

ORDINANCE NO. KOC 450.1

AN ORDINANCE RELATING TO PROVIDING FOR THE GRANTING OF NONEXCLUSIVE FRANCHISES TO ERECT, CONSTRUCT, MAINTAIN AND OPERATE COMMUNITY ANTENNA TELEVISION SYSTEM FACILITIES AND ADDITIONS THERETO, IN, UNDER, OVER, ALONG, ACROSS AND UPON THE STREETS, LANES, AVENUES, ALLEYS, SIDEWALKS, BRIDGES, HIGHWAYS, PARKING LOTS AND OTHER PUBLIC PLACES IN HART COUNTY, KENTUCKY FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION OF CABLE TELEVISION IMPULSES AND TELEVISION ENERGY TO THE INHABITANTS OF HART COUNTY, KENTUCKY; AUTHORIZING THE ADVERTISEMENT FOR BIDS ON SUCH FRANCHISES: REGULATING THE SAME; AND FOR OTHER PURPOSES.

WHEREAS, the Fiscal Court of Hart County, Kentucky desires to grant, in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, one or more Nonexclusive Franchises for the erection, construction, maintenance and operation of a community antenna television ("CATV") system in the unincorporated areas of Hart County;

BE IT ORDAINED by the Fiscal Court of Hart County, Commonwealth of Kentucky as follows:

Section 1. Upon the conditions herein set forth and in accordance with sections 163 and 164 of the Constitution of the Commonwealth of Kentucky, the Fiscal Court of Hart County (the "County") shall grant to one or more grantees to be designated by one or more ordinances of the County (the "Grantees"), a Nonexclusive Franchise to erect, construct, maintain, and operate CATV transmission and service distribution facilities including, but not limited to, the erection of poles, cables, wires and other appurtenances and additions thereto in, over, under, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges, highways, parking lots and other public places anywhere in Hart County outside the present corporate limits of any of the incorporated cities located therein, which unincorporated area

shall hereinafter be called "the Franchise Territory," for the purpose of transmission and distribution by cable of television impulses and television energy to the inhabitants of Hart County in all forms, in accordance with the laws and regulations of the United States and the Commonwealth of Kentucky, and the ordinances and regulations of the County of Hart (each of the foregoing being referred to hereinafter as a "Nonexclusive Franchise").

Section 2. Upon adoption of this ordinance and in accordance with section 164 of the Constitution of the Commonwealth of Kentucky, the County shall;

(1) duly advertise for bids for a Nonexclusive Franchise, directing that all bids be submitted to the Fiscal Court of Hart County no later than _____ p.m. _____, 198_;

(2) publicly receive bids for a Nonexclusive Franchise; and

(3) award a Nonexclusive Franchise to the highest and best bidder, taking into consideration all factors held relevant thereto under the law of the Commonwealth of Kentucky; provided, however, that the County expressly reserves the right to:

(a) award more than one Nonexclusive Franchise;

(b) reject any or all bids for a Nonexclusive Franchise; and

(c) withhold the granting of any Nonexclusive Franchise.

The Hart County Clerk is hereby ordered and directed to duly advertise in accordance with the requirements of the law of the Commonwealth of Kentucky for bids for a Nonexclusive Franchise.

Section 3.

(A) A Grantee shall procure any and all easements, rights of way, covenants, grants, certificates of approval and permits which may be required from any private persons or corporations or from any Federal, state, municipal or other governmental authority for or in connection with the placing, maintaining or using of its CATV transmission and service distribution facilities. All the attachments and installation shall be made and maintained at the sole expense of such Grantee.

(B) All streets and sidewalks that may be disturbed or damaged in the construction of the CATV system shall be promptly repaired by any such Grantee at its own expense and to the satisfaction of the the County; provided, however, that if such repairs are not made by such Grantee, the County shall, after reasonable notice to such Grantee, make such repairs as it deems necessary and charge the same to such Grantee.

Section 4.

(A) The CATV transmission and distribution system, poles, wires and appurtenances shall be located, erected, set constructed and maintained in safe condition and thorough

repair. Upon receipt of notice at any time from the County that said CATV facilities interfere with County property, endanger its employees or the public, or interfere with the primary use and purpose of said County property or highways, the Grantee shall at its own expense remove, alter, rearrange, improve or repair such attachments in such manner as the County may reasonably direct. If underground cable is to be install, it is to be installed below normal working depth of County equipment and ditcher.

(B) Construction, maintenance and operation of the CATV system, including connections made to the CATV system to provide service to subscribers, shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the County affecting electrical installations which may be presently in effect or which may be enacted by the County. The operation of the CATV system shall conform to all rules and regulations of the Federal Communications Commission applicable thereto.

Section 5. A Grantee shall be subject to all ordinances now in force or that may be hereinafter passed relative to the use of highways, streets, alleys, bridges and public places of Hart County.

Section 6. A Grantee shall hold the County safe and harmless from all damages or claims for damages arising by reason or negligence in the constructing or maintenance or operation of the CATV system; provided, however, that the County shall notify the Grantee in writing within

thirty (30) days after notice or presentation of any claim or demand, either by suit or otherwise, made against the County on account of or arising out of any act or omission connected with the construction, maintenance or operation of the CATV system.

Section 7.

(A) Each Grantee shall pay to the County a franchise fee equal to not less than four per cent (4%) with the County accepting the highest and best bid received of the Grantee's gross annual subscriber revenues from "basic cable television service", which term as defined and used in this ordinance, shall mean the CATV system's primary service level and, therefore, shall not include optional or incidental services, movie channel services, or other premium services.

(B) All franchise fees to be paid by a Grantee shall be paid quarterly. Each Grantee shall make its books and records pertaining to gross basic subscriber revenues available for inspection at all reasonable times to the County.

Section 8. A Grantee shall expeditiously investigate and resolve all subscriber complaints concerning the operation of its CATV system, normally within twenty-four (24) hours, but not later than forty-eight (48) hours, except in cases of emergencies. A record shall be made of all complaints received showing the name of the complaining party, the complaint and the action taken to rectify the complaint.

Section 9. No Grantee shall be required to extend its CATV system to any area unless there exists in that area at least twenty-five home subscribers per linear mile of trunk cable system within the Franchise Territory. Grantee shall discuss the feasibility of extension of its system into other areas with less density with the County on a case-by-case basis.

Section 10. After having received advance notice of at least seventy-two (72) hours, a Grantee shall comply with all moving permits issued by the County by temporarily raising or lowering its wires to permit the moving of structures or high loads. The cost to the Grantee of complying with the moving permit shall be borne by the entity which obtained the moving permit, and the Grantee shall have the right to request payment in advance.

Section 11. All poles, ducts, and other facilities of the Grantee shall be erected, constructed and maintained so as not to interfere with the traffic over public highways and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any public highway. The Grantee shall have reasonable authority to trim trees upon, abutting and overhanging all streets, alleys, easements, sidewalks and other areas where the CATV system may from time to time be located in public places of Hart County so as to prevent the branches of such trees from coming into contact with or otherwise interfering with the facilities and service of the Grantee.

Section 12. If, at any time, the County shall elect to alter or change the grade of any street, sidewalk, alley or other public way, a Grantee, upon reasonable notice, shall remove, relay and relocate, as necessary, its poles, wires, cable, underground conduits, manholes and other fixtures at the Grantee's sole cost and expense.

Section 13. A Grantee, during the installation, maintenance and operation of its television transmission and distribution system, must guard and protect any opening or obstruction in the streets or other public places, and erect adequate barriers, fences or boardings, the bounds of which shall be clearly designated by warning lights during periods of dusk and darkness.

Section 14. The County shall give written notice to a Grantee of any alleged violation of any covenant in this ordinance specifying the nature of the violation and the specific section or sections of this ordinance which have allegedly been violated. The County shall allow the Grantee at least ninety (90) days to remedy the condition complained of prior to cancellation by the County of any Nonexclusive Franchise for breach of any covenant hereunder, provided that such cancellation or forfeiture shall first be adjudged by a court of competent jurisdiction after a hearing and upon appropriate full and final findings pursuant to law.

Section 15. Each Nonexclusive Franchise shall be for a term or ten (10) years from the date of the granting of each

such Nonexclusive Franchise and shall cease and determine at the expiration of such term.

Section 16. Each Grantee shall comply with the provisions of the Cable Communications Policy Act of 1984 (the "Act"). To the extent that any provision set forth in this or any ordinance regarding a Nonexclusive Franchise or in any accepted bid regarding a Nonexclusive Franchise is inconsistent with the Act, the provisions of the Act control.

Section 17. Each Grantee of a Nonexclusive Franchise shall reimburse the County for the costs of advertising for bids for such Nonexclusive Franchise as provided for in Section 2 of this ordinance.

Section 18. Any and all ordinances or parts of ordinances conflicting with the provisions of this ordinance are hereby repealed.

Section 19. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court or regulatory body of competent jurisdiction, such decision shall not affect the validity of the remaining portions hereof. The County hereby declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional. The validity of any portion of this

ordinance shall not abate, reduce or otherwise affect any consideration or other obligation required of the Grantee.

Section 20. The Grantee shall provide as a minimum service no less than twenty (20) cable channels for a basic service and shall offer no less than two (2) premium service.

Section 21. The rates shall be not more than as follows:

Basic	\$ 11.50
The Movie Channel	\$ 10.50
Showtime	\$ 10.50
Disney	\$ 8.95

Additional Outlets	\$ 2.00
Converter Deposit	\$ 15.00
Remote Control Deposit	\$ 25.00

These rates shall be raised only after a thirty (30) day notice and a public hearing and the taking of a public comment has been held. Notice of the rate increase shall be advertised for two (2) weeks in the Hart County News prior to the public hearing.

Section 22. This ordinance is hereby declared to be a measure in the interest of public peace, health, welfare and safety, and shall therefore go into immediate effect upon its passage, adoption, and publication as required by law.

Published prior to passage on the 12th day of March, 1987.

Read and approved on first reading on the 19th day of March, 1987.

Read and approved on second reading on this the 2nd day
of April, 1987.

FISCAL COURT OF HART COUNTY

BY: Vince Lang

HART COUNTY JUDGE/EXECUTIVE

ATTEST:

Tammie Sims

HART COUNTY CLERK