

Carolina Statutes, Section 160-270.

First Adopted at a regular meeting on the 26th day of August, 1963, and finally adopted at a regular meeting on the 9th day of September, 1963.

/s/ Wilbur Clark
Mayor

/s/ Maurice W. Downs
Clerk

Second reading was heard of an ordinance granting a franchise to the Fayetteville Cable Corporation for the erection, maintenance of a community TV antenna cable to serve the community. First reading was heard on August 26th, 1963. There were again approximately 25 person (TV dealers, distributors and servicemen) present in opposition to the granting of such a franchise. They were represented by their attorney, Mr. Ritchie Smith, who was recognized by the Council and presented his clients' objections. He stated further that he had for submission to the Council another petition against the granting of a franchise and which was signed by thirty (30) persons.

Council then recognized Mr. Stacy Weaver, Attorney for Fayetteville Cable Corporation who replied to Mr. Smith's allegations by categorically denying same. Several dealers and servicemen spoke in their own behalf. Among those were Mr. Alfano, representing Sears, Roebuck & Company, Mr. Clarence Owen, representing Hunter Brothers, Mr. Gary Warner, an independent dealer, and Mr. Howard H. Nepstad, another independent dealer. Following some discussion, Councilman Rhodes moved for adoption of an ordinance granting a franchise to Fayetteville Cable Corporation to operate a cable TV system in the City. Motion seconded by Councilman Holt and by a vote of 3 to 1 (Mayor pro tem Plummer casting the 1 vote against) the following ordinance was adopted on second reading:

AN ORDINANCE OF THE COUNCIL OF THE CITY OF FAYETTEVILLE GRANTING TO FAYETTEVILLE CABLE CORPORATION, ITS SUCCESSORS AND ASSIGNS, A FRANCHISE TO ERECT, MAINTAIN AND OPERATE TRANSMISSION AND DISTRIBUTION FACILITIES IN, UNDER, OVER, ALONG, ACROSS, AND UPON THE STREETS, LANES, AVENUES, ALLEYS, BRIDGES, HIGHWAYS, AND OTHER PUBLIC PLACES IN THE CITY OF FAYETTEVILLE, NORTH CAROLINA, AND ANY SUBSEQUENT ADDITIONS THERETO, FOR THE PURPOSE OF TRANSMISSION BY CABLE AND DISTRIBUTION OF TELEVISION AND RELATED FM IMPULSES AND TELEVISION OF SAID CITY.

THE COUNCIL OF THE CITY OF FAYETTEVILLE DOETH ORDAIN:

Section 1. In consideration of the faithful performance and observance of the conditions, restrictions, and reservations hereinafter specified, a Franchise is hereby granted by City of Fayetteville, North Carolina (hereinafter sometimes referred to as "City"), to FAYETTEVILLE CABLE CORPORATION, its successors or assigns, (hereinafter called the "Grantee"), to erect, maintain and operate for a period of fifteen (15) years from the date of final passage of the Ordinance an audio and video (television), transmission and distribution system and its necessary facilities and additions thereto in, under, over, along, across, and upon the streets, lanes, avenues, alleys, sidewalks, bridges, highways, (hereinafter referred to as thoroughfares) and other public places in the City of Fayetteville and subsequent additions thereto for the purpose of transmission and distribution of VIDEO (TELEVISION) AND RELATED AUDIO IMPULSES, ONLY, in accordance with the laws of the United States of America, the State of North Carolina, and the Ordinances of the City of Fayetteville.

Section 2. Wherever used in this franchise, the words "audio", "video", and "television" shall mean a system for THE SIMULTANEOUS RELAY OF VISUAL IMAGES AND THEIR RELATED AUDIO SIGNALS ONLY BY MEANS OF ELECTRICAL IMPULSES originating from licensed television TRANSMITTING STATIONS ONLY; provided that no "Pay-TV" shall be originated locally by the Grantee, but Grantee agrees to SIMULTANEOUSLY RELAY VISUAL IMAGED AND THEIR RELATED AUDIO SIGNALS ONLY BY MEANS OF ELECTRICAL IMPULSES ORIGINATING FROM ANY LOCAL TELEVISION STATION THAT MAY BE LATER CONSTRUCTED AND OPERATED. The term "Pay-TV" is defined to mean a program for which a subscriber would be charged an additional sum other than the regular rates (and connection charge) hereinafter mentioned in Section 8.

Section 3. The poles and posts used for the Grantee's television distribution system shall be those erected by themselves and/or erected and maintained by City acting through its Public Works Commission (hereinafter called "Commission") or by such other persons, firms, or corporations erecting, owning and maintaining poles or posts within the City Limits, under a City of Fayetteville Franchise or other agreement, when and where practicable. It is agreed that this franchise shall not become operative until Grantee and City (acting through Commission) shall have executed use agreement respecting poles, posts, and attachments. It is the will of City that all of said pole owners, now and future, shall

mutually cooperate so that few additional poles in the City streets and rights-of-way will be necessitated.

Section 4. The Grantee's transmission and distribution system, poles, wires, and appurtenances shall be located, erected and maintained so that none of it will endanger or interfere with the lives of persons or interfere with any improvements the City may deem proper to make from time to time.

Construction and maintenance of the transmission-distribution system shall be in accordance with the provisions of the National Electrical Safety Code as prepared by the U. S. Bureau of Standards, the National Board of Fire Underwriters and applicable Ordinances of the City of Fayetteville governing electrical installations.

Section 5. In the maintenance and operation of its television transmission and distribution system in the City of Fayetteville and in the course of the construction or additions to its facilities the Grantee shall proceed so as to cause the least possible inconvenience to the general public and any opening or obstruction in the thoroughfares or other public places made by the Grantee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be designated by red warning lights of approved types.

Whenever the Grantee shall take up or disturb and pavement, sidewalk or other improvement of any street, avenue, alley, highway or other public place, the same shall be replaced and the surface restored in as good condition as before entry within 48 hours after completion of Grantee's work, or Grantee shall have taken diligent steps to begin proper restoration within the designated time. Upon failure of the Grantee to make such restoration within such time, or to begin such restoration within said time, if the restoration cannot be made within such time, or upon the Grantee's delay of more than 24 hours in the continuation of a restoration begun, the City may serve upon the Grantee notice of the City's intent to cause restoration to be made and, unless the Grantee within 24 hours after receipt of such notice begins or resumes the proper restoration, the City may cause the proper restoration to be made, including the removal of debris, and the expense of same shall be paid by the Grantee upon demand by the City.

Section 6. At points wherever Grantee installs poles while exercising its rights under this Franchise, said poles shall be of sufficient height and strength to safely and adequately support all attachments proposed to be installed thereon, including attachments proposed by City. Said City attachments shall be for the purpose of supporting City owned circuits such as fire, police, and other circuits required for municipal operating purposes. Said attachments placed by City shall be owned, maintained and operated by City and shall be free of any rental charge; provided that, for each such pole of Grantee so utilized by City, Grantee shall be entitled to a rent-free pole of City. The Grantee shall maintain its attachments on poles that the City now uses, or has been authorized to use by other franchises or agreements now in force, in such manner that they will not interfere with the use of such poles by the City. The City Engineer of the City of Fayetteville, or his designated representative, shall determine any questions of compliance with this section in consultation with the authorized representative of the Grantee.

Section 7. The Grantee shall have the right to prescribe service rules and regulation for the conduct of its business not inconsistent with the provisions of this Ordinance.

Section 8. The connection rate to be charged by the Grantee to a single-outlet residential subscriber to the service is hereby fixed at a sum not to exceed \$15.00 for the installation of the cable into the premises of such subscriber and the service and maintenance charge shall not exceed the sum of Five Dollars (\$5.00) per month, provided that if it is necessary in any such installation to install more than 150 feet of cable to a residential subscriber, the Grantee may make an additional installation charge. The Grantee shall have the right to negotiate appropriate rates and installation charges with commercial subscribers and multiple-outlet residential subscribers. The Grantee shall not be permitted to increase said rates and installation charge in excess of ten (10) per cent during any calendar year without permission of the City Council of the City of Fayetteville.

Section 9. The Grantee shall provide a minimum of five (5) channels available to its subscribers at any one time, provided satisfactory reception of a minimum of five channels is available in the area. Should any duly constituted authority render compliance with this section impossible or illegal, this provision shall become inoperative.

Section 10. The Grantee's distribution system shall conform to the rules prescribed by the Federal Communications Commission with respect to maximum tolerances for spurious radiation.

Section 11. The Grantee's receiving equipment, transmission and distribution lines and related electronic components shall be maintained and installed so as to provide pictures on subscriber receivers throughout the system essentially of the same quality as those received at the antenna site.

Section 12. In the event of the failure of the Grantee to render initial cable television service to the residents of the City of Fayetteville as contemplated and provided for by this Franchise, within fifteen (15) months from the effective date of the Franchise, the City Council shall have the right, on reasonable notice to the Grantee, to declare this Franchise and the rights granted thereunder forfeited; provided, however, that failure to comply with this stipulation by reason of causes beyond the reasonable control of the Grantee, which could not be anticipated at the time of its acceptance by the