

ORDINANCE NO. 97-18

AN ORDINANCE OF HERNANDO COUNTY, FLORIDA, RELATING TO THE GRANTING OF CABLE SYSTEM FRANCHISES; PROVIDING FOR DEFINITIONS; PROVIDING FOR A GRANT OF CABLE SYSTEM FRANCHISE AND IMPOSING CONDITIONS PERTAINING THERETO; PROVIDING FOR MULTIPLE FRANCHISES; PROVIDING FOR APPLICATION FOR GRANT, RENEWAL, AND TRANSFER OF FRANCHISE; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR REPEAL OF ORDINANCE 89-7; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

SECRETARY OF STATE

AUG 26 2 11 PM '97

FILED

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF HERNANDO COUNTY, FLORIDA:

SECTION 1. DEFINITIONS

A. Cable Service

- 1) The one-way transmission to subscribers of video programming, or other programming service; and
- 2) Subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

B. Cable System

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 1) a facility that serves only to retransmit the television signals of one or more television broadcast stations; 2) a facility that serves subscribers without using any public rights-of-way; 3) a facility of a common

carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. §§201 et. seq., except that such facility shall be considered a cable system (other than for purposes of 47 U.S.C. §541(C) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; 4) an open video system that complies with 47 U.S.C. §573; or 5) any facilities of any electric utility used solely for operating its electric utility systems.

C. Franchise

An initial authorization or renewal thereof issued by a franchising authority, whether such authorization is designated as a franchise permit, license, resolution, contract, certificate, agreement, or otherwise which authorizes the construction or operation of a cable system.

D. Franchising Authority

Hernando County, a political subdivision of the State of Florida.

E. Person

Any individual partnership, association, joint stock company, trust, corporation, or governmental entity.

F. Video Programming

Programming provided by or generally considered comparable to programming provided by a television broadcast station or cable system.

SECTION 2. GRANT OF FRANCHISE

Hernando County in accordance with the provisions of the Federal Cable Act as the

act may be amended or as successor acts may supersede it, and in accordance with all other applicable federal or state laws may grant a franchise to operate a cable system within the unincorporated areas of the Hernando County on such terms and conditions as may be stated in such franchises.

SECTION 3. CONDITIONS FOR GRANTING FRANCHISE

No franchise for cable service will be granted without a duly noticed public hearing having been called, at which hearing the following factors will be considered:

- 1) The economic impact upon private property within the franchise area.
- 2) The public need for such franchise, if any.
- 3) The capacity of public rights-of-way to accommodate the cable system.
- 4) The present and the future use of the public rights-of-way to be used by the cable system.
- 5) The potential disruption to existing users of the public rights-of-way to be used by the cable system and the resultant inconvenience that may occur to the public.
- 6) The financial ability of the franchise applicant to perform.
- 7) Such other additional matters both procedural and substantive, as Hernando County may in its sole discretion determine to be relevant.

SECTION 4. GRANTING OF MULTIPLE FRANCHISES

Nothing in this ordinance shall be construed to prevent Hernando County from considering the approval of more than one cable franchise in all, or any part, of the

unincorporated areas of the County and from imposing such terms and conditions upon such franchises as the County in its sole discretion shall deem necessary or appropriate.

SECTION 5. SAVING EXISTING FRANCHISES

All cable franchises in existence as of the date of this ordinance shall remain in full force and effect according to their terms and shall not be affected by the adoption of this ordinance.

SECTION 6. APPLICATION FOR GRANT, RENEWAL, AND TRANSFER OF FRANCHISE

There shall be certain standards and requirements for the grant, renewal, modification, or transfer of franchises. This will include the payment of fees in these amounts:

For new or initial franchise	(\$5,000)
For renewal of a franchise	(\$3,000)
For the transfer of a franchise (Other than a pro forma transfer)	(\$2,000)
For a pro forma transfer of a franchise	(\$1,000)
For modification of a franchise agreement Pursuant to 47 U.S.C. §545	(\$3,000)
For any other modification	(\$2,000)
For any other relief not mentioned herein	(\$1,500)

The Franchisee shall reimburse the County for all reasonable expenses and costs incurred by the County in considering and processing the application, including, but not limited to, consulting and legal costs. Within thirty (30) days from the date of any

resolution approving or denying the franchise agreement renewal, modification, or transfer, the County shall bill the Franchisee for the amount of the processing fee showing its calculation. If the processing fee is not paid to the County within sixty (60) days from the date of any resolution approving the franchise, then the approval will be null and void. This processing fee is intended to be a charge incidental to the awarding or enforcing of a franchise within the meaning of 47 U.S.C. §542(g)(2)(D) and may not be deducted from the franchise fee imposed in a franchise agreement and shall not be passed through to subscribers.

SECTION 7. REPEAL OF ORDINANCE

Ordinance 89-7 is hereby repealed.

SECTION 8. INCLUSION IN THE CODE

It is the intention of the Board of County Commissioners of Hernando County, Florida, and it is hereby provided, that the provisions of this ordinance shall become and be made a part of the Code of Ordinances of Hernando County, Florida. To this end, the sections of this ordinance may be renumbered or relettered to accomplish such intention, and that the word "ordinance" may be changed to "section," "article," or other appropriate designation.

SECTION 9. SEVERABILITY

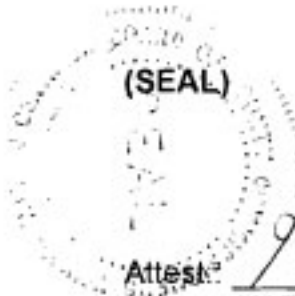
It is declared to be the intent of the Board of County Commissioners of Hernando County, Florida, that if any section, subsection, clause, sentence, phrase, or provision of this ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of the remaining sections of this ordinance.

SECTION 10. EFFECTIVE DATE

This ordinance shall become effective upon filing with the Department of State.

ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF

HERNANDO COUNTY, FLORIDA in Regular Session this 19th day of August, 1997 A.D.



Attest:

Karen Nicolai
KAREN NICOLAI
Clerk

**BOARD OF COUNTY COMMISSIONERS
HERNANDO COUNTY, FLORIDA.**

By: *Ray Lossing*
RAY LOSSING
Chairman