

ORDINANCE NO. 101-80

AN ORDINANCE AWARDING TO LIVE LINE, INC., A TWENTY-FIVE (25) YEAR NON-EXCLUSIVE FRANCHISE TO CONSTRUCT, OWN, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM WITHIN THE CITY OF CORDOVA, ALABAMA, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANTING OF SAID FRANCHISE PROVIDING FOR REGULATION AND USE OF THE CABLE TELEVISION SYSTEM; PRESCRIBING PENALTIES FOR THE VIOLATION OF THE ORDINANCE.

BE IT RESOLVED BY THE CITY COUNCIL OF CORDOVA, ALABAMA:

SECTION 1. Definitions

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

a. "City" is the City of Cordova, Alabama.

b. "City Clerk" is the City Clerk of the City of Cordova, Alabama.

c. "Cable Television System", hereinafter referred to also as "Cable System" or "system", means a system of coaxial cable or other electrical conductors and transmission equipment which is used or is to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them and other related services to subscribers for various fees hereinafter referred to in this ordinance.

d. "Company" shall be Live Line, Inc. or anyone who succeeds it, in accordance with the provisions of this Ordinance.

e. "Person" is any individual, firm, partnership, association, corporation, company or organization of any kind.

f. "Gross Revenues from Basic Services" shall mean all those revenues taken in and received by the Company solely from the furnishing of basic services as provided under the Company's standard rate card as in effect from time to time and specifically excluding any revenues from pay television time and other miscellaneous services.

g. "Dwelling Unit" means one or more rooms located within a building and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating purposes.

SECTION 2. Grant of Non-Exclusive Franchise

The City hereby grants to the Company a non-exclusive franchise for a period of twenty-five (25) years from the effective date hereof, automatically renewable for an additional twenty-five (25) year period unless the Company receives at least one year's advance written notice of termination as provided herein, unless sooner terminated pursuant to the provisions of this Ordinance, to install, operate, and maintain, throughout the City in, upon, along, across, above, over and under the streets, alleys, easements (including utility easements), public ways and public places

as now laid out or dedicated, and all extensions thereof, and additions thereto, a system of wires, cables, underground conduits, ducts, converts, trenches, conductors, amplifying equipment, manholes, fittings, and any and all other fixtures, appliances and appurtenances necessary for the installation, ownership, maintenance and operation in the City of a cable television system for the purpose of distribution of cable television and related services to inhabitants within the limits of the City. The rights are granted herein by the City after due consideration and approval by the City of the legal character, financial, technical, and other qualifications of the Company, and the adequacy and feasibility of its construction arrangements, as part of a full public proceeding affording due process, which included specific notice of the consideration of the Company's construction policy.

SECTION 3. Compliance with Applicable Laws and Ordinances

The Company shall at all times during the period of this Ordinance and any renewal thereof be subject to all lawful exercise of the police power by the City and to such reasonable regulation by the City as the City shall provide pursuant to Section 17 of this Ordinance. The Company shall comply with all laws, statutes, codes, ordinances, rules, or regulations applicable to its business, including those of the Federal Communications Commission, and will comply with the Equal Employment Opportunity Act.

SECTION 4. Effective Date and Period

Upon final passage and publication hereof as provided by law, and upon acceptance by the Company, this

Ordinance shall take effect and shall then continue in full force and effect for a period of twenty-five (25) years upon the terms and conditions set forth herein. This Ordinance shall automatically be renewed for an additional twenty-five (25) year period unless written notice of termination effective at the end of the initial term is given by the City to the Company not less than one (1) year nor more than two (2) years prior to the expiration of the initial period of this Ordinance.

SECTION 5. Applicable Area

This Ordinance shall apply to the present territorial limits of the City and to any area henceforth added thereto during the period of this franchise. Nothing herein contained is intended to preclude the Company from extending its cables and equipment to outside the City for the purpose of serving other areas, provided the Company is legally authorized to service the other areas.

SECTION 6. Liability and Indemnification

a. The Company shall pay all damages and penalties which the City may legally be required to pay as a result of the grant of authority to it under the terms of this Ordinance. These damages or penalties shall include all damages arising out of the installation, operation and maintenance of the cable system authorized herein, whether or not any act or omission complained of its authorized, allowed, or prohibited by this Ordinance.

b. The Company shall pay all expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in subsection 1(a) above. These expenses shall include all out-of-pocket expenses, such as reasonable attorney fees.

c. The Company shall maintain throughout the period of this Ordinance liability insurance insuring the City and the Company in the minimum amounts of:

- (1) \$500,000 for bodily injury or death to any one person, within the limit, however, of \$1,000,000 for bodily injuries or death resulting from any one accident.
- (2) \$25,000 for property damage resulting from any one accident.

Certificates of insurance in the foregoing amounts shall be filed with the City.

d. The Company shall apply for the licenses and permits necessary for the construction and operation of the cable television system herein described within sixty (60) days of the filing of the Company's unconditional acceptance of this franchise.

SECTION 7. Service Standards and Requirements

a. The Company shall provide and maintain its service to subscribers occupying dwelling units located in the City in accordance with the best-accepted standards of the industry, so as to provide its subscribers with the highest possible level of quality and reliability.

b. The Company shall provide a full time signal of at least one television broadcasting station affiliated

with each of the national television networks. These networks are currently ABC, CBS and NBC. The system must receive a minimum of 1,000 microvolts of signal at the head end equipment and must provide a minimum of 1,000 microvolts of signal for each set with capacity to serve a minimum of 1,000 outlets in the City.

c. The Company shall extend its cable television system throughout the City as rapidly as practicable. Within six months of the effective date of this Ordinance, the Company shall begin construction of the cable television system described herein and shall have completed said system within 24 months of the effective date of this Ordinance.

d. If the Company is delayed at any time in the progress of the construction of the cable system by the failure of the appropriate public utility company or companies to diligently process pole attachment agreements or applications or to make such poles ready for attachment, or the failure of the City or other governmental authorities to diligently process applications for approval as may be required in connection with the construction of the cable system, or by labor disputes, fire, unusual delays in transportation, inability of the Company to procure materials, acts of God, war, riots, insurrection or any causes beyond the Company's control, then said 24 months period provided in Section 7(c) shall be accordingly extended by the length of time of any such delays beyond the Company's control.

SECTION 8. Special Services

The Company, at its own expense and upon specific written request of the City shall provide and maintain one

aerial connection to each City building, school, police station and fire station within the corporate limits of the city provided, however, that the Company shall not be required to connect any such building which is not situated within 500 feet of the constructed CATV system, not shall the Company be responsible for providing the distribution system within any such places.

SECTION 9. Safety Requirements

a. The Company shall at all times employ reasonable care in conducting its operations and shall install and use generally accepted methods and devices for preventing failure and accidents which are likely to cause damage, injuries, or nuisances to the public.

b. The Company shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the applicable requirements of the National Safety Code and local ordinances.

c. The Company shall maintain at all times its structures, lines, equipment, and connections in, over, under or upon the streets, sidewalks, alleys, and public ways or places of the City wherever situated or located, in a safe, suitable, substantial condition, and in good order and repair.

SECTION 10. New Developments

It shall be the policy of the City to amend this Ordinance liberally, upon application of the Company, to

take advantage of any developments in the field of transmission of television signals and related services which will afford the Company an opportunity more effectively, efficiently, or economically to serve its customers. The City shall amend this Ordinance, upon application of the Company, when necessary to enable the Company to respond to changes in Federal Communications Commission regulations, or other applicable governmental rules or requirements; such amendments shall be made by the City within one year from the date of any such changes in such rules, regulations, or requirements, or at the time of franchise renewal, whichever occurs first.

SECTION 11. Conditions on Street Occupancy

a. All transmission and distribution structures, lines and equipment erected by the Company within the City shall be located so as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners whose land may adjoin any of the said streets, alleys, or other public ways and places.

b. In case disturbance of any street, sidewalk, alley, public way, or paved area is caused by the Company's construction or operations, the Company shall, at its own cost and expense and in a manner approved by the City's appropriate authority, replace and restore such street, sidewalk, alley, public way, or paved area to a condition as good as its condition before the work causing such disturbance was performed.

c. The Company shall have the right, under the supervision of the City's appropriate authority, to trim trees upon and overhanging streets, alleys, sidewalks, and public ways and places of the City so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company or otherwise interfering with the operations of the Company, all trimming to be done at the expense of the Company.

d. The Company shall, at the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of the building. The expense of such temporary removal, raising or lowering of wires, shall be paid by the person requesting the same, and the Company shall have the authority to require such payment in advance. The Company shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire change.

SECTION 12. Joint Use of Public Utilities Facilities

It is the policy of the City to minimize the number of utility poles, support structures, and conduits within the City to promote the safety, health, convenience, and general welfare of the City and its inhabitants. Therefore, the City, in the exercise of its police powers, grants to the Company the right to attach to or use the poles or conduits of public utilities located in the streets, alleys, or other public places of the City, insofar as such use may be reasonably practical and upon payment of reasonable rental.

SECTION 13. Prohibition against Preferential or Discriminatory Practices; Deposits

a. The Company shall not, as to rates, charges, service, service facilities, rules, regulations, or in any other respect, make or grant any undue preference or advantage within a given class of subscribers in the City.

b. The Company may, in its discretion, require from any subscriber or prospective subscriber a deposit to guarantee payment of subscriber fees or to secure the safe return in good working order of any equipment provided to the subscriber by the Company. Such deposit shall not exceed an amount equivalent to the greater of the maximum bill for subscriber service for 90 days or the replacement value of the equipment. The Company shall keep records to show:

(1) The name of the subscriber making the deposit.

(2) The account number or other identification of the premises occupied by the subscriber when the deposit was made.

(3) The amount and date of the deposit.

(4) A record of each transaction concerning the deposit. *Deposit IN ACCT WITH INT RECOMMENDATION Added each year or portion thereof TO CUSTOMERS ACCT.*

Such deposits may be retained by the Company as long as required to insure payment of subscriber fees or the return of the equipment. Upon final discontinuance of service, the Company may apply such deposit to any amount due from the subscriber for service or damage to or loss of the equipment. Any balance due the subscriber shall be

promptly refunded. Prior to final discontinuance of service, deposits guaranteeing payment of subscriber fees may be returned to the subscriber when his credit has been established to the satisfaction of the Company.

SECTION 14. Transfer of Assignment

Any transfer or assignment of the Company's rights or obligations under this Ordinance to a subsidiary of the Company shall be made only by an instrument in writing, a duly executed copy of which shall be filed with the City within thirty (30) days after any such transfer or assignment. Any other transfer or assignment of the Company's rights or obligations shall be made only upon written approval of the City, which approval shall not be unreasonably withheld.

SECTION 15. Gross Revenue Report

Within ninety (90) days after the end of the Company's fiscal year, the Company shall file with the City a report showing the gross revenues received by the Company on all sales of television signals and similar services rendered by the Company pursuant to this franchise in the City since the preceding report.

SECTION 16. Franchise Fee

The Company shall pay to the City on an annual basis a sum equal to (a) 1.5 percent of its Gross Revenues from Basic Services, as hereinabove defined, received by the Company during the first three years of operating under this Ordinance and (b) 3.0 percent of its Gross Revenues from Basic Services received by the Company for the next twenty-two (22) years thereafter. The franchise fee for each additional year after the initial twenty-five years shall be negotiated by the City and the Company and shall be not less than 3.0% nor more than 5.0% of its Gross Revenues from

Basic Services. Each annual payment shall be made within ninety (90) days after the end of the Company's fiscal year and shall accompany the report required pursuant to Section 15 of this Ordinance.

SECTION 17. Rights in Ordinance

a. The right is hereby reserved to the City to adopt, in addition to the provisions contained herein and in existing applicable agreements, such additional regulations as it shall find necessary in the lawful exercise of its police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.

b. The City shall have the right to inspect the maps, plans and other like materials of the Company's cable system at any time during normal business hours.

c. The City shall have the right to observe all construction or installation work performed subject to the provisions of the Ordinance and make such inspections as it shall find necessary to insure compliance with the terms of this Ordinance and other pertinent provisions of law.

SECTION 18. Revocation

This franchise is revocable by the City for substantial breach by the Company of a material term of the franchise. The City shall provide written notice to the Company of any such breach. If the Company fails within sixty (60) days after receipt of such notice to correct said breach, then the City shall have the right, to revoke any or all rights and privileges granted herein, provided, however, that said breach did not result from factors beyond the reasonable control of the Company.

SECTION 19. Rates

a. By its acceptance of this franchise, the Company specifically covenants and agrees that its rates and charges to its subscribers and customers for television and radio signals and other services shall be fair and reasonable and no higher than necessary to meet all its necessary costs of service (assuming efficient and economical management), and provide a fair rate of return on the original cost, less accrued depreciation of its properties devoted to such service (without regard to any subsequent rate or transfer price of such properties).

b. In no event shall the Company charge an installation fee to private homes or single occupancies in excess of \$20.00 for the first set and \$7.50 for each additional set in the same building except for any adjustments in excess of such amounts required from time to time and due to the then applicable cost of living adjustment.

c. The initial basic service charge to any private family residence shall not exceed \$ 7.50 per month for the first connection and \$ 1.50 per month for each additional connection. The initial basic service charge to any other subscriber shall not exceed \$ as negotiated per month for the first connection and \$ as negotiated per month for each additional connection. The basic service charge shall include the delivery of the national network signals, the signal of any educational stations carried on the system and the signals of any independent station carried on the system whose signal is picked up off-air or via microwave by the cable system. The basic service charge shall not include the delivery of any television signal or non-television signal received directly or indirectly via satellite by the

cable system nor shall it include the delivery of movies, sports programming or other programming purchased by the Company directly from a producer, syndicator or distributor for cablecast over the system whether received by Company via satellite or not. For the purposes of this paragraph, a private family residence shall include a detached, single family residence, or the equivalent, i.e., one-half of a duplex or a single rental unit within an apartment building used for residential purposes would constitute one private family residence.

d. The Company shall have the right to establish different classifications of service for residential and commercial users and to adopt charges and rate schedules applicable to subscribers within said classifications.

e. The Company retains the right to increase its subscriber rates during the period of the franchise without any approval of the City provided that any such new rate does not exceed the then applicable base rate plus the then applicable cost of living adjustment. All other rate schedules shall require approval of the City and shall be filed with the City thirty (30) days before going into effect.

SECTION 20. System Security - Tampering with Cable Television Equipment

The Company shall have the right at all times to take such legal action as it deems necessary to preserve the security of its cable television system and to assure only authorized use thereof by its subscribers or other persons. Any person who willfully or maliciously damages, or causes

to be damaged, any wire, cable, conduit, apparatus or equipment of the Company with intent to obtain a signal or impulse therefrom without authorization of the Company, shall be liable to the Company in the amount of \$200.00 per occurrence or actual damage to the equipment, whichever is greater.

SECTION 21. Pay Television

The Company shall have the right to provide service for which a per-program or per-channel charge is made (commonly referred to as pay television).

SECTION 22. This Ordinance shall be binding on the Company, its successors and assigns and upon the City and any successor thereof.

SECTION 23. The Company shall assume the cost of any publication required under any law or ordinance of the City or the State of Alabama and same shall be paid by the Company at the time of filing its acceptance under the terms hereof.

section 24. Should any section, clause or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, the same shall not affect the validity of any other section, clause or provision of this ordinance and same shall remain in full force and effect.

SECTION 25. Any person, firm or corporation violating the provisions of Section 20 of this ordinance shall be guilty of a misdemeanor and, upon conviction, shall be punished as

provided by the provisions of the applicable ordinances adopted by the City, or as same may hereafter be amended by said City.

SECTION 26. That all ordinances or parts of ordinances in conflict with the provisions hereof are hereby repealed.

SECTION 27. That the provisions of this ordinance shall become effective after the passage and approval of this ordinance by the City Council and Mayor of the City and its publication as required by law, and upon the filing with the City Clerk by the Company of its acceptance of the provisions of this franchise.

Adopted this 14th day of February, 1980.

Mary H. Kelly
City Clerk

APPROVED:

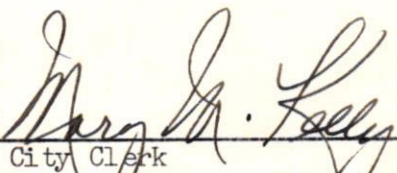
Jimmie Alexander
Mayor

C E R T I F I C A T E

I, the undersigned Clerk of the City of Cordova, Alabama, hereby certify that the foregoing is a true and correct copy of Ordinance Number 101-80, that was duly adopted and enacted by the Mayor and Board of Aldermen of the City of Cordova, Alabama, at a regular meeting in the City Hall of the City of Cordova, Alabama, held on February 14, 1980, and after being duly adopted was posted in three (3) public places in the City of Cordova, Alabama, as required by law.

This the 19th day of February, 1980.





City Clerk
City of Cordova, Alabama