

FILED

ORDINANCE NO. 98-1 JAN 9 3 17 AM '98

AN ORDINANCE OF CALHOUN COUNTY GRANTING A CABLE TELEVISION SERVICE FRANCHISE TO COMCAST CABLE OF MARIANNA, INC., PROVIDING DEFINITION OF TERMS, PROVIDING GRANT OF AUTHORITY, PROVIDING FOR CONSTRUCTION OF A CABLE SYSTEM, PROVIDING SERVICE OBLIGATIONS, PROVIDING FEES AND CHARGES TO SUBSCRIBERS, SUBSCRIBER BILLS AND PRIVACY PROTECTION, PROVIDING OVERSIGHT AND REGULATION BY CALHOUN COUNTY, PROVIDING FOR INSURANCE AND INDEMNITY, PROVIDING FOR ENFORCEMENT AND TERMINATION OF FRANCHISE AND PROVIDING MISCELLANEOUS PROVISIONS; PROVIDING FOR SEVERABILITY AND REPEALER, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Calhoun County, hereinafter referred to as "the franchising authority", having determined that the financial, legal and technical abilities of Comcast Cable of Marianna, Inc. are reasonably sufficient to provide services, facilities and equipment to meet the future cable-related needs of the community; and

WHEREAS, Comcast Cable of Marianna, Inc. has proposed to maintain, acquire, construct and operate a cable television system and to sell and supply audio and video cable television services at any time and at all places within the limits of the Calhoun County, Florida, as said limits now are and hereinafter may be established; and

WHEREAS, providing this service will be in the best interest of Calhoun County; and

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSION OF CALHOUN COUNTY, FLORIDA:

This ordinance of Calhoun County, Florida be and the same is hereby enacted to read as follows:

#### SECTION 1 Definition of Terms

1.1 Terms. For the purpose of this Franchise Agreement, the following terms, phrases, words, and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used the present tense include the future tense, words in the plural include the singular, and words in the singular include the plural. Unless otherwise defined herein, any term not defined herein shall have the meaning assigned to such term in the Cable Act.

"Cable Act" means Title VI of the Cable Communications Act of 1934, as amended, 47 U.S.C. Sections 521 et seq.

"Cable Service" means: (A) the one-way transmission to Subscribers of (i) video programming, or (ii) other programming service, and (B) Subscriber interaction,

if any, which is required for the selection or use of such video programming or other programming service.

"Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service which includes video programming and which is provided to multiple Subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves Subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Cable Act, except that such facility shall be considered a Cable System (other than for purposes of Section 621(c)) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extend of such use is solely to provide interactive on-demand service; (D) an open video system that complies with section 653 of the Cable Act; or (E) any facilities of any electric utility used solely for operating its electric utility systems.

"Effective Date" means \_\_\_\_, 199\_\_.

"FCC" means the Federal Communications Commission, or successor governmental entity thereto.

"Franchise" means the initial authorization, or renewal thereof, issued by the Franchising Authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, ordinance or otherwise, which authorizes construction and operation of the Cable System.

"Franchise Agreement" means this Agreement by and between Calhoun County, and Comcast Cablevision of Marianna, Inc., a Florida corporation.

"Franchise Area" means Calhoun County, Florida.

"Franchising Authority" means Calhoun County, or the lawful successor, transferee, designee, or assignee thereof.

"Grantee" means Comcast Cablevision of Marianna, Inc., a Florida corporation.

"Gross Revenue" means any and all gross receipts derived from the provision of Cable Service over the Cable System within the Franchise Area. "Gross Revenue" shall include monthly basic, premium and pay-per-view service fees, installation fees, and converter rental fees, but shall not include bad debt nor any taxes imposed and/or assessed by law on subscribers that the Grantee collects and pays in full to the applicable authority.

"Person" means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for profit, but shall not mean the Franchising Authority.

## SECTION 2 Grant of Authority

2.1. Grant of Franchise. The County hereby grants to the Grantee under the Cable Act a nonexclusive Franchise, which authorizes the Grantee to construct, and operate a Cable System in, along, among, upon, across, above, over, under, or in any manner connected with public rights-of-way within the Franchise Area, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public rights-of-way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, and other related property or equipment as may be necessary or appurtenant to the Cable System. Nothing in this Franchise shall be construed to prohibit the Grantee from offering any service over its Cable System that is not prohibited by federal, state or local law.

2.2. Term of Franchise. The term of the Franchise granted hereunder shall be for an initial term of fifteen (15) years, commencing upon the Effective Date of the Franchise, unless the Franchise is renewed or is lawfully terminated in accordance with the terms of this Franchise Agreement.

2.3. Renewal. Any renewal of this Franchise shall be governed by and comply with the provisions of Section 626 of the Cable Act, as amended.

2.4. Reservation of Authority. Nothing in this Franchise Agreement shall (A) abrogate the right of the Franchising Authority to perform any public works or public improvements of any description, (B) be construed as a waiver of any codes or ordinances of the Franchising Authority or of the Franchising Authority's right to require the Grantee or any Person utilizing the Cable System to secure the appropriate permits or authorizations for such use, or (C) be construed as a waiver or release of the rights of the Franchising Authority in and to the public rights-of-way and the streets.

2.5. Most Favored Nations. The Grantee acknowledges and agrees that the Franchising Authority reserves the right to grant one or more additional franchises to provide Cable Service within the Franchise Area, provided, however, that no such franchise agreement shall, in the opinion of the Grantee, contain terms or conditions more favorable or less burdensome to the competitive entity than the material terms and conditions herein, including, but not limited to, franchise fees; insurance; performance bonds or similar instruments; public, education and government access channels and capital support; customer service standards; required reports and

related record keeping; liquidated damages and other sanctions; and universal service, in order that one operator not be granted an unfair competitive advantage over another, and to provide all parties equal protection under the law.

### SECTION 3 The System

3.1. Permits and General Obligations. The Grantee shall be responsible for diligently obtaining, at its own cost and expense, all permits, licenses, or other forms of approval or authorization necessary to construct, operate, maintain or repair the Cable System, or any part thereof, prior to the commencement of any such activity. Construction, installation, and maintenance of the Cable System shall be performed in a safe, thorough and reliable manner using materials of good and durable quality. All transmission and distribution structures, poles, other lines, and equipment installed by the Grantee for use in the Cable System in accordance with the terms and conditions of this Franchise Agreement shall be located so as to minimize the interference with the proper use of the streets or public rights-of-way and the rights and reasonable convenience of property owners who own property that adjoins any such street or public rights-of-way.

3.2. Conditions on Street Occupancy.

3.2.1. New Grades or Lines. If the grades or lines of any street or public rights-of-way within the Franchise Area are lawfully changed at any time during the term of this Franchise Agreement, then the Grantee shall, upon reasonable written notice from the Franchising Authority and at its own cost and expense, protect or promptly alter or relocate the Cable System, or any part thereof, so as to conform with any such new grades or lines. If public funds are available to any Person using such street or public right-of-way for the purpose of defraying the cost of any of the foregoing, the Franchising Authority shall upon written request of the Grantee make application for such funds on behalf of the Grantee.

3.2.2. Relocation at request of Third Party. The Grantee shall, upon reasonable prior written request of any Person holding a permit issued by the Franchising Authority to move any structure, temporarily move its wires to permit the moving of such structure. The Grantee may impose a reasonable charge on any Person for the movement of its wires, and such charge may be required to be paid in advance of the movement of its wires.

3.2.3. Restoration of Streets or Public Rights-of-Way. If in connection with the construction, operation, maintenance, or repair of the Cable System, the Grantee disturbs, alters, or damages any street or public rights-of-way, the Grantee agrees that it shall, at its own cost and expense, and in a manner reasonably approved by the County, replace and restore any such street or public rights-of-way to a condition

reasonably comparable to the condition of the street or public rights-of-way existing immediately prior to the disturbance.

3.2.4. Safety Requirements. The Grantee shall, at its own cost and expense, undertake all necessary and appropriate efforts to maintain its work sites in a safe manner in order to prevent failures and accidents that may cause damage, injuries or nuisances. All work undertaken on the Cable System shall be performed in substantial accordance with applicable FCC or other federal, state, and local regulations and the National Safety Code. The Cable System shall not unreasonably endanger or interfere with the safety of Persons or property in the Franchise Area.

3.2.5. Trimming of Trees and Shrubbery. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Franchise Area so as to prevent contact with the Grantee's wires, cables, or other equipment. All such trimming shall be done at the Grantee's sole cost and expense. The Grantee shall reasonably compensate the Franchising Authority for any damage caused by such trimming, or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs so damaged. Such replacement shall satisfy any obligations the Grantee may have to the Franchising Authority pursuant to the terms of this Section 3.2.5.

3.2.6. Aerial and Underground Construction. If all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Franchise Area are underground, the Grantee shall place its Cable Systems' transmission and distribution facilities underground; provided that such facilities are actually capable of receiving the Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In any region(s) of the Franchise Area where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Grantee shall have the sole discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Section 3.2.6. shall be construed to require the Grantee to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power supplies, pedestals, or other related equipment. Notwithstanding anything to the contrary contained in this Section 3.2.6., in the event that all of the transmission or distribution facilities of all of the respective public or municipal utilities are required to be placed underground after the Effective Date of this Franchise Agreement, the Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public and municipal utilities' facilities at the time that such are placed underground.

#### SECTION 4 Service Obligations

4.1. Programming. The Grantee shall offer to all Subscribers a diversity of video programming services.

4.2. No Discrimination. Neither the Grantee nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other Person, shall discriminate or permit discrimination between or among any Persons in the availability of Cable Services provided in connection with the Cable System in the Franchise Area. It shall be the right of all Persons to continuously receive all available services provided on the Cable System so long as such Person's financial or other obligations to the Grantee are satisfied.

4.3. New Developments. The Franchising Authority shall provide the Grantee with written notice of the issuance of building or development permits for planned developments within the Franchise Area requiring undergrounding of cable facilities. The Franchising Authority agrees to require, as a condition of issuing the permit, the developer give the Grantee access to open trenches for deployment of cable facilities and written notice of the date of availability of trenches. Such notice must be received by the Grantee at least ten (10) business days prior to the availability of such trenches. Developer shall be responsible for the digging and backfilling of all trenches. The Grantee shall be responsible for engineering, deployment labor, and cable facilities. Installation from utility easements to individual homes or other structures shall be at the cost of the home/building owner or developer unless otherwise provided.

4.4. Prohibition against Reselling Service. No Person shall resell, without the express prior written consent of the Grantee, any Cable Service, program or signal transmitted over the Cable System by the Grantee.

## SECTION 5

### Fees and Charges to Subscribers

5.1. Rates, Fees, Charges. All rates, fees, charges, deposits and associated terms and conditions to be imposed by the Grantee or any affiliated Person for any Cable Service as of the Effective Date shall be in accordance with the FCC's rate regulations. Before any new or modified rate, fee, charge, deposit or associated term or condition may be imposed, the Grantee must follow the applicable FCC notice requirements and rules and notify affected Subscribers, which notice may be by any means permitted under applicable law. Except to the extent otherwise expressly permitted by applicable law, the Grantee shall provide Cable Service to each resident in the Franchise Area in accordance with a uniform rate structure throughout the Franchise Area. The preceding requirement shall not prevent the Grantee from using bulk, commercial, promotional and other rates as acceptable by federal law.

**SECTION 6**  
**Customer Service Standards; Subscriber Bills;**  
**and Privacy Protection**

6.1 Customer Service Standards. The Grantee shall comply in all respects with the customer service standards and requirements established by the FCC pursuant to Section 632 (c) of the Cable Act and any corresponding regulations, thereto.

6.2. Subscriber Bills. Subscriber bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to Subscribers, and in a way that (A) is not misleading, (B) does not omit material information, and (C) does not mischaracterize any information. The Grantee may itemize costs on Subscriber bills to the extent permitted by the Cable Act and the FCC's rules thereunder.

6.3. Privacy Protection. The Grantee shall protect all Persons against invasions of privacy and shall comply with applicable law, including, without limitation, Section 631 of the Cable Act and regulations adopted pursuant thereto.

**SECTION 7**  
**Oversight and Regulation by Franchising Authority**

7.1 Franchise Fees. The Grantee shall pay to the Franchising Authority franchise fees in an amount equal to four percent (4%) of annual Gross Revenue derived from the operation of the Cable System to provide Cable Service in the Franchise Area. The payment of franchise fees shall be made on an annual basis and shall be due forty-five (45) days after the close of each calendar year. The Grantee shall file a complete and accurate, verified statement of all Gross Revenue derived from the operation of the Cable System for the provision of Cable Service in the Franchise Area during the period for which such franchise fee payment is made. If the franchise fee payment is not actually received by the Franchising Authority on or before the applicable due date set forth in this Section 7.1, interest shall accrue on the outstanding amount at rates published by the Internal Revenue Service for tax refunds and additional tax payments for the period of delinquency .

7.2. Franchise Fees Subject to Audit. The Franchising Authority shall have the right to inspect the Grantee's income records and the right to audit and to recompute any amounts determined to be payable under this Section 7; provided, however, that any such audit shall take place within thirty six (36) months following the close of each calendar year. Any additional amounts due to the County as a result of such audit shall be paid to the County by the Grantee within thirty (30) days following written notice to the Grantee by the County, of such final audit. Notice to the Grantee shall



include a copy of the audit report. The County shall bear the expense of any inspection or audit of the Grantee's books and records.

7.3. Oversight of Franchise. The Franchising Authority shall have the right to oversee, regulate and, on reasonable prior written notice, periodically inspect the construction, operation and maintenance of the Cable System in the Franchise Area, and all parts thereof, in accordance with the provisions of this Franchise Agreement and applicable law, including the Franchising Authority's police power.

7.4. Maintenance of Books, Records, and Files.

7.4.1. Books and Records. Throughout the term of this Franchise Agreement, the Grantee agrees that the Franchising Authority, upon reasonable prior written notice to the Grantee, may review such of the Grantee's books and records regarding the operation of the Cable System and the provision of Cable Service in the Franchise Area at the Grantee's business office, during normal business hours and on a non-disruptive basis, as is reasonably necessary to ensure the Grantee's compliance with the terms and conditions of this Franchise. Such books and records shall include, without limitation, any public records required to be kept by the Grantee pursuant to the rules and regulations of the FCC. All such documents pertaining to financial matters, which may be the subject of an audit by the Franchising Authority shall be retained by the Grantee for a minimum period of three (3) years.

7.4.2. File for Public Inspection. Throughout the term of this Franchise Agreement, the Grantee shall maintain at its business office, in a file available for public inspection during normal business hours, those documents required pursuant to the FCC's rules and regulations.

7.4.3. Proprietary Information. Notwithstanding anything to the contrary set forth in this Section 7, the Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to the extent allowable by law to treat any information disclosed by the Grantee as confidential and only to disclose it to employees, representatives, and agents of the Franchising Authority that have a need to know, or in order to enforce this Franchise Agreement. The Grantee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. For purposes of this Section 7 the terms "proprietary or confidential" include, but are not limited to, information relating to the Cable System design, Subscriber lists, Cable Service and marketing plans, financial information unrelated to the calculation of franchise fees or rates pursuant to FCC rules or other information that is reasonably determined by the Grantee to be competitively sensitive.

7.5 Transfer or Change of Control of Franchise. Neither the Grantee nor any other Person may transfer the Cable System or the Franchise or any of the Grantee's rights or obligations in or regarding the Franchise without the prior written consent of



the Franchising Authority, which consent shall not be unreasonably withheld. No such consent shall be required, however, for (i) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Grantee in the Franchise or in the Cable System in order to secure indebtedness, or (ii) a transfer to an entity controlled by Comcast Corporation. No change of Control of the Grantee, the Cable System or the Franchise shall occur after the Effective Date, by act of the Grantee or any affiliated Person, by act of any Person holding Control of the Grantee, the System or the Franchise, by operation of law or otherwise, without the prior written consent of the Franchising Authority. Such consent shall not be unreasonably withheld. Within thirty (30) days of receiving a request for transfer, the Franchising Authority shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial and technical qualifications for the transferee. If the Franchising Authority has not taken action on the Grantee's request for transfer within one hundred twenty (120) days after receiving such request, consent to the transfer shall be deemed given. For purposes of this Section 7.5 "Control" means ownership of a majority interest or the ability to manage the affairs of the Company.

## SECTION 8 Insurance and Indemnity

8.1. Insurance. Throughout the term of this Franchise Agreement, the Grantee shall, at its own cost and expense, maintain a general liability insurance policy or policies and provide the Franchising Authority, certificates of insurance designating the Franchising Authority and its officer, boards, commissions, councils, elected officials, agents and employees as additional insureds and demonstrating that the Grantee has obtained the insurance required in this Section 8. Such policy or policies shall be in the minimum combined amount of Five Hundred Thousand Dollars (\$500,000) for bodily injury and property damage and shall be noncancellable except upon thirty (30) days prior written notice to the Franchising Authority. The Grantee shall ensure its compliance with the Florida Workers' Compensation Act and in that regard shall secure insurance to cover its obligations with respect to workers compensation claims, or take other appropriate steps, which insurance and steps shall be in a form and substance reasonably satisfactory to the Franchising Authority. The Grantee shall indemnify and hold harmless the Franchising Authority from any workers compensation claims to which the Grantee may become subject during the term of this Franchise Agreement.

8.2. Indemnification. The Grantee shall indemnify, defend and hold harmless the Franchising Authority, its officers, employees, agents, consultants, representatives and independent contractors from and against any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including, but not limited to, reasonable attorneys' fees and costs, provided that the Franchising

Authority shall give the Grantee written notice of its obligation to indemnify the Franchising Authority within ten (10) business days of receipt of a claim or action pursuant to this Section 8.2. If the Franchising Authority determines that it is necessary for it to employ separate counsel, the costs for such separate counsel shall be the responsibility of the Franchising Authority.

## SECTION 9

### Enforcement and Termination of Franchise

9.1 Notice of Violation or Default. In the event the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing with specific details on the exact nature of the alleged noncompliance or default.

9.2 Grantee's Right to Cure or Respond. The Grantee shall have thirty (30) days from the receipt of the Franchising Authority's notice described in Section 9.1, above: (a) to respond to the Franchising Authority, contesting the assertion of noncompliance or default, or (b) to cure such default, or (c) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

9.3 Public Hearings. In the event the Grantee fails to respond to the Franchising Authority's notice described in Section 9.1, above, or in the event that the alleged default is not remedied within thirty (30) days or the date projected pursuant to Section 9.2, above, the Franchising Authority shall schedule a public hearing to investigate the default. Such public hearing shall be held at the next regularly scheduled meeting of the Franchising Authority that is scheduled at a time, which is no less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee in writing of the time and place of such meeting and provide the Grantee with a reasonable opportunity to be heard.

9.4 Enforcement. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that the Grantee is in default of any provision of the Franchise, the Franchising Authority may:

A. seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages; or

B. commence an action at law for monetary damages or seek other equitable relief; or

C. in the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked in accordance with the following:

(i) The Franchising Authority shall give written notice to the Grantee of its intent to revoke the Franchise on the basis of a pattern of noncompliance by the Grantee, including one or more instances of substantial noncompliance with a material provision of the Franchise. The notice shall set forth with specificity the exact nature of the noncompliance. The Grantee shall have ninety (90) days from the receipt of such notice to object in writing and to state its reasons for such objection. In the event the Franchising Authority has not received a satisfactory response from the Grantee, it may then seek termination of the Franchise at a public meeting. The Franchising Authority shall cause to be served upon the Grantee, at least ten (10) days prior to such public meeting, a written notice specifying the time and place of such meeting and stating its intent to request termination of the Franchise.

(ii) At the designated meeting, the Franchising Authority shall give the Grantee an opportunity to state its position on the matter, after which it shall determine whether or not the Franchise shall be revoked. The Grantee may appeal such determination to an appropriate court, which shall have the power to review the decision of the Franchising Authority "de novo" and to modify or reverse such decision as justice may require. Such appeal to the appropriate court must be taken within sixty (60) days of the issuance of the determination of the Franchising Authority.

(iii) The Franchising Authority may, at its sole discretion, take any lawful action which it deems appropriate to enforce its rights under the Franchise in lieu of revocation.

9.5. Technical Violation. The Franchising Authority agrees that it is not its intention to subject the Grantee to penalties, fines, forfeitures or revocation of the Franchise for so-called "technical" breach(es) or violation(s) of the Franchise, which shall include, but not be limited, to the following:

A. in instances or for matters where a violation or a breach of the Franchise by the Grantee was good faith error that resulted in no or minimal negative impact on the Subscribers within the Franchise Area; or

B. where there existed circumstances reasonably beyond the control of the Grantee and which precipitated a violation by the Grantee of the Franchise, or which were deemed to have prevented the Grantee from complying with a term or condition of the Franchise.

- 9.6 Request for Representation: The franchising authority shall have the right to request a representative of the grantee attend meetings of the franchising authority to discuss concerns regarding the cable services provided by the grantee. To request attendance at said meeting, the franchising authority shall provide written notice to the grantee at least ten (10) days prior to the scheduled meeting.

In the event the grantee shall fail to attend two (2) consecutive requested meetings, the failure shall constitute a substantial default pursuant to paragraph 9.4 ( c ) of the Franchise Agreement.

#### SECTION 10 Miscellaneous Provisions

10.1 Force Majeure. The Grantee shall not be held in default under, or in noncompliance with, the provisions of the Franchise, nor suffer any enforcement or penalty relating to noncompliance or default (including termination, cancellation or revocation of the Franchise), where such noncompliance or alleged defaults occurred or were caused by strike, riot, war, earthquake, flood, tidal wave, unusually severe rain or snow storm, hurricane, tornado or other catastrophic act of nature, labor disputes, governmental, administrative or judicial order or regulation or other event that is reasonably beyond the Grantee's ability to anticipate or control. This provision also covers work delays caused by waiting for utility providers to service or monitor their own utility poles on which the Grantee's cable and/or equipment is attached, as well as unavailability of materials and/or qualified labor to perform the work necessary.

10.2. Notice. All notices shall be in writing and shall be sufficiently given and served upon the other party by hand delivery, first class mail, registered or certified, return receipt requested, postage prepaid, and addressed as follows:

The Franchising Authority:

The Grantee: Comcast Cablevision of Marianna  
2918 Penn Avenue Suite D  
Marianna, FL 32448

with a copy to: Comcast Cablevision, South Central Region  
Director of Public Affairs  
900 Circle 75 Parkway, Suite 1150  
Atlanta, GA 30339

10.3. Entire Agreement. This Franchise Agreement, including all Exhibits, embodies the entire understanding and agreement of the Franchising Authority and the Grantee with respect to the subject matter hereof. All ordinances or parts of ordinances or other agreements between the Grantee and the Franchising Authority that are in conflict with the provisions of this Franchise Agreement are hereby declared invalid and superseded.

10.4. Severability and Repealer. If any subsection, section, paragraph, sentence, clause or phrase of this ordinance is held for any reason to be unconstitutional, void or invalid for any reason, the validity of the remaining portion of the ordinance shall not be affected thereby. All other ordinances or portion of ordinances in force at the time this ordinance becomes effective which are in conflict with any provision hereof, shall be deemed to have been repealed and are repealed to the extent of any such conflict; otherwise to remain in full force and effect.

10.5. Governing Law. This Franchise Agreement shall be deemed to be executed in Calhoun County, , State of Florida, and shall be governed in all respects, including validity, interpretation and effect, and construed in accordance with, the laws of the State of Florida, as applicable to contracts entered into and performed entirely within the State.

10.6. Modification. No provision of this Franchise Agreement shall be amended or otherwise modified, in whole or in part, except by an instrument, in writing, duly executed by the Franchising Authority and the Grantee, which amendment shall be authorized on behalf of the Franchising Authority through the adoption of an appropriate resolution or order by the Franchising Authority, as required by applicable law.

Effective Date: This ordinance shall become effective as provided by law.

Passed, adopted and effective this 6<sup>TH</sup> day of JAN, 1998 subject to applicable federal, state and local law.

Franchising Authority:

By: A. Donald Whitfield

Its: Chairman

Attest: [Signature]

