

ORDINANCE NO. 292

AN ORDINANCE PERMITTING COMCAST CABLEVISION OF PANAMA CITY, INC., D/B/A COMCAST CABLEVISION, AND ITS ASSIGNS, TO LOCATE, CONSTRUCT, MAINTAIN AND OPERATE A CABLE DISTRIBUTION SYSTEM IN, OVER, ACROSS, AND UPON THE PUBLIC STREETS, AVENUES, PARKWAYS, ALLEYS, SIDEWALKS, AND PUBLIC GROUNDS OF THE CITY OF SPRINGFIELD, IN BAY COUNTY, FLORIDA, AND FURTHER, PROVIDING FOR THE REGULATION OF THAT SYSTEM AND FURTHER, PROVIDING FOR A TAX TO BE IMPOSED FOR THE RIGHT GRANTED TO COMCAST CABLEVISION OF PANAMA CITY, INC., D/B/A THAT SYSTEM IN THE CITY OF SPRINGFIELD, IN BAY COUNTY, FLORIDA.

BE IT ENACTED BY THE PEOPLE OF THE CITY OF SPRINGFIELD IN BAY COUNTY, FLORIDA:

Section 1. That a permit is hereby granted to Comcast Cablevision of Panama City, Inc, having its principal place of business in Panama City, Florida, its successors and assigns, hereinafter called "Permittee" to locate, construct, maintain and operate a cable distribution system in the City of Springfield in Bay County, Florida (hereinafter sometimes "City"). This permit shall include, without limitation, the authority, right, privilege and power to construct, maintain and operate, in, over, under, across and upon the public streets, avenues, parkways, alleys, sidewalks and public grounds the necessary equipment for the operation of a cable distribution system in the City of Springfield in Bay County, Florida.

Section 2. This permit shall be effective for a period of ten (10) years following the effective date of this ordinance. This permit shall not be construed to be a "franchise" within the meaning of the term as provided by the laws of the State of Florida and shall be non-exclusive. Further, this permit shall be revocable by the City Commission of the City of Springfield, Florida for cause.

Section 3. The permittee shall defend the City against all lawful claims for injury to any person or property caused by the negligence of the permittee in the construction or operation of its property, and in the event of a determination of liability shall indemnify the City. More particularly the permittee herein, its successors and assigns, does hereby agree to indemnify and hold harmless the City from any and all liability, claim, demand or judgement growing out of any injury to any person or property as a result of the violation or failure on the part of the permittee, its successors and assigns, to observe its proper duty or because of negligence in whole or in part arising out of construction, repair, extension, maintenance, or operation of its equipment of any kind or character used in connection with this permit.

Section 4. The permittee shall at all times make and maintain full and complete plats, maps and records showing the exact location of all cable distribution system equipment located and used by permittee in the City.

Section 5. All of such installation of equipment shall be of a permanent nature, durable and of sufficient height not to interfere in any manner with the rights of the public or individual property owners and shall not interfere with the travel and use of public places by the public places by the public nor during the construction, repair and removal and shall not obstruct nor impede traffic. The City reserves the right of reasonable regulation of the erection and construction of any work by the permittee and to reasonably designate where such works and construction shall be placed. The permittee agrees when requested by the City to make minor changes in its equipment to conform to the reasonably necessary requirements of small localized areas, such changes to be effected when so requested within a reasonable time.

Section 6. The permittee, in the location, construction maintenance and operation of said cable distribution system shall do so by means of the existing poles of the Gulf Power Company and Southern Bell Telephone and Telegraph Company, or permittee's own poles upon the public ways of the City, and permittee shall not install any additional pole or poles unless such installation be first approved by the City Commission of said City; provided, however, such approval shall not be unreasonably withheld or delayed.

Section 7. The permittee shall have the right to operate a cable distribution system during the existence of this permit and shall have the right to extend its cable distribution system upon and/or under the streets, alleys, and public grounds of any addition or additions hereafter made to the City's corporate territory and to use the streets, alleys and public grounds to continue to points beyond the corporate limits of said City.

Section 8. The permittee shall, at its expense, promptly repair any and all streets, sidewalks or other public and/or private property damaged or destroyed by permittee, its agents, servants or employees in exercising the privilege herein granted. When tree trimming is necessary by permittee all limbs and debris must be removed by the end of the working day at the permittee's expense.

Section 9. The permittee shall construct and maintains its facilities in compliance with the National Electrical Code and the National Electrical Safety Code.

Section 10. The permittee shall remove all obsolete inactive trunk and feeder cable within 45 days of replacement with new trunk and feeder cable.

Section 11. In the exercise of this permit, the permittee may, with the consent of the owner, use the poles and other equipment of public utilities holding franchises in the City.

Section 12. The permittee shall pay to the City each month a percentage of its gross receipts not to exceed five (5%) percent received from providing cable service to residents of the City for the preceding month and which said percentage is hereby levied as a tax upon the permittee and is in lieu of all other taxes, whether the same be license, privilege or excise taxes on the business to be conducted pursuant to this permit. The permittee shall pay the monthly tax to the City within thirty (30) days after the close of each calendar month. The fee imposed by the City on the permittee shall be no greater than that paid by other entities providing CATV services within the City and this fee shall be set by resolution of the City Commission of the City of Springfield Florida.

Section 13. The permittee shall have the right to assign this permit, subject to the approval of the City; provided, however, such approval shall not be unreasonably withheld or delayed.

Section 14. The provisions of this ordinance shall be construed to be severable and the holding of any provision hereof invalid or unconstitutional shall in no wise effect the remaining portions of this ordinance.

Section 15. During the term of this permit, the permittee shall comply with all present and future applicable laws, rules and regulation, and all amendments thereto, promulgated by any federal, state or local authority of competent jurisdiction.

Section 16. This permit shall take effect as provided by law.

PASSED IN REGULAR SESSION THIS 2 day of APRIL
A.D., 1990.

Wesley Miller
Mayor

ATTEST:

R. E. Smith
City Clerk