought. Motion was made by Commissioner Gruver, seconded by Commissioner Price and the vote was unanimous the minutes be accepted as corrected.

The second and final reading of a cable TV Franchise for Lake Lure was first on the agenda. Upon discussion motion was made by Commissioner Gruver, seconded by Commissioner Price it be adopted as presented. The vote was unanimous.

While drafting the franchise Mr. Arledge and cable TV expert Granger Barrett discovered Fairfield Mtns had an option to purchase the capital stock of this company and asked Fairfield for a commitment to abide by the franchise if they should take over. Motion was made by Commissioner Gruver, seconded by Commissioner Price the Agreement and Undertaking, between Fairfield Mtns. and The Town of Lake Lure, be adopted as presented. The vote was unanimous. A copy is attached to the minutes.

Commissioner Queen read a thank you note from Representative Edith Lutz in which she expressed her gratitude for the vote she received in Lake Lure.


The Chair recognized Nick Fowler who stressed the fact he does have a water problem and unless corrected he and his family will be forced to leave their home Labor Day weekend. He asked the Town Officials when something will be done. Mayor Hicks answered by saying he had not seen a problem in this Town that couldn't be solved. The system is old and delapidated but we can resolve the

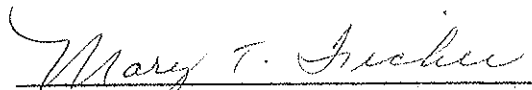
problem. We have to do it thru analysis and study. Mrs. Leonard Morgan also told of of the water problems she has had, From August 11th thru the 24th she had only two days of uninterrupted service,

Announcements and other topics discussed were as follows:

1. To date ten safety buoys have been put in place,
2. The Town purchased a new 450B frontend loader.
3. Due to the disrepair of the Town tractor it was necessary to hire someone to help with the mowing.
4. Phase I, Disposal Plant Modification, is ahead of schedule.
5. The possibility of lowering the speed limit on Buffalo Shoals Road and its enforcement.
6. Paving the road at the Lake Lure Volunteer Fire Department fire house.

There being no further business motion was made by Commissioner Price, seconded by Commissioner Gruyer the meeting be adjourned. The vote was unanimous.


Charles F. Hicks, Mayor


Mary T. Ficker, Clerk

AN ORDINANCE
CREATING A CABLE TELEVISION SYSTEM FOR
THE TOWN OF LAKE LURE

WHEREAS, the provision of the cable television service to the people of the TOWN OF LAKE LURE is in the public interest;

WHEREAS, the TOWN OF LAKE LURE has had numerous inquiries about such a system;

NOW, THEREFORE, BE IT ORDAINED by the BOARD OF COMMISSIONERS of the TOWN OF LAKE LURE:

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1. PURPOSE.

In the public interest and for the promotion of the public health, safety, welfare and convenience, and pursuant to statutory authority contained in the General Statutes of North Carolina, Chapter 160A, 160A-76, 160A-214, 160A-311, and 160A-319, and other applicable laws, the following regulation rules are adopted, which rules set forth the conditions, limitations, restrictions and requirements under which a person may construct or cause to be constructed, operate and maintain a community antenna television system, and engage in the business of providing a community antenna television service in the incorporated areas of the TOWN OF LAKE LURE.

2. DEFINITIONS.

For the purposes of this article, 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, words in the plural number include the singular number, words in the singular number include each of the other genders. The words "shall" and "must" always are mandatory and not merely directory.

- a) Board. "Board" shall mean the Board of Commissioners of the TOWN OF LAKE LURE, North Carolina.
- b) CATV. "Catv" shall mean community antenna television.
- c) Town. "Town" shall mean the TOWN OF LAKE LURE or the area within the territorial city limits of the Town and such territory outside of the Town over which the Town has jurisdiction or control by virtue of any constitution and Charter provisions, or any law, including any future annexed Town limits.
- d) Community Antenna Television Service. "Community Antenna Television Service" or "CATV Service" shall mean the business of providing improved television reception and telecommunications information and entertainment services to the public for compensation and distributing the same by wire cable or other means. As a part of the service, AM and FM radio program material received by satellite or other transmission, background music, news, weather and other information, including public service programming, and civil defense type information, as required, may be furnished to all subscribers without additional charge.
- e) Community Antenna Television System. "Community Antenna Television System" or "CATV System" shall mean any facility which:

1. In whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television stations, AM and FM radio stations, microwave and satellite, and distributes such signals by wire or cable or microwave or other means to persons who subscribe to such service;
 2. Distributes by cable or wire, news, weather and other information, including public service programming and civil defense type information, as required, as a part of CATV service to all subscribers without charge;
 3. This definition does not include a system serving fewer than 50 persons or serving one or more apartment buildings under common ownership, control or management.
- f) Grantee. "Grantee" shall mean the Cable T.V. Co., Inc., doing business in Lake Lure as Mountains Cablevision, and also any other person, firm, or corporation to whom or which a franchise, as herein above defined, is granted by the Board under this article, and the lawful successor, transferee or assignee of any grantee.
- g) Person. "Person" shall mean any person, firm, partnership, association, corporation or organization of any kind.
- h) Property of Grantee. "Property of Grantee" shall mean all property owned and installed or used by a Grantee in the operation of a CATV system or service in the Town under the authority of a franchise granted pursuant to this article.
- i) Street. "Street" shall mean the surface of and the space above and below any publicly owned or maintained property or right of way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway or drive, now or hereafter existing as such within the Town.
- j) Subscriber. "Subscriber" shall mean any person or entity lawfully receiving for any purpose the CATV service of a Grantee.
- k) FCC. "FCC" shall mean the Federal Communications Commission.
- l) Franchise. "Franchise" shall mean and include any authorization granted hereunder in terms of a franchise privilege, permit license or otherwise to construct, or have constructed, operated and maintain a CATV System within any portion of the Town for the purpose of providing a CATV service to the

citizens of the Town. Any such authorization, in whatever term granted, and the fees charged thereunder shall supersede and take the place of any license, license fee or permit authorization which might otherwise be required for the privilege of transacting and carrying on CATV business within the Town under any other Town ordinance licensing or regulating business within such areas.

- m) Head End. "Head End" shall mean the land, electronic processing equipment, antennas, dishes, towers, buildings, and other appurtenances normally associated with and located at the starting point of a CATV System.
- n) Gross Subscriber Revenues. "Gross Subscriber Revenues" shall mean any and all compensation received by Grantee as a result of the exercise of the franchise granted hereunder excluding any taxes imposed directly on any subscriber or user of the system and remitted to a governmental agency. "Gross Subscriber Revenues" include by way of illustration, but not limited to, regular subscriber service fees, installation fees, disconnect and reconnect fees, pay TV, leased channel revenues, advertising, revenues or any other income from the system.
- o) Full CATV Service. "Full CATV Service" shall mean all "basic and additional services" offered by the Grantee.
- p) Initial Service Area. "Initial Service Area" shall mean that geographical area within the incorporated limits of the Town which has been delineated in the map attached hereto and entitled "Initial Service Area".
- q) Physical Mile of Plant. "Physical Mile of Plant" shall mean messenger strand as measured from pole to pole without taking into consideration sag or downguys, and for buried plant, actual trench feet.

3. FRANCHISE REQUIRED.

It shall be unlawful for any person to engage in the construction, operation, or maintenance of a CATV system in the Town unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this ordinance. It shall also be unlawful for any person to provide a CATV service to the Town unless such person shall have first obtained and does currently hold a valid franchise granted pursuant to the provisions of this ordinance.

4. NON-EXCLUSIVE GRANT.

A franchise as defined herein is hereby granted to the Cable T.V.

Co., Inc., doing business in Lake Lure as Mountains Cablevision, to own, construct, operate and maintain a CATV system in Lake Lure for the purpose of providing a CATV service to the citizens of the Town. The term of said franchise shall be fifteen (15) years. The Grantee's application for a franchise is hereby incorporated herein by reference except as otherwise specifically provided herein. The bond and letter of credit referenced in Section 20 are hereby waived for good cause.

This franchise granted as provided herein shall be non-exclusive.

5. ACCEPTANCE: EFFECTIVE DATE.

- a) Within thirty (30) 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 provision of this ordinance and the franchise ordinance 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 letter of credit and insurance policies required by Section 20 hereof.
- c) The effective date of the franchise shall be the date on which the Grantee files the acceptance as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be effective until such defect is cured, or such approval is obtained.

6. TERMS OF FRANCHISE AND RENEWAL.

The duration of the franchise granted shall be fifteen (15) years from the effective date; the franchise may be renewable, in the sole discretion of the Town, for a period of no more than ten (10) years, upon terms satisfactory to the Town. The Grantee shall give the Town twelve (12) months written notice prior to the expiration date of the Grantee's desire to renew.

7. TERMINATION OF FRANCHISE.

- a) The Town reserves the right to terminate, at any time, any franchise granted hereunder and rescind all rights and privileges associated in the event that:
 1. Grantee has not complied in some material respect with any provision of this ordinance or of any supplemental written agreement entered into by and between the Town and the Grantee; or in some material respect of any terms or

or conditions of any franchise or permit issued hereunder;
or

2. 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; or
 4. The Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or for composition of creditors, is unable or unwilling to pay his debts as they mature or is in financial difficulty of sufficient consequence so as to jeopardize the continued operation of the network unless the Grantee is in due process of contesting such debts; or
 5. Grantee violates in a material way any FCC order or ruling or the order or ruling of any other governmental body having jurisdiction over the Grantee unless the Grantee is lawfully contesting the legality or applicability of such order.
- b) In event that the Town shall decide to terminate for cause a franchise granted hereunder, it shall give the Grantee sixty (60) days written notice of its intention to terminate and stipulate the cause. If during the sixty (60) day period the cause shall be cured to the satisfaction of the Town, the Town may, at its discretion, declare the notice to be null and void. In any event, before a franchise may be terminated the Grantee must be provided with an opportunity to be heard before the Town Board in accordance with due process procedures. If a Grantee's franchise is terminated, the decision shall be subject to judicial review in the Superior Court of Rutherford County.
- c) In the event that any part of the CATV System is discontinued for any reason for a continuous period of 90 days or the franchise held by any Grantee to construct, operate, or maintain a CATV System is terminated by the Town Board, pursuant to the terms of this ordinance, and all negotiations to settle the differences between the parties have failed (provided, however, that such negotiations shall not be required), the Town Board may advertise and seek another Grantee to operate the System.
- d) The Town may, upon expiration or termination of a franchise, require the Grantee to continue to provide service for a reasonable period not to exceed six months in order to assure uninterrupted service to subscribers. Should the Grantee's franchise be terminated or expire, and at such times as any

successor is ready to provide service, but not later than six (6) months from termination or expiration, the Grantee shall begin removal of all property owned by it, and placed on a public or private right of way, unless permitted by the Town to abandon said property in place. In so removing such plants, structures, and equipment, the Grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave such public and private places in as good condition as that prevailing prior to the company's removal of its equipment and appliances without affecting, altering, or disturbing in any way the electric distribution or telephone cable, wire, or attachments or any poles. The Town Administrator or other officer or his appointee, shall inspect and approve the condition of such public ways and public places and cables, wire attachments, and poles after removal. Liability insurance and indemnity provided for herein shall continue in full force and effect during the entire period of removal.

In the event of any such removal, the Grantee shall restore the public right of way to a condition satisfactory to the Town. Upon abandonment, which shall only be done as the Town directs, the Grantee shall transfer ownership of all such abandoned property to the Town and submit to the Town an instrument in writing, subject to the approval of the Town Attorney, effecting such transfer.

If the Town or the State is forced to remove the system, the work shall be done at the expense of the terminated Grantee.

No transfer of control of the CATV System shall take place, whether by force or voluntary sale, lease, mortgage, assignment, encumbrance, foreclosure, attachment, merger, or any other form of disposition, without prior written notice to and approval by the Town Board, which shall not unreasonably be withheld. The notice shall include full identifying particulars of the proposed transaction, and the Town Board shall act by resolution. The Town Board shall have sixty (60) days within which to approve or disapprove a transfer of control; if no action is taken within (60) days, approval shall be deemed to have been given.

Notice of such transfer, together with copies of all documents pertaining thereto shall be in writing filed with the Town Clerk at least thirty (30) days thereafter and expressly conditioned upon full compliance with the terms of the franchise issued and this ordinance. The transferee shall agree in writing to comply with all provisions of this ordinance and such other provisions and requirements as the Town Board might require.

For the purpose of this section the term "control" is not limited to majority stock ownership, but includes actual working control

in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of persons of ten (10) per cent of the voting shares of the company.

In the absence of extraordinary circumstances, the Board will not approve any transfer or assignment of the franchise before completion of initial construction of the energized system or within the first two (2) years of operation.

8. AUTHORITY GRANTED BY THE FRANCHISE.

The Grantee of any franchise granted pursuant to the provisions of this ordinance shall, subject to the conditions and restrictions set out in this ordinance, be authorized 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 as defined herein and in the franchise ordinance and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the CATV System; provided, however, that before any poles, wire, or other thing mentioned above is necessary and appurtenant to the CATV System may be placed within any street or road, the proper permission and authority to do so must be obtained by the Grantee from the Town or the North Carolina Department of Transportation, or other agency of competent jurisdiction; and, in addition to use, operate, and provide similar facilities or properties rented or leased from other persons. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any other person, any poles, lines, facilities, equipment, or other property for use in connection with the operation of a CATV System or service, unless such other person holds a valid franchise granted pursuant to the provisions of this ordinance.

9. FRANCHISE AND OTHER FEES.

- a) Within sixty (60) days after each quarter of its fiscal year, after acceptance of a franchise, the Grantee shall pay to the Town for the privilege of constructing, operating, and maintaining the CATV System as defined herein, and for the privilege of providing the CATV Service as defined herein during the ensuing fiscal year, a sum equal to three (3%) per cent (or the maximum permitted by the FCC and agreed to by the Grantee and the Town, whichever is higher,) of its gross subscriber revenues during the preceding quarter.

Within Four (4) months after the expiration of the Grantee's fiscal year, the Grantee shall file with the Town a financial statement prepared by a certified public accountant or other accountant acceptable to the Town, showing in detail the Gross Subscriber Revenues, as defined herein, of the 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 the Town Board, its employee's or other designated representative, shall have the right to inspect the financial documents upon which franchise fee payment was based. Acceptance of payments hereunder shall not be construed as a release or as an 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 per cent (100%) of its total gross profits during said period.

- b) The Grantee shall pay to the Town a sum of money sufficient to reimburse it for all expenses up to \$1,000.00 incurred by it in connection with the granting of a franchise pursuant to the provisions of this ordinance less all application fees collected by the Town pursuant to the process leading to the award of the franchise. Such payment shall be made within thirty (30) days after the Grantee is furnished with a statement of such expense.

10. RATES.

- a) The term rates, as used in this section, refers only to such rates as the Town has authority to regulate pursuant to FCC and Federal regulations as amended from time to time.
- b)
 1. The Grantee may initially charge subscribers and users of the CATV System for services up to the amounts specified in schedule of rates and charges as proposed in its franchise application and approved by the Town Board. Such maximum rates shall be in effect until December 31, 1983. After the period above set forth, the Grantee may petition the Town Board for a change in rates by filing a revised rate schedule including the justification(s) for said proposed new schedule.
 2. Within sixty (60) days after receiving the petition, the 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.
 3. If the Board fails to act within 120 days of the Grantee's petition pursuant to (1) above, the Grantee shall thereafter be entitled to put its proposed new rates into effect.

- c) The criteria for the Town Board's decision on rate changes 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.
- d) In order for the Board to determine whether proposed rate changes comport with the criteria established in the subsection above, the Grantee's petition for a rate increase shall include the following reports if requested by the Board, which shall reflect the operations of the TOWN OF LAKE LURE System only.
1. Balance Sheet;
 2. Income Statement;
 3. Statement of Sources and Applications of Funds;
 4. Detailed supporting Schedules of Expenses, Income, Assets and other items as may be required; and
 5. Statement of Current and Projected Subscribers and Penetration.

The Grantee's accounting records applicable to the TOWN OF LAKE LURE System shall be available for inspection by the Town at all times. The Town shall have access to all records of financial transactions for the purpose of verifying overhead rates or other indirect costs pro rated to the TOWN OF LAKE LURE 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 determination as to the financial condition of the system. All financial statements shall be certified as accurate by a certified public accountant.

11. LIMITATIONS OF FRANCHISE.

- a) In addition to the limitation otherwise herein appearing, the franchise is subject to the following limitations: The Grantee shall at all times during the life of any franchise hereunder be subject to all lawful exercise of the police power by the Town and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances which the Town has adopted or shall adopt applying to the public generally and to other Grantees, and shall be subject to all laws of the State of North Carolina and the United States.

- b) Time shall be of the essence of any franchise granted hereunder. The Grantee shall not be relieved of its obligations to comply promptly with a provision of this ordinance by the failure of the Town to enforce prompt compliance. Failure of the Town to enforce any breach by the Grantee shall not constitute a waiver by the Town.
- c) The Grantee during the period of the franchise or any of its affiliated, subsidiary, parent organizations, shareholders, officers or directors shall not, within the corporate limits of the Town or within ten miles in any direction, engage in the retail sale, renting, leasing, or repairing of radio or television receivers of any appurtenances thereof except for the repair of the Grantee's equipment.
- d) Any franchise granted hereunder shall not relieve the Grantee of any obligation under any pole or conduit-use agreements both from the Town and the telephone company, or others maintaining poles or conduits in the streets of the Town, whenever the Grantee finds it necessary to make use of said poles or conduits.
- e) Any poles, cable, electronic equipment or other appurtenances of the Grantee to be installed in, under, over, along, across or upon a street shall be so located so as to cause minimum interference with the public use of the streets and to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets. All such installations shall be subject to the prior approval of the Town.
- f) In the event of disturbance of any street or private property by Grantee, he shall, at his own expense and in a manner approved by the Town, replace and restore such street and private property in as good a condition as before the work causing such disturbance was done.
- g) Grantee shall construct, maintain and operate the CATV systems so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected and shall be replaced and the surface restored promptly after completion of the work at its sole cost and expense. The Grantee shall at all times comply with all excavation ordinance requirements of the Town.
- h) The Grantee shall, upon reasonable notice from any person holding a building moving permit issued by the Town, temporarily alter his facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the Grantee shall have the right to

request payment in advance. For the provision of the ordinance, "reasonable notice" shall be construed to mean at least forty-eight (48) hours prior to the move.

- i) If, at any time, in case of fire or disaster in the Town it shall become necessary in the judgment of the Mayor or the Chief of the Fire Department to cut or move any of the wires, cables, amplifiers, appliances, or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense.

12. ADDITIONAL TOWN RIGHTS IN FRANCHISE.

- a) The Town may from time to time, add to, or modify or delete provisions of this ordinance as it shall deem necessary in the exercise of its regulatory powers provided that such additions or revisions are reasonable and in keeping with the public interest and welfare. Such additions or revisions shall be made only after a public hearing for which the Grantee shall have received written notice at least thirty (30) days prior to such hearing.
- b) The Town reserves the right upon reasonable notice to require the Grantee at his expense to protect, support, temporarily disconnect, relocate or remove from the Town's streets any property of the Grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies or any structures of public improvement. Reasonable notice for this provision of the ordinance shall be construed to mean at least thirty (30) days except in the case of emergencies where no specific notice period shall be required.
- c) In the event of the failure by the Grantee to complete any work required by (b) above or any work required by Town law or ordinance within the times established and to the satisfaction of the Town; the Town may cause such work to be done and the Grantee shall reimburse the Town the costs thereof within thirty (30) days after receipt of an itemized list of such cost.
- d) The Town reserves the right, in the event of an emergency or disaster, to require the Grantee to make available to the Mayor or his appointee of the Town, at his request, Grantee's facilities at no cost, for emergency use during such emergency or disaster period.

- e) The Town reserves the right during the life of any franchise granted hereunder to have access to all reasonable hours to the Grantee's plans, contracts and engineering, accounting, financial, statistical, customer, and service records relating to the property and the operations of the Grantee and to all other records required to be kept hereunder upon reasonable request.
- f) The Town reserves the right during the life of any franchise granted hereunder, to install and maintain free of charge upon the poles and conduits of the Grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the Grantee.
- g) The Town reserves the right during the life of any franchise granted hereunder, to reasonably inspect and supervise at the Grantee's cost, all construction or installation work performed subject to the provisions of the ordinance to insure compliance with the terms of the ordinance.
- h) Neither the granting of any franchise nor any governing provision of such franchise shall constitute a waiver or bar to the exercise of any governmental right or power of the Town.
- i) Nothing in this ordinance shall in any way or to any extent be construed to waiver, modify or abridge the Town's right of eminent domain in respect to the Grantee.
- j) Any right or power in, or duty impressed upon any officer, employee, department or board of the Town shall be subject to transfer by the Town Board by law to any other officer, employee, department or board of the Town. The Town reserves all rights not specifically granted herein, and the enumeration of the rights herein shall not be construed to be a limitation of any right or power the Town may otherwise have.

13. SERVICE AREAS.

- a) The Grantee shall provide service initially to all subscribers who request it and who are located within the Town limits as indicated on the map attached hereto as Exhibit "A" and made a part of this ordinance, entitled "Initial Service Area". Thereafter, the Grantee shall provide service to all subscribers who request it in those areas of Lake Lure, provided the same can be served from the Grantee's head end by contiguous plant having thirty (30) homes per contiguous street mile. Service shall be provided within the periods set forth in Section 16.

- b) In the event the continued use of a street is denied for any reason, the Grantee will make every effort to provide service over alternate routes.

14. ANNEXATION AND EXTENSION POLICY.

- a) The Grantee of any franchise hereunder shall at his expense extend the CATV System, when there are thirty (30) residences per mile or their equivalent in a street, or portion of a street, capable of being served by contiguous plant from Grantee's head end, so as to provide full CATV service to all residents not then served by a CATV System as follows:
 - 1. Newly annexed areas of the Town; or
 - 2. New housing areas developed within the Town limits;
- b) If within either (1) or (2) above there exists or it is planned that there will be less than thirty residences per mile, the Grantee may collect an amount up to one-half (50%) of the costs of such extension on a pro-rated basis from any subscribers connected to such extensions.
- c) The Grantee shall extend such service within six (6) months from the effective date of the annexation, or the time new housing areas within the Town limits meet the density requirement of thirty (30) residences per mile.

15. CONDITION ON USE OF STREET AND ROADS.

- a) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this ordinance, no poles except replacements for existing poles shall be erected by or for the Grantee, in any street, without the prior approval of the Town; any poles, wires, cables or other facilities to be constructed or installed within the streets or roads shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the North Carolina Department of Transportation, the Town, and any other agency of competent jurisdiction, must approve such construction and maintenance. All facilities constructed or installed within the streets or roads shall be so constructed and installed so as to cause a minimum interference with the proper use of said street or roads, and minimum interference with the property rights of property owners adjoining said streets or roads or other persons having property interest which will be affected by such construction or installation. The facilities shall be constructed or installed so that, after

construction or installation is complete, they shall cause no interference with proper use of said streets or roads, and no interference with property rights of owners of property adjoining said street or road or other affected owners of property interest.

- b) The installation of lines, including service drops to subscribers, shall be made underground in areas where either the telephone or power lines, or both, are underground or hereafter may be placed underground. The same shall apply to installation of other facilities. Also, installation of lines and facilities shall be underground, and any existing above ground facilities shall be placed underground when required by rules, regulations, and policies of the North Carolina Department of Transportation, or the Town.
- c) The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, any property of the Grantee when required by the Town or the North Carolina Department of Transportation by reason of traffic conditions, public safety, street closing or abandonment, highway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power line, signal lines, or any other types of structures or improvements; and the Town or the North Carolina Department of Transportation shall not be liable for any disturbance of the Grantee's installations resulting therefrom. This section applied to streets or roads as defined herein. The Grantee shall do such tree trimming or other maintenance as shall be necessary to maintain their lines and cables and other property in good working order. All matters mentioned herein shall be performed at the Grantee's expense.
- d) Whenever the Grantee takes up or disturbs any pavement, sidewalk or other improvement of any street or road, the same shall be replaced and the surface restored to as good condition as before entry, all in accordance with standards, regulations and policies of the Town and the North Carolina Department of Transportation or any subdivision thereon. Any opening or obstruction in the streets shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which shall be clearly designated by warning lights of approved types.

16. SCHEDULE FOR CONSTRUCTION.

- a) The Grantee shall provide service within ninety (90) days of the franchise's effective date to the initial service area described in its formal proposal. Thereafter, Grantee shall provide service within 15 months of the franchise's effective date to all areas within the TOWN OF LAKE LURE having an average of thirty residences per street mile, provided the same can be served from the Grantee's head end by contiguous plant.

- b) Failure to do any of the foregoing provisions of this Section within the time specified shall be grounds for the termination of the franchise, provided, however, that such failure was not occasioned by matters beyond the control of the Grantee.
- c) The Town may in its discretion extend the time for Grantee, acting in good faith, to perform any act required. The time for performances, may be extended or excused, as the case may be, for any period during which Grantee demonstrates to the satisfaction of the Town Board that Grantee is being subject to delay or interruption due to any of the following circumstances if reasonably beyond its control:
 - 1. Necessary utility rearrangements or pole changeouts;
 - 2. Governmental regulatory restrictions;
 - 3. Labor strikes;
 - 4. Lock outs;
 - 5. War;
 - 6. National emergencies;
 - 7. Fire;
 - 8. Other acts of God.

17. CONSTRUCTION STANDARDS.

- a) All construction and maintenance practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all state and local codes where applicable.
- b) All installation and maintenance of electronic equipment shall be of a permanent nature, durable and installed in accordance with the applicable sections of the current edition of the National Electronic Safety Code, the Electronic Code of the National Fire Protection Association, and all state and local codes where applicable.
- c) Antenna supporting structures (towers) shall be designed for the proper leading zone as specified in Electronics Industry Association's R.S.-22A Specifications.
- d) Antenna supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration, the State Aeronautics Board governing the erection and operation of

supporting structures of TV towers, and all other applicable local or state codes and regulations.

- e) Nothing in this ordinance or other franchise granted hereunder, shall authorize the Grantee to construct, erect or operate and maintain in the Town, new poles where existing poles are servicing the area. The Grantee does have the right, however, to construct, erect, operate and maintain poles where none exists at the time the Grantee seeks to install his network. The Grantee shall require permission from the Town before constructing or erecting any new poles or underground conduit.
- f) Copies of all utility pole agreements and other utility agreements must be filed with the Town.
- g) All construction and installation of all Grantee's facilities shall be subject to the prior approval of the Town and to inspection and supervision of such construction and installation as set forth in SECTION 13 and SECTION 16 herein.
- h) All construction methods and standards shall conform to the highest and best possible standards of the industry at the time of construction, and as specified in the franchise ordinance.

18. SERVICE AND OPERATIONAL STANDARDS.

- 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 end that subscribers shall receive the best possible service. In addition, the Grantee shall comply with all applicable regulations of agencies having jurisdiction over the CATV system.
- b) The Grantee shall provide a network having a minimum initial capacity of 35 channels with two-way, "data grade", capacity. Channel capacity above 12 channels shall be activated as required by Attachment B, which is incorporated herein by reference. Whenever a reverse or feedback circuit is routed through a subscriber's premises, it shall be connected so as to permit subscriber notification and deactivation.
- c) The Grantee shall provide at its sole cost and expense at least one dedicated, noncommercial governmental channel and associated production facilities to be made available to the public at such time as the Town may require, which production facilities shall consist of a character generator and an input terminal.
- d) Access to the governmental channel shall be controlled by the Town through rules adopted by the Town. The Grantee may propose amendments to access rules and shall be notified prior to

the effective date of any changes to the rules.

- e) The Grantee shall carry to the extent permitted by the FCC, and shall exercise its best efforts to obtain permission from that agency to carry all television signals required by the TOWN OF LAKE LURE.
- f) The system shall be equipped with an all channel, emergency alert system.
- g) The Grantor, whenever it is necessary to interrupt service over the CATV System for the purpose of network maintenance, alteration or repair, shall do so at such time as will cause the least amount of inconvenience to its subscribers, unless such reasonable notice thereof has theretofore been given to the affected subscribers.
- h) The Grantee shall maintain an office staff of at least one employee within the TOWN OF LAKE LURE which shall have a listed local telephone number so that complaints and requests for repairs or adjustments may be received at any time. All service calls shall be responded to as promptly as practicable.
- i) The Grantee shall at all times make and keep in said office, a list of all complaints and interruptions or degradation of service received or experienced during the term of franchise. The records maintained above shall also include complaint response time and service restoral period and shall be continuously open to inspection, examination or audit by any duly authorized representative of the Town.
- j) The Grantee shall maintain at least one manned vehicle with spare parts thereon available to the Town within twenty-four hour's response time. The Grantee shall not give any priority or undue advantage in service or maintenance to residents of any particular subdivision or planned development.
- k) The Grantee shall comply with all construction and operation requirements, capacity requirements, and requirements for testing the system of the FCC, and copies of all reports and test results filed with the FCC shall be filed with the Town Clerk.
- l) The Grantee shall use its best efforts to upgrade the system after construction to conform the system to advances in the state of the art in the CATV industry and to the requirements of this ordinance and the franchise ordinance.
- m) The Grantee shall use the highest standard of care to protect the privacy of all subscribers to the CATV system, and the system shall be designated, constructed and maintained to that end.

- n) The Grantee shall hook-up all public buildings, facilities, and schools within 250 feet of its energized plant.

19. LIABILITY AND INDEMNIFICATION.

- a) It shall be expressly understood and agreed by and between the Town and any Grantee hereunder that the Grantee shall save the Town harmless from all loss sustained by the Town on account of any suit, judgment, execution, claim or demand which the Town may legally be required to pay as a result of the enactment of this ordinance and the award of a franchise hereunder, or as the result of the exercise of any franchise granted to the Grantee.
- b) It shall be expressly understood and agreed by and between the Town and any Grantee hereunder that the Grantee shall save the Town harmless and indemnify it from all loss sustained by the Town on account of any suit, judgment, execution, claim or demand whatsoever arising out of but not limited to copyright infringement and all other damages arising out of the installation or operation or maintenance of the CATV system authorized herein, whether or not any act of omission complained of is authorized, allowed or prohibited by this ordinance and any franchise granted hereunder.
- c) The Grantee shall pay and by its acceptance of any franchise granted hereunder agrees that it will pay all expenses incurred by the Town in defending itself with regard to all damages and penalties mentioned in Sub-sections (a) and (b) above. These expenses shall include all out-of-pocket expenses, such as consultant or attorney fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his staff or any other employees of the Town.

20. INSURANCE, PERFORMANCE BOND, LETTERS OF CREDIT.

- a) At the time of and concurrently with the filing of written acceptance, the Grantee shall file with the Town Clerk and at all times thereafter maintain in full force and effect for the term of such permit or any renewal thereof:
 - 1. A good and sufficient liability insurance policy or policies, providing coverage for personal injuries to each person in the minimum amount of \$100,000.00 coverage for all personal injuries in each accident in the minimum amount of \$300,000.00 and coverage for all property damage in each accident in the minimum amount of \$100,000.00. The policy or policies shall name the Town as an additional insured and shall be for the purpose of insuring the Town against any and all legal liability, court costs, claim or demand for personal injury, death or property damage arising out

