

AN ORDINANCE TO BE ENTITLED:

AN ORDINANCE AMENDING THAT CERTAIN ORDINANCE ADOPTED SEPTEMBER 9, 1963, BY THE TOWN OF CINCO BAYOU, AS AMENDED, BEING AN ORDINANCE GRANTING TO OKALOOSA TV CABLE COMPANY, INC. AND ITS TRANSFEREE, WARNER CABLE OF FORT WALTON BEACH, THE RIGHT TO ERECT, MAINTAIN AND OPERATE TRANSMISSION AND DISTRIBUTION FACILITIES AND ADDITIONS THERETO, IN, OVER, ALONG, ACROSS AND UPON THE STREETS, LANES, AVENUES, ALLEYS, BRIDGES, HIGHWAYS AND OTHER PUBLIC PLACES IN THE TOWN OF CINCO BAYOU, FLORIDA, AND SUBSEQUENT ADDITIONS THERETO, FOR THE PURPOSE OF TRANSMISSION BY CABLE AND DISTRIBUTION OF TELEVISION IMPULSES AND TELEVISION ENERGY TO THE INHABITANTS OF SAID TOWN, FOR A PERIOD OF TEN (10) YEARS, AND PRESCRIBING CERTAIN TERMS AND CONDITIONS UNDER WHICH SAID CORPORATION IS TO OPERATE, IMPOSING A 3% FRANCHISE TAX, AND IN ADDITION THERETO REQUIRING A CONTRIBUTION BY THE GRANTEE OF 3% OF THE ANNUAL NET INCOME TO THE GENERAL FUND OF THE TOWN, PROVIDING THAT THE GRANTEE SHALL POST A \$2,000.00 BOND FOR PAYMENT OF LIQUIDATED DAMAGES TO THE TOWN, AND PROVIDING FOR AN EFFECTIVE DATE; SAID AMENDING ORDINANCE GRANTING, RENEWING AND EXTENDING THE FRANCHISE TO WARNER CABLE OF FORT WALTON BEACH FOR A PERIOD OF FIFTEEN (15) YEARS, FROM AND AFTER JULY 1, 1975; ESTABLISHING A FRANCHISE FEE AND A PROCEDURE FOR RESOLVING SUBSCRIBER COMPLAINTS; INCORPORATING FEDERAL COMMUNICATIONS COMMISSION REGULATIONS, ESTABLISHING RATES AND A RATE-MAKING PROCEDURE; and PROVIDING FOR AN EFFECTIVE DATE THEREOF.

BE IT ORDAINED by the Town Council of Cinco Bayou, Florida, as follows:

SECTION 1: Section 1 of an ordinance enacted on the ninth day of September, 1963, by the Town Council of the Town of Cinco Bayou, Florida, as previously amended, is hereby amended to read as follows:

SECTION 1. [FRANCHISE GRANTED.]

In consideration of the faithful performance and observance of the conditions and reservations hereinafter specified the right, privilege and authority is hereby granted to Warner Cable of Fort Walton Beach, a subsidiary of Warner Cable Corporation, hereinafter referred to as the "grantee," to erect, maintain, and operate television transmission and distribution facilities and additions thereto in, over, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in the Town of Cinco Bayou, Florida, and subsequent additions thereto, for the purpose of transmission and distribution by coaxial cable, and associated appurtenances, television impulses and television energy, both community antenna and closed circuit, FM music system and background music systems, in accordance with the laws and regulations of the United States of America and the State of Florida, now in existence and hereinafter to be enacted, for a period of fifteen (15) years, from and after July 1, 1975, subject to the conditions hereof.

SECTION 2: Section 7 of an ordinance enacted on the ninth day of September, 1963, by the Town Council of the Town of Cinco Bayou, Florida, as previously amended, is hereby amended to read as follows:

SECTION 7. [TERM OF FRANCHISE; TERMINATION BY TOWN.]

The right, privilege and franchise hereby granted is granted for a period of fifteen (15) years from and after July 1, 1975, and shall cease and terminate at the expiration of such time and at the end of said period. The Town Council of Cinco Bayou, Florida, shall have the right upon finding that such service has not been reasonably furnished to the public upon hearing, and after notice to the grantee, its successors, heirs or assigns, to cancel or terminate this franchise.

SECTION 3: Section 10 of an ordinance enacted on the ninth day of September, 1963, by the Town Council of the Town of Cinco Bayou, Florida, as previously amended, is hereby amended to read as follows:

SECTION 10. [FRANCHISE FEE ESTABLISHED.]

An annual franchise fee will be payable to the Town of Cinco Bayou in an amount equal to three percent (3%) of the grantee's gross subscriber revenues per year derived from regular cable television service (residential and commercial) in the Town. Such fee shall be due and payable annually on the anniversary date of this grant.

SECTION 4: The grantee shall maintain a technically qualified staff to investigate and resolve all complaints regarding the quality of service, equipment malfunction, etc. As expeditiously as reasonably possible after receipt of subscriber complaints regarding cable television operations, grantee shall investigate such complaints and resolve them to the extent reasonably possible, and agents of the franchisee shall be available in the Town for such purposes. Complaints shall be handled from grantee's office through its dispatcher to its radio-equipped vehicles during normal working hours and through its answering service after normal working hours, Saturdays, Sundays and holidays. The Town Clerk of the Town shall have primary responsibility for the continuing administration of the Franchise on behalf of the Town and of the reasonable implementation of the foregoing complaint procedures. Notice of the foregoing will be given by grantee to each new subscriber at the time of initial regular subscription to the cable system.

SECTION 5: Grantee shall comply with all federal, state and municipal laws, rules and regulations. Any modifications of the provisions of Section 76.31 of the rules of the Federal Communications Commission resulting from amendments by said Commission shall be

incorporated into the Franchise, as amended, within one year of adoption of the modification, or at the time of renewal of the Franchise, as amended, whichever occurs first.

SECTION 6: The rates for regular subscriber services which may be charged by grantee are as hereinafter set forth. No increases in such rates for regular services shall be made except as authorized by the Council, after a public proceeding affording due process, and such authorization shall not be unreasonably withheld. Any application for a rate increase shall be acted upon within sixty (60) days after submission thereof; and consent shall be deemed given if the Council has not acted within said time. Rates for regular subscriber services shall be just, reasonable and adequate and shall at all times be maintained consistent with grantee's increased capital and operating costs (including, without limitation, increased costs due to inflation) and shall not exceed the rates in effect for the City of Fort Walton Beach, Florida.

SECTION 7:

WARNER CABLE OF FORT WALTON BEACH RATE CHART

The following rate chart shall be in effect for the Cinco Bayou, Florida, franchise:

Initial installation charge (through outside wall only)	-----\$20.00
Monthly service charge	-----6.00

Miscellaneous Charges

Installation of each additional outlet (time and material), minimum	-----7.50
Monthly service charge---Each additional outlet	-----1.50
Monthly service charge---Each additional outlet over five	-----1.00
Reconnect fee (applicable if service suspended)	-----5.00
Relocation of any outlet (time and material), minimum	-----5.00

Commercial Charges

Installation and monthly service are negotiable between grantee and subscriber.

SECTION 8: All provisions of the ordinance enacted September 9, 1963, as amended, which are inconsistent herewith are hereby repealed.

SECTION 9: The grantee, its successors or assigns shall, within ten (10) days after the effective date of this ordinance, file a written acceptance of the franchise, as amended, with the Town Clerk, failing which, the rights and privileges granted by this ordinance shall terminate.

SECTION 10: This ordinance shall take effect immediately upon its passage and approval by the Mayor.

ADOPTED: August 14, 1975

APPROVED:

James H. Smith
Mayor

ATTEST:

James C. Godwin Sr.
Town Clerk