

ORDINANCE NO. 1991(4)

ORDINANCE GRANTING TO U.S. CABLE TELEVISION GROUP, L.P., THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, LONG, ACROSS THE STREETS, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS, AND EASEMENTS DEDICATED FOR COMPATABLE USES AND OTHER PUBLIC PLACES IN HOPKINS COUNTY, OUTSIDE ANY CORPORATE CITY LIMITS, TOWER POLES, LINES, CABLES, WIRES AND OTHER APPARATUS FOR THE PURPOSE OF TRANSMISSION AND DISTRIBUTION BY CABLE TELEVISION SIGNALS TO ENABLE SALE OF ITS COMMUNITY TELEVISION ANTENNA SERVICE TO INHABITANTS OF SAID COUNTY, AND OTHER VARIOUS PURPOSES FOR A PERIOD OF TEN (10) YEARS FROM THE EFFECTIVE DATE OF THIS ORDINANCE.

BE IT ORDAINED BY THE FISCAL COURT OF THE COUNTY OF HOPKINS, KENTUCKY,

SECTION I - TITLE

This Ordinance shall be known and may be cited as the "Hopkins County Community Antenna Television Ordinance."

Section II - DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations 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. "Basic Cable Service" means the service tier which includes the retransmission of local broadcast signals.
- B. "County" is the County of Hopkins, Kentucky, excluding any incorporated City.
- C. "Fiscal Court" is the Fiscal Court of Hopkins County, Kentucky.
- D. "Cable Television System" or "Cable System" is a system utilizing certain electronic and other components which deliver to subscribing members of the public various communications services.
- E. "Cable Television Reception Service" means the delivery by U.S. Cable to television receivers (or any other suitable type of electronic terminal or receiver of the electronic signals and other

communications services carried over said system).

- F. "FCC" shall mean the Federal Communications Commission.
- G. "Person" is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.
- H. "U.S. Cable" is U.S. Cable Television Group, L.P.
- I. "Subscribers" are those persons contracting to receive cable television reception service furnished under this Ordinance by U.S. Cable.

SECTION III - GRANT OF NON-EXCLUSIVE AUTHORITY

- A. There is hereby granted by the County to U.S. Cable and to its successors, assigns or designees, the non-exclusive right to erect, maintain and operate in, under, over, along, across and upon the present and future streets, lanes, avenues, sidewalks, alleys, bridges, highways, easements dedicated for compatible uses and other public place in Hopkins County, Kentucky, and subsequent additions thereto excluding any incorporated city, towers, poles, lines, cable wires, manholes and all other fixtures and equipment necessary for the maintenance and operation in the county of a cable television system for the purpose of transmission and distribution of audio, visual, electronic and electric impulses in order to furnish television and radio programs and various other communications services to the public by what is commonly called a Community Antenna Television System, for a period ending the 14th day of July, 2001, commencing from and after the the effective date of this ordinance.

It is the intent of the County that this non-exclusive right shall terminate on the date that the cable franchise agreement to U.S. Cable by the City of Nortonville, Kentucky, and the City of Nebo, Kentucky, expires.

- B. The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive.
- C. The County remains the right to authorize other non-exclusive franchises under terms and conditions satisfactory to the County.

SECTION IV - COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES

U.S. Cable shall, during the term hereof, except in those areas which have been preempted by the Cable Communications Policy Act of 1984 or which are regulated by the Federal Communications Commission, be subject to all lawful exercise of the regulating and police powers of the County.

SECTION V - TERRITORIAL AREA INVOLVED

This Ordinance relates to the present territorial limits of the County and to any area annexed thereto during the term of this Ordinance, outside any corporate city limits within said County.

SECTION VI - LIABILITY AND INDEMNIFICATION

U.S. Cable shall, at all times, keep in effect the following types of coverage:

- A. Workmen's Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment with Hopkins County, Ky.
- B. Property Damage Liability Insurance to the extent of Two Hundred Fifty Thousand Dollars (\$250,000.00) as to each occurrence and Two Hundred Fifty Thousand Dollars (\$250,000.00) aggregate, and personal injury liability insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) aggregate. Excess bodily injury and property damage of One Million Dollars (\$1,000,000.00) each occurrence and One Million Dollars (\$1,000,000.00) aggregate. Automobile bodily injury and property damage liability combined One Million Dollars (\$1,000,000.00) each occurrence.

U.S. Cable shall indemnify, protect and save harmless the County from and against losses and physical damage to property and bodily injury or death to persons, including payments made under the Workman's Compensation law which may arise out of the erection, maintenance, presence, use or removal of said attachments or poles with the county, or by any act of U.S. Cable, its agents or employees. U.S. Cable shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. U.S. Cable shall also carry insurance necessary to protect it from all claims under the Workmen's Compensation laws in effect that may be applicable to U.S. Cable. All insurance required shall be and remain in full force and effect for the entire life of the rights

granted hereunder. Insurance certificates evidencing such insurance coverage shall be deposited with and kept on file by the County.

These damage or penalties shall include, but shall not be limited to, damages arising out of copyright, infringements, and all other damages arising out of installation, operation, or maintenance of the Cable Television System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance, or any other cause of action caused by the operation of U.S. Cable in Hopkins County, including all attorneys fees connected with any such action.

SECTION VII - GENERAL SYSTEMS SPECIFICATIONS

The facilities used by U.S. Cable shall have a minimum capacity of 330 MHz, 42 channels, and that 20 channels of entertainment and information will be available on the effective date of this Ordinance. The facilities shall also be capable of distributing color television signals, and when the signals U.S. Cable distributes are received in color, they shall be distributed in color where technically feasible.

SECTION VIII - TECHNICAL STANDARDS

U.S. Cable shall be governed by technical standards established by the FCC.

SECTION IX - CUSTOMER SERVICE STANDARDS

- A. U.S. Cable shall render efficient service, make repairs promptly, and interrupt service only for good cause for the shortest possible time. Such interruptions, insofar as possible, shall occur during periods of minimum use of the system.
- B. All service requests and complaints should be responded to promptly, generally within forty-eight (48) hours of receipt.
- C. Failure on the part of U.S. Cable to return a customer to service within forty-eight (48) hours of receipt of complaint will, upon request by the customer, result in the issuance of a credit to that customer's account for the portion of a month they were without cable service.
- D. U.S. Cable will attempt to hire or employ efficient service personnel within the County of Hopkins.

SECTION X - SERVICE TO SCHOOLS AND COUNTY

U.S. Cable shall, subject to the line extension provisions of Section V, provide basic cable service at no cost to public and parochial elementary and secondary schools within the County, at one terminal junction for educational purposes upon request of the school system.

U.S. Cable shall, subject to the line extension provisions of Section V, also provide to the County without charge, at one County owned building other than a hospital, nursing home, apartment or building at the airport, to be selected by the Fiscal Court of Hopkins County, Kentucky, one junction terminal to said building and shall also furnish to the building, without charge, basic service to all sets connected within such building to the terminal junction.

U.S. Cable shall allocate two channels to the County as a public, educational or governmental access channel. Until such time as the County files a written request with U.S. Cable for full-time use of the Channel, U.S. Cable shall have the right to use that portion of the channel capacity that is not being used by the County. U.S. Cable shall have a reasonable period of time after notification to vacate its use of the channel. U.S. Cable shall assist the County in obtaining the necessary licenses and frequency clearance to enable the County to use said channel.

SECTION XI - EMERGENCY USE OF FACILITIES

In the case of any emergency or disaster, U.S. Cable shall, upon request of the Fiscal Court, make available its facilities to the County for emergency use during the emergency or disaster. If the County wishes to operate a Civil Emergency Alert System on a plan that is mutually acceptable to the county and U.S. Cable, and provided U.S. Cable with the necessary equipment for such system, U.S. Cable shall permit the system to be used on the cable system. Further, U.S. Cable will maintain said equipment and provide for regularly scheduled testing by the County to insure that the equipment is functioning properly.

SECTION XII - SAFETY REQUIREMENTS

U.S. Cable shall, at all times, employ ordinary care and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damages, injuries or nuisances to the public.

SECTION XIII - LIMITATIONS ON RIGHTS GRANTED

- A. All transmission and distribution structures, lines and equipment erected by U.S. Cable within the County shall be located as to cause minimum interference with the proper use of streets, alleys and the public ways and places, and to cause minimum interference

with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and said poles or towers shall be removed by U.S. Cable whenever the County Public Works Superintendent or Engineer reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places in Hopkins County, Kentucky.

- B. Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of Hopkins County, Kentucky, affecting electrical installation, which may be presently in effect, or changed by future ordinances.
- C. In case of disturbance of any street, sidewalk, alley public way or paved area, U.S. Cable shall, at its own cost and expense and in a manner approved by the County's Public Works Superintendent or Engineer, replace and restore such street, sidewalk, alley, public way or paved areas in as good a condition as before the work involving such disturbance was done.
- D. If at any time during the period of this ordinance the County shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, U.S. Cable, upon reasonable notice by the County, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.
- E. U.S. Cable shall, on the request of any person holding a building moving permit issued by the County or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lower the wires shall be borne by U.S. Cable. U.S. Cable shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.
- F. U.S. Cable shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of U.S. Cable when required by the County by reason of traffic conditions, change of establishments of street grade,

installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other type of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement; provided however, that U.S. Cable shall in all cases have the privileges and be subject to the obligations to abandon the property of U.S. Cable in place as hereinafter provided.

- G. In all sections of the County where the County designates an area where all presently above ground services are to be placed underground, U.S. Cable shall place its wires underground on the same time schedule and on the same conditions that are applicable to the providing of other above ground services in the designated area.
- H. In the event that the use of any part of the system is discontinued for any reason for a continuous period of six (6) months, or in the event such system of property as been installed in any street or public place without complying with the requirements of this Ordinance, or the rights granted hereunder have been subject to the rights of the County to acquire or transfer the system as specified in Section XVIII, promptly remove from the streets, or public places, all such property and poles of such system other than any which the County may permit to be abandoned in place. In the event of such removal, U.S. Cable shall promptly restore the street or other area from which such property as been removed to a condition satisfactory to the County.
- I. Any property of U.S. Cable to be abandoned in place shall be abandoned in such manner as the county may prescribe. Upon permanent abandonment of the property of U.S. Cable in place, it shall submit to the County an instrument to be approved by the County, transferring to the County the ownership of such property.

SECTION XIV - OWNERSHIP AND REMOVAL OF FACILITIES

All cable and passive equipment for cable television reception service installed by U.S. Cable at a subscriber's location shall remain the property of U.S. Cable and U.S. Cable shall have the right to remove said cable and equipment. Upon termination of all service to any subscriber, U.S. Cable shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his request.

SECTION XV - TRANSFER OF ORDINANCE

All right, title and interest of U.S. Cable in this Ordinance and the Non-Exclusive Franchise granted herein shall not be assigned or sublet.

SECTION XVI - PAYMENT TO THE COUNTY

During the term of the rights granted hereunder, and so long as U.S. Cable operates said system, U.S. Cable shall pay as compensation to the County a sum equal to three percent (3%) of the annual total gross receipts of the cable system. Payments shall be made twice annually, on October 1st for gross receipts from July 1st through December 31st of the previous year. "Gross Receipts" shall consist of those revenues derived from the monthly service charges paid by subscribers residing within the corporate limits of the County for basic cable services and premium pay services, such as Showtime. Gross receipts shall not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installation, or State and Federal taxes relating thereto.

U.S. Cable shall pay within ninety (90) days after the close of the semi-annual period ending June 30th and December 31st. Upon completion of U.S. Cable's audit, U.S. Cable shall pay to the County within fifteen (15) days, the balance due, if any, for the operating year covered by the audit, not later than April 1st of the following year.

SECTION XVII - DURATION AND RENEWAL OF ORDINANCE

The rights granted to U.S. Cable herein shall, except as herein provided in this Section, terminate on the 14th day of July, 2001, and shall be subject to renewal pursuant to provisions of the Cable Communications Policy Act of 1984 applicable to new ordinances that are in the nature of a franchise, provided however, that this renewal provision shall be subject to the constitutional requirements of Hopkins County by the constitution of the Commonwealth of Kentucky. The County may undertake a review of U.S. Cable's performance of its obligations under this Ordinance at any time. If as a result of a review, the County determines that U.S. Cable has not complied with all provisions of this Ordinance, it shall give U.S. Cable written notice of the basis for its determination and U.S. Cable shall have thirty (30) days to remedy any bona fide deficiencies in its performance or to bring its rates into an acceptable, competitive posture. The County and U.S. Cable agree to negotiate in good faith any remaining points of dispute at the end of the thirty (30) day period. If this Ordinance is not renewed or if it is revoked for good cause by the County, the transfer of U.S. Cable's system shall be governed by Section 627 of the Cable Communications

Policy Act of 1984, and other laws governing the cable system in the Commonwealth of Kentucky.

SECTION XVIII - ERECTION, REMOVAL AND COMMON USE OF POLES

- A. No poles or other wire-holding structures shall be erected by U.S. Cable without prior approval of the designated representative of the Fiscal Court with regard to locations, height, type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire-holding structure of U.S. Cable shall be a vested interest and such poles or structures shall be removed or modified by U.S. Cable at its own expense whenever the Fiscal Court or its designated representative determines that the public convenience would be substantially enhanced thereby.
- B. Where poles or other wire-holding structures already existing in use in serving the County are available for use by U.S. Cable, but it does not make arrangements for such use, the Fiscal Court may require U.S. Cable to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to U.S. Cable are just and reasonable.
- C. Where the County or a public utility serving the County desires to make use of poles or other wire-holding structures of U.S. Cable but agreement therefore with U.S. Cable cannot be reached, the Fiscal Court may require U.S. Cable to permit such use for such consideration as is just and reasonable and upon such terms as the Fiscal Court determines the use would enhance the public convenience and would not unduly interfere with U.S. Cable's operations.

SECTION XIX - RATES

- A. U.S. Cable shall at all times maintain on file with the Hopkins County Judge/Executive's Office and the Hopkins County Court Clerk's Office a schedule setting forth all rates and charges to be made to subscribers for basic CATV service, including installation charges.
- B. During the term hereof, the County may regulate basic rates only if authorized to do so by the Federal Communications Commission regulations or by acts of the United States Congress, rulings of the State or Federal Courts, acts of the Commonwealth of Kentucky

Legislature, or by agreement of U.S. Cable, then such regulation shall only be in accordance with the provisions of such regulations and the Cable Act.

- C. Any rate subject to regulation under the above provisions may be increased without the approval of the County, at the discretion of U.S. Cable by an amount not to exceed five percent (5%) per calendar year.
- D. The monthly rate set forth under subsection A above shall be payable in advance.
- E. U.S. Cable shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and Federal Communications Commission regulations.

SECTION XX - MISCELLANEOUS

Complaints regarding the quality of service, equipment malfunctions and similar matters shall first be directed to U.S. Cable's office. Should U.S. Cable fail to satisfy a complaint within ten (10) days, it may then be directed to a person authorized by the County for investigation. The complaining party and U.S. Cable shall be afforded a reasonable opportunity to present written statements of their position. The County shall attempt to resolve the complaints, and if this cannot be achieved, the parties may appeal for appropriate judicial and administrative relief.

SECTION XXI - MODIFICATION OF OBLIGATIONS

In addition to any other remedies provided by law or regulation, U.S. Cable's obligations under this Ordinance may be modified, at its request, in accordance with Section 625 of Cable Communications Policy Act of 1984 as it now exists, or as hereafter amended.

SECTION XXII - SEVERABILITY

If any Section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, or amended by the United States Congress or is superseded or preempted by Federal Communications Commission regulation, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XXIII - PUBLICATION

U.S. Cable shall assume the costs of any required publication of this ordinance.

SECTION XXIV - EFFECTIVE DATE AND ORDINANCE REPEALED

Upon the effective date of this Ordinance, all ordinances or parts of ordinances in conflict herewith are hereby repealed, including the Ordinance previously adopted granting a cable television franchise to Hopkins County Cablevision, Inc.

SECTION XXV - HOPKINS COUNTY COMMUNITY ANTENNA TELEVISION
ORDINANCE COMMUNICATIONS

All notices and other communications hereunder this Ordinance shall be in writing and shall be deemed to have been given on the date of actual delivery if mailed, first class, registered or certified mail, return receipt requested, postage paid to the following respective addresses:

To the County:

Hopkins County Judge/Executive
Courthouse
Madisonville, KY 42431

To U.S. Cable:

General Manager
U.S. Cable Television Group, L.P.
P. O. Box 741
Benton, KY 42025

Either of the foregoing parties to this Ordinance may change the address to which all communications and notices may be sent to it by addressing notice of such change in the manner provided hereunder.

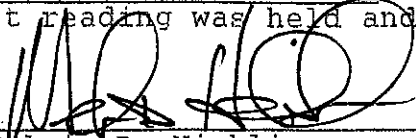
SECTION XXVI - EFFECTIVE DATE

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 on July 14, 1991, upon the passage and adoption of this Ordinance.

SECTION XXVII - ACCEPTANCE

The grant of this Non-Exclusive Franchise is conditioned upon acceptance by U.S. Cable of all provisions, terms and conditions contained within this Ordinance.

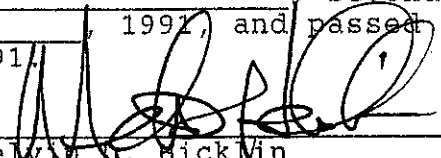
UPON MOTION by Lynn second by Hawkins, first reading was held and approved on the 6TH day of June, 1991.


Melvin D. Hicklin
Hopkins County Judge/Executive

Attest:

William T. Brooks Jill Adcock d. clerk
William T. Brooks, Clerk

On Motion of Lynn and seconded by Hawkins second reading held on the 20TH day of June, 1991, and passed on the 20TH day of June, 1991.


Melvin D. Hicklin
Hopkins County Judge/Executive

Attest:

William T. Brooks Jill Adcock d.c.
William T. Brooks, Clerk