

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND

1995 Legislative Session

Bill No. _____ CB-31-1995

Chapter No. _____ 21

Proposed and Presented by Chairwoman MacKinnon (by request - County Executive)

Introduced by _____ Council Members MacKinnon, Russell, and Wilson

Co-Sponsors

Date of Introduction _____ May 23, 1995

BILL

AN ACT concerning

Cable Television

For the purpose of abolishing the Cable Television Commission Fund, providing that all payments and penalties required to be made by County cable television franchisees shall be paid into the general fund of the County, providing that cable television regulation shall be within the Office of Business and Regulatory Affairs.

BY repealing and reenacting with amendments:

SUBTITLE 5A. CABLE TELEVISION.

Sections 5A-101, 5A-102, 5A-103, 5A-105, 5A-106, 5A-110,
5A-111, 5A-112, 5A-114, 5A-123, 5A-125.01,
5A-126, 5A-132, 5A-134, 5A-138, and 5A-142,

The Prince George's County Code
(1991 Edition, 1994 Supplement).

BY repealing:

SUBTITLE 10. FINANCE AND TAXATION.

Section 10-254,
The Prince George's County Code
(1991 Edition, 1994 Supplement).

SECTION 1. BE IT ENACTED by the County Council of Prince George's County, Maryland, that Sections 5A-101, 5A-102, 5A-103, 5A-105, 5A-106, 5A-110, 5A-111,

5A-112, 5A-114, 5A-123, 5A-125.01, 5A-126, 5A-132, 5A-134, 5A-138, and 5A-142 of the Prince George's County Code be and the same are hereby repealed and reenacted with the following amendments:

SUBTITLE 5A. CABLE TELEVISION.

Sec. 5A-101. Definitions.

(a) For purposes of this Subtitle, the following terms, phrases, words, abbreviations, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used 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.

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(5) **[Executive] Director** shall mean the Director of the [CATV Commission within the] Office of [Consumer] Business and Regulatory Affairs.

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Sec. 5A-102. Cable Television (CATV) Commission.

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(c) The Commission budget shall be part of the budget of the Office of [Consumer] Business and Regulatory Affairs.

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Sec. 5A-103. [Executive Director.] Reserved.

[The staff of the CATV Commission shall be under the immediate control of an Executive Director who shall be appointed by the County Executive, subject to confirmation by the County Council, pursuant to Section 322 of the Prince George's County Charter.]

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Sec. 5A-105. Director's duties and powers; administrative support.

(a) The Director shall [be part of the administrative support for the Commission provided by the Office of Consumer Affairs.] supervise and control the staff of the CATV Commission.

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Sec. 5A-106. Application for franchise.

(a) The application for a cable television franchise shall be submitted to the [Executive] Director, on a written application form furnished by the [Executive] Director, and in accordance with the procedures and schedule to be established and published by the CATV Commission. The application will request facts and information the CATV Commission deems appropriate as to the legal, financial, technical and character qualifications of the applicant, as well as a complete disclosing of all those persons holding a financial interest in the corporation or partnership. Applications shall be accompanied by a fee of Ten Thousand Dollars (\$10,000) payable by certified check to the order of "Prince George's County", which amount shall be used by the County to offset direct expenses incurred in the franchising and evaluation procedures, including, but not limited to, staff time and consulting assistance. Five Thousand Dollars (\$5,000) of the application fee shall be returned to unsuccessful applicants, upon the award of a franchise.

(b) The applicant to whom the Council grants [an exclusive] a franchise shall, in addition to the fee specified hereinabove, pay to the County within ninety (90) calendar days after the grant of the franchise an amount not to exceed One Hundred Thousand Dollars (\$100,000). Said payment shall be nonrefundable, shall be made payable by certified check to the order of "Prince George's County", and shall be based on and used to offset costs incurred by the County in granting the franchise and administering the provisions of this Subtitle.

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Sec. 5A-110. Franchise term.

The term of the franchise shall be [fifteen (15) years from the date the franchise is granted by the County Council] for the period of time stated in the franchise agreement. The franchise may be renewed pursuant to procedures established in Section 5A-113 of this Subtitle.

Sec. 5A-111. Notice to the Franchisee.

The CATV Commission shall not hold any meeting involving the review, renewal,

revocation or termination of the Franchisee's unless the [Executive] Director has (1) advised the Franchisee in writing at least sixty (60) calendar days prior to such meeting as to its time, place and purpose and (2) published a notice in the County newspapers of record at least fifteen (15) working days before the meeting.

Sec. 5A-112. State of art system.

The Franchisee shall upgrade its facilities, equipment and service from time to time so that its cable television system is as advanced as the current state of technology will allow, taking into account economic and financial considerations as well as the impact on rates to subscribers. The Franchisee shall install additional channel capacity as required to keep channel capacity in excess of the reasonable demand thereof by users. The Cable Commission shall, at the request of the Franchisee or the [Executive] Director, hold public hearings to review system compliance with this Section and upon due consideration may order the Franchisee to comply with this Section.

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Sec. 5A-114. Franchise revocation procedure.

(a) Whenever the Franchisee shall willfully and/or repeatedly fail, refuse or neglect to conduct, operate or maintain its CATV system in accordance with the terms of this Subtitle and the franchise, or to comply with the conditions of street occupancy, or to make required extensions, or in other ways violate the terms and conditions of this Subtitle, the [Executive] Director may notify the Franchisee in writing, setting forth the nature and facts of such noncompliance. If within thirty (30) calendar days following such written notification the Franchisee has not furnished proof that corrective action has been taken or is being actively and expeditiously pursued, or evidence that the alleged violations did not occur, the [Executive] Director shall place a request for termination of the franchise on the agenda of the next Commission meeting.

(b) If, after considering the [Executive] Director's request for termination of the franchise and hearing all interested parties, the Commission determines that the noncompliance of the Franchisee was with just cause, it shall direct the Franchisee to comply within such time and

manner and on such terms and conditions as are reasonable.

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Sec. 5A-123. Insurance; bonus; indemnity.

(a) At all times during the term of the franchise, including the time for removal of facilities or management as provided for herein, the Franchisee shall obtain, pay all premiums for, and file with the [Executive] Director written evidence of payment of premiums and executed duplicate copies of the following:

* * * * *

(3) A performance bond running to the County with good and sufficient surety approved by the County in a sum not less than Three Hundred Fifty Thousand Dollars (\$350,000) conditioned upon the faithful performance and discharge of the obligations imposed by this Subtitle and the franchise awarded hereunder from the date thereof. When the basic service is available to more than fifty percent (50%) of the occupied dwelling units within the franchise area, as certified by the [Executive] Director to the CATV Commission, the amount of the bond shall be reduced to a sum not less than One Hundred Fifty Thousand Dollars (\$150,000).

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Sec. 5A-125.01. Rate regulations.

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(b) Following the receipt by the CATV Commission of the franchisee's request for review of its existing rates for the basic service tier and associated equipment costs, or the franchisee's request for a proposed increase in these rates, the CATV Commission shall hold a public hearing [within 25 days of said receipt] prior to making a final decision on the request for rate review. The public hearing shall be held to provide the franchisee and all other interested persons an opportunity to be heard concerning the request. The Commission shall have the public hearing notice setting forth the time and place of said hearing published, at least once, in the County newspapers of record and on the government access channel no less than ten (10) working days prior to the date of the hearing. The Commission shall mail a copy

of the public hearing notice to the franchisee at least ten (10) working days prior to the date of the hearing.

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Sec. 5A-126. Books and records.

(a) The books and records of the Franchisee's operation within the County shall be made available, during normal business hours, for inspection and audit by the [Executive] Director or his designee within thirty (30) days after such request has been made.

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Sec. 5A-132. Service, adjustment, and complaint procedure.

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(d) In the event a subscriber does not obtain a satisfactory response or resolution to his request for service or an adjustment within a reasonable period of time, he may advise the [Executive] Director or other designated employee in writing of his dissatisfaction, and the [Executive] Director or other designated employee shall have an obligation to investigate the matter and to keep records with respect to all such complaints for the remaining life of the franchise or three (3) years, whichever amount of time is of longer duration.

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Sec. 5A-134. Construction schedule and reports.

(a) Upon accepting the franchise, the Franchisee shall, within sixty (60) days, file the documents required to obtain all necessary Federal, State and local licenses, permits and authorizations required for the conduct of its business, and shall submit monthly reports to the [Executive] Director on progress in this respect until all such documents are in hand.

(b) Within three (3) months after receipt of a Certificate of Compliance from the Federal Communications Commission the Franchisee shall furnish the [Executive] Director a construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The schedule and map shall be updated whenever substantial changes become necessary.

* * * * *

(e) On or before April 1 of each year during the term of the franchise agreement, the Franchisee shall submit a written report to the [Executive] Director including, but not limited to, the following information regarding the previous calendar year.

* * * * *

(10) Such other information or reports as the [Executive] Director may request for the purpose of enforcing any provision of the franchise agreement.

Sec. 5A-138. Special license.

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(b) In the event that any operator of a cable television system within an incorporated area makes application to the Commission for a permit to install, construct, or maintain any portion of its system within the public way of the County, the [Executive] Director shall issue the permit provided the following conditions are met:

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Sec. 5A-142. Equal employment opportunities.

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(c) The Franchisee shall file, no later than March 15 of each succeeding year, with the [Executive] Director, a report which sets forth in detail its progress under its equal employment opportunity program.

SECTION 2. BE IT FURTHER ENACTED that Section 10-254 of the Prince George's County Code be and the same is hereby repealed:

SUBTITLE 10. FINANCE AND TAXATION.

DIVISION 10. ENTERPRISE AND OTHER SPECIAL PURPOSE FUNDS.

Sec. 10-254. [Cable Television Commission Fund; establishment.] Reserved.

[(a) There is hereby established and created a special purpose fund to be known as the "Cable Television Commission Fund." It shall be operated in accordance with the provisions of this Section.

(b) The purpose of this Fund shall be to finance costs associated with the administration of Subtitle 5A of this Code, programming and other use of the County's cable television

systems by County agencies, and the promotion of film and media enterprises in the County. This Fund may also be used to finance, in accordance with regulations adopted by the Commission and approved by the County Council, all or part of the costs of facilitating the delivery of cable service to senior citizens who reside in multifamily dwellings. The definition of the term multifamily dwellings shall be the same as appears in Subtitle 27 of this Code.

(c) All payments and penalties required to be made by County cable television franchisees shall be paid into and become a part of this Fund and shall be the primary source of financing activities of this Fund.]

SECTION 3. BE IT FURTHER ENACTED that all assets, liabilities, and retained earnings related to the Cable Television Commission Fund shall be transferred to the General Fund as of June 30, 1995.

SECTION 4. BE IT FURTHER ENACTED that this Act shall take effect forty-five (45) calendar days after it becomes law, the provisions of Section 1 of this Act shall be retroactively effective to July 1, 1995, and the provisions of Sections 2 and 3 of this Act shall be retroactively effective to June 30, 1995.

Adopted this 13th day of June, 1995.

COUNTY COUNCIL OF PRINCE
GEORGE'S COUNTY, MARYLAND

BY:
Anne T. MacKinnon
Chairwoman

ATTEST:

Joyce T. Sweeney
Clerk of the Council

APPROVED:

DATE: _____

BY:

Wayne K. Curry
County Executive

KEY:

Underscoring indicates language added to existing law.

[Brackets] indicate language deleted from existing law.

Asterisks *** indicate intervening existing Code provisions that remain unchanged.