

ORDINANCE #26

STATE OF NORTH CAROLINA

**ORDINANCE GRANTING CABLE
T.V. FRANCHISE**

COUNTY OF PERQUIMANS

WHEREAS on the 18th day of May, 1981, the Board of Commissioners for Perquimans County, acting pursuant to N.C.G.S. 153A-137, as amended, adopted an ordinance entitled the Perquimans County Cable Television Franchise Ordinance and,

WHEREAS on the 3rd day of June, 1996, the Board of Commissioners for Perquimans County, acting pursuant to said ordinance and N.C.G.S. 153A-137, adopted an ordinance granting a cable television franchise to U.S. Cable Television Group, L.P. for a period of 10 years; and

WHEREAS U.S. Cable Television Group, L.P. has assigned the aforesaid franchise to Mediacom Southeast, L.L.C.; and

WHEREAS Mediacom Southeast, L.L.C. has requested that the aforesaid franchise be extended for a period of 15 years from the date of the final passage of this ordinance; and

WHEREAS the Board of Commissioners for Perquimans County, after discussion of the issues relating to the extension of said ordinance, has decided to grant a franchise to Mediacom Southeast, L.L.C. for a period of 15 years;

NOW, THEREFORE, be it ordained by the Board of Commissioners of Perquimans County:

SECTION I. - GRANT OF NON-EXCLUSIVE AUTHORITY. That Perquimans County, (hereinafter referred to as the County) acting pursuant to the terms of the aforesaid 1981 ordinance referred to above and N.C.G.S. 153A-137, hereby grants the nonexclusive authorization, right and privilege to Mediacom Southeast, L.L.C. (hereinafter referred to as the Franchisee) to construct, operate and maintain a cable television system in Perquimans County for a period of fifteen years (15) from and after the date of final passage of this ordinance. By accepting the franchise granted in this ordinance, the Franchisee releases and relinquishes to Perquimans County all of its rights under the 1996 ordinance referred to above.

SECTION II. DEFINITIONS.

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular

number, and words in the singular number include the plural number. The work “Shall” is always mandatory and not merely directory.

A. “Basic Cable Service” means the service tier which includes the retransmission of local broadcast signals.

B. “County” is the County of Perquimans, North Carolina.

C. “Board” is the Board of Commissioners of Perquimans County, North Carolina.

D. “System” is a system utilizing certain electronic and other components which deliver to subscribing members of the public various broadband telecommunications services.

E. “FCC” shall mean the Federal Communications Commission.

F. “Franchisee” is Mediacom Southeast, L.L.C. or anyone who succeeds it in accordance with the provisions of this Ordinance. The term Grantee shall at all terms in this ordinance be synonymous with Franchisee.

G. “Person” is any person, firm, partnership, association, corporation or organization of any kind and any other legally recognized entity.

H. “Subscribers” are those persons contracting to receive telecommunications services furnished under this Ordinance by Franchisee.

SECTION III. PRIOR ORDINANCES. The franchise hereby granted is expressly subject to the following:

All provisions of the Perquimans County Cable Television Franchise Ordinance adopted by the Perquimans County Board of Commissioners on the 18th day of May, 1981 pursuant to N.C.G.S. 153A-137, as amended, all provisions of said ordinance being hereby specifically incorporated herein by reference; but all ordinances and parts of ordinances in conflict herewith are hereby superseded as of the effective date of this Ordinance.

SECTION IV. COMPLIANCE WITH APPLICABLE LAWS AND ORDINANCES.

The Franchisee shall during the term of its franchise, except in those areas which have been preempted by the Cable Communications Policy Act of 1984 or which are regulated by the FCC, be subject to all lawful exercise of the regulating and police powers of the County.

SECTION V. TERRITORIAL AREA INVOLVED.

A. It shall be the obligation of the Franchisee to serve all residents of the unincorporated area of the County except to the extent that the density of the homes, adverse terrain, or other factors, render providing service impractical, technically non-feasible, or economically noncompensatory. For the purpose of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing

extensions of cable service within the designated areas of the County, the Franchisee shall extend service to new subscribers, at the normal installation charge and monthly rate for customers of that classification where the number of homes to be passed by such extension is twenty (20) homes per mile, and where such extension is contiguous to existing cable plant.

B. The Franchisee shall not be required to service residents of the County that are beyond four hundred (400') from existing distribution lines, except upon payment by such residents of the capital costs incurred by the Franchisee in bringing service to such residents.

C. Areas of the County that do not meet the homes per mile requirement set forth in this franchise agreement may be designated as "Low Density Areas". The designated "Low Density Areas" will consist of certain areas in the County which do not currently meet the franchise requirement of twenty (20) homes per mile. The Franchisee will contribute the amount of money it would contribute, per subscriber, to build an area that meets the homes per mile requirement of the franchise, provided that Franchisee will invest no more than a maximum of \$100,000.00 of capital expenditures per year for "Low Density Area" builds.

i. The remaining money needed to build to "Low Density Areas" will then be incurred by the residents of the area who agree to subscribe to service prior to construction of the "Low Density Area", which remaining costs shall be equally divided among such subscribers. Residents will pay a one time per home fee in addition to install charges applicable to all subscribers. Rates for the construction of "Low Density" areas will be based upon the number of homes that agree to subscribe to service prior to the construction of the "Low Density" area build, not the number of homes per mile in such "Low Density Areas". Each additional home built in the area will also be obligated to pay the one time "Low Density" fee to receive service.

ii. During a five-year period commencing at the completion of a particular line extension, pro rata refunds shall be paid to previous subscribers annually as new subscribers are added to the particular line extension; the amount of the refund, if any, shall be determined by recalculating the subscriber contribution based on the additional subscribers added to the line extension. The refunds shall be paid annually to the subscribers or former subscribers, entitled to receive them. The Franchisee shall not be required to provide refunds to any previous subscriber otherwise entitled to a refund, who is no longer at the same address, and who has not informed the Franchisee of the subscriber's address.

D. The Franchisee shall provide the County annually, on or about February 1 of each year, a report summarizing any line extensions completed during the previous calendar year, together with a summary of proposed line extensions for the coming year.

SECTION VI. LIABILITY AND INDEMNIFICATION.

A. The Franchisee shall, at all times, keep in effect the following types of coverage:

1. Workers' Compensation upon its employees engaged in any manner in the installation or servicing of its plant and equipment within the County of Perquimans County, North Carolina.

B. Property Damage Liability Insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) as to each occurrence and Personal Injury Liability Insurance to the extent of Five Hundred Thousand Dollars (\$500,000.00) as to each occurrence. Excess Bodily Injury and Property Damage of One Million Dollars (\$1,000,000.00) each occurrence. Automobile Bodily Injury and Property Damage Liability combined One Million Dollars (\$1,000,000.00) each occurrence.

Franchisee shall indemnify, protect, and save harmless the County from and against losses and physical damage to property and bodily injury or death to persons, including payments made under any Workers' Compensation law which may arise out of the erection, maintenance, presence, use or removal of said attachments or poles within the County, or by any act of Franchisee, its agents or employees except to the extent that such loss is due to the negligent acts or omissions or willful misconduct of county employees. Franchisee shall carry insurance in the above described amounts to protect the parties hereto from and against all claims, demands, actions, judgments, costs, expenses and liabilities which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. Franchisee shall also carry such insurance as it deems necessary to protect it from all claims under the Workers' Compensation laws in effect that may be applicable to Franchisee. All insurance required shall be and remain in full force and effect for the entire life of the rights granted hereunder. Insurance certification evidencing such insurance coverage shall be deposited with and kept on file by the County.

These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements, and all other damages arising out of the installation, operation, or maintenance of the Cable Television System authorized herein, whether or not any act or omission complained of is authorized, allowed or prohibited by this Ordinance.

SECTION VII. GENERAL SYSTEM SPECIFICATIONS.

A. The facilities shall be capable of distributing color televisions signals, and when the signals Franchisee distributes are received in color, they shall be distributed in color where technically feasible.

B. The Franchisee shall upgrade the System from time to time in order to provide channel capacity similar to that offered in communities of similar size in the State of North Carolina and similar to capacities offered in cable systems of comparable size, provided, however, that any such investment will be economically feasible.

SECTION VIII. TECHNICAL STANDARDS.

Franchisee shall be governed by technical standards established by the FCC, which are attached hereto as Exhibit I.

SECTION IX. CUSTOMER SERVICE STANDARDS/OPERATION; MAINTENANCE OF SYSTEM.

A. The Franchisee shall render efficient service, make repairs promptly, and interrupt service only for good cause for the shortest time possible, such interruptions, insofar as possible, shall occur during periods of minimum use of the System.

B. The Franchisee shall be governed by all Customer Service standards established by the FCC and abide by all rules and regulations set forth by the Federal Government.

C. Restoration of Service: The Franchisee shall provide such adjustments and repairs as are necessary to provide a quality signal to the subscriber within twenty-four (24) hours of the time the report of failure or malfunction of a subscribers service is made. Failures or malfunctions of the system shall be corrected by the Franchisee promptly after notice of such failure or malfunction except or unless such failure or malfunction shall have been caused by storm, fire, vehicular damage, lightning, explosion, civil commotion, or other similar catastrophe, in such case repairs shall be made as soon as possible.

D. Failure on the part of Franchisee to return a customer to service within twenty-four (24) hours of receipt of complaint will, upon request by the customer, result in the issuance of a credit to that customer's account for the portion of a month they were without cable service.

E. The Franchisee agrees to maintain a toll free telephone listing in the County for the purpose of receiving inquiries and complaints from its customers and the general public. The Franchisee shall investigate all complaints from within fifteen (15) days of their receipt and shall in good faith attempt to resolve them swiftly and equitably.

F. Knowledgeable, qualified representatives of the Franchisee will be available to respond to customer telephone inquiries Monday through Friday during normal business hours. Additionally, based on community needs, Franchisee will provide telephone access to its customers located within the County after normal working hours and on weekends if necessary.

G. Under normal operating conditions, telephone answer time by a customer service representative, including wait time and the time required to transfer the call, shall not exceed 30

seconds. This stand shall be met no less than ninety percent (90%) of the time measured on an annual basis. The customer will receive a busy signal less than three percent (3%) of the time that the cable office is open for business.

H. Regarding Installations, Outages and Service Calls: Under normal operating conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on an annual basis.

1. Standard installations will be performed within seven business days after an order has been placed. “Standard” installations are those within an area up to 125 feet from the existing distribution system.

2. Excluding those situations beyond the control of the Franchisee, the Franchisee will respond to service interruptions promptly and in no event later than 10 daylight hours. Other service problems will be responded to within thirty-six (36) hours during the normal work week.

3. The appointment window alternatives for installations, service calls and other installation activities will be (1) morning, (2) afternoon, or (3) all day during normal business hours. Additionally, based on community needs, the Franchisee will schedule supplemental hours during which appointments can be set.

4. If at any time an installer or a technician is running late, an attempt to contact the customer will be made and the appointment will be rescheduled as necessary at a time which is convenient for the customer.

SECTION X. EMERGENCY USE OF FACILITIES.

In the case of any emergency or disaster, the Franchisee shall upon request of the Board, make available its facilities to the County for emergency use during the emergency or disaster.

SECTION XI. SERVICE TO PUBLIC BUILDINGS.

The Grantee shall provide a single connection to each public building located within four hundred (400) feet of its plant within the County upon request by the County and at no cost to it or any public agency. The Grantee may, at its election, provide similar services without cost to accredited institutions such as private schools—including parochial or other religious schools.

SECTION XII. LIMITATIONS ON RIGHTS GRANTED.

A. All transmission and distribution structures, lines and equipment erected by Franchisee within the County shall be located as to cause minimum interference with the proper use of street, alleys and the public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and said poles or towers shall be removed by Franchisee

whenever the County Public Works Superintendent or Engineer reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places in the County of Perquimans, North Carolina.

B. Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, prepared by the National Bureau of Standards, the National Electrical Code of the National Board of Fire Underwriters, and such applicable ordinances and regulations of the County of Perquimans, North Carolina, affecting electrical installation, which may be presently in effect, or change by future ordinances.

C. In case of disturbance of any street, sidewalk, alley, public way or paved area, Franchisee shall, at its own cost and expense and in a manner approved by the County's Public Works Superintendent or Engineer, replace and restore such street, sidewalk, alley, public way or paved areas in as good a condition as before the work involving such disturbance was done.

D. If at any time during the period of this Ordinance the County shall lawfully elect to alter or change the grade of any street, sidewalk, alley or other public way, Franchisee, upon reasonable notice by the County, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense.

E. Franchisee shall on the request of any person holding a building moving permit by the County or any person who wishes to remove trees or structures from their property, temporarily raise or lower its wires to permit the moving of buildings or tree removal. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, the Franchisee shall have the authority to require such payment in advance. Franchisee shall be given not less than seventy-two (72) hours advance notice to arrange for such temporary wire changes.

F. Subject to County approval, Franchisee shall have the authority to trim trees that are overhanging the streets, alleys, sidewalks the public ways and places of the County so as to prevent the branches of such trees from coming in contact with the wires and cables of Franchisee, except that at the option of the County, such trimming may be done by it or under its supervision and direction at the expense of Franchisee.

G. Franchisee, shall, at its expense, protect, support, temporarily disconnect, relocate on the same street, alley or public place, or remove from the street, alley or public place, any property of Franchisee when required by Grantor by reason of traffic conditions, change of establishments of street grade, installation of sewers, drains, water pipes, power lines, signal lines, and tracks or any other types of structures or improvements by governmental agencies when acting in a governmental or proprietary capacity, or other structure of public improvement;

provided, however, that the Franchisee shall in all cases have the privileges and be subject to the obligations to abandon any property of the Franchisee in place as hereinafter provided.

SECTION XIII. OWNERSHIP AND REMOVAL OF FACILITIES.

All cable and passive equipment for telecommunications service installed by the Franchisee at a subscriber's location shall remain the property of the Franchisee and the Franchisee shall have the right to remove said cable and equipment. Upon termination of all service to any subscriber, the Franchisee shall promptly remove all its above ground facilities and equipment from the premises of such subscriber upon his request.

SECTION XIV. TRANSFER OF FRANCHISE.

Any assignment, sale or other transfer of the right, title and interest in the franchise in this Ordinance and the Non-Exclusive Franchise granted herein shall require the prior written consent of the County, which consent shall not be unreasonably withheld. Franchisee shall give the County at least forty-five (45) days notice of any such proposed assignment, sale or other transfer. If Franchisee does not receive written notice of the County's objections to such assignment, sale or other transfer within the forty-five day period, the County's consent shall be deemed to have given.

SECTION XV. PAYMENT TO THE COUNTY.

General Payment: The Franchisee shall pay to the County during the life of the franchise a sum equal to three percent (3%) of the gross annual subscriber revenues from video services per year in the County. Said sum to be paid quarterly and within sixty (60) days from the end of each quarter. The Franchisee shall file with the County annually within ninety (90) days after the expiration of the Franchisee's fiscal year a financial statement prepared according to generally accepted accounting procedures and certified by the Chief Financial Officer of the Franchisee, showing in detail the gross annual subscriber revenues per year in the County during the preceding quarters. It shall be the duty of Franchisee to pay to the County within ninety (90) days after the time for filing such statement the sum, if any, due and not paid during the preceding quarters.

SECTION XVI. DURATION AND RENEWAL OF ORDINANCE.

A. The rights granted to the Franchisee herein shall become effective upon the adoption of this ordinance and shall continue in force and effect for a term of fifteen (15) years.

B. The rights granted to the Franchisee herein shall, except as provided in this Section, terminate on January 31, 2014. At the expiration of the Term, this franchise shall be subject to renewal pursuant to the provisions of the Cable Communications Policy Act of 1984 applicable to new ordinances that are in the nature of a franchise. Pending final completion of renewal

proceedings and ordinance shall remain in effect for thirty (30) days even if the original term has expired.

C. The County may undertake a review of the Franchisee's performance of its obligations under this Ordinance at any time. If, as a result of this review, the County determines that Franchisee has not complied with all provisions of this Ordinance, it shall give Franchisee written notice of the basis for its determination, and Franchisee shall have one hundred eighty (180) days to remedy upon bona fide deficiencies in its performance. If this Ordinance is not renewed or if it is revoked for cause by the County, the transfer of Franchisee's system shall be governed by Section 627 of the Cable Communications Policy Act of 1984.

SECTION XVII. ERECTION, REMOVAL AND COMMON USE OF POLES.

A. No poles or other wire-holding structures shall be erected by the Franchisee without prior approval of the designated representative of the County with regard to locations, height, type or any other pertinent aspect, which approval shall not be unreasonably withheld. However, no locations of any pole or wire-holding structure of the Franchisee shall be a vested interest and such poles or structures shall be removed or modified by the Franchisee at its own expense whenever the County or its designated representative determines that the public convenience would be substantially enhanced thereby.

B. Where poles or other wire-holding structures already existing in use in serving the County are available for use by the Franchisee, but it does not make arrangements for such use, the County may require the Franchisee to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to the Franchisee are just and reasonable.

C. Where the County or a public utility serving the County desires to make use of poles or other wire-holding structures of the Franchisee but agreement therefore with the Franchisee cannot be reached, the County may require the Franchisee to permit such use for such consideration as is just and reasonable and upon such terms as the County determines the use would enhance the public convenience and would not unduly interfere with the Franchisee's operations.

SECTION XVIII. RATES AND CHARGES.

The initial rates and charges shall be regulated to the extent allowable by law. In the event state or Federal law or regulations are amended to allow rate regulation by the County, this franchise ordinance and agreement may be amended by the County to invoke any and all rate regulation authority allowed by law. The Franchisee consents to such power to amend as a condition of this franchise agreement.

In the event that the County is granted authority to regulate rates, the following procedures shall be used until new procedures are adopted in the County.

1. Should the County determine that it wishes to regulate rates, the County shall follow all prescribed procedures for initiating and implementing the regulations as prescribed by law.

2. Before making any changes in the rates to subscribers for basic cable services, the Franchisee shall file in writing with the County Clerk a new proposed rate change at least forty-five (45) days in advance of the proposed effective date for such rate change. If the County takes no action to set the proposed rate change for hearing, said proposed rate changes shall become effective upon the expiration of the thirty (30) days notice to subscribers.

The Franchisee shall not discriminate in rates between customers of the same category except to the extent permitted by the Cable Communications Policy Act of 1984 and Federal Communications Commissions regulations.

SECTION XIX. SEVERABILITY.

If any Section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, or amended by the United States Congress or is superseded or preempted by Federal Communications Commission regulation, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION XX. PUBLICATION.

Franchisee shall assume the costs of any required publication of this Ordinance.

SECTION XXI. NOTICES.

All notices and other communications under this Ordinance shall be in writing and shall be deemed to have been given on the date of actual delivery if mailed, first class, registered or certified mail, return receipt requested, postage paid to the following respective addresses:

To the County:

County of Perquimans
P. O. Box 45
Hertford, NC 27944

To the Franchisee:

Mediacom Southeast, L.L.C.
P.O. Box 580
Plymouth, NC 27962
Attention: General Manager

With a copy to:

Mediacom
100 Crystal Run Road
Middletown, NY 10941
Attention: Legal Department

Either of the foregoing parties to this Ordinance may change the address to which all communications and notices may be sent to it by addressing notices of such change in the manner provided hereunder.

SECTION XXII. EFFECTIVE DATE.

This ordinance shall take effect after its passage, approval, publication and acceptance as provided by law.

Read and approved on the first reading on this 4th day of January, 1999.

Read and approved on the first reading on this 1st day of February, 1999.

COUNTY OF PERQUIMANS

BY: Charles H. Ward
Chairman of the Board of
Commissioners of Perquimans
County

ATTEST:

Mary P. Hunnicutt
Clerk to the Board of Commissioners

Accepted this 30th day of March, 1999.

MEDIACOM SOUTHEAST, L.L.C.

BY: _____

CONSENT RESOLUTION AUTHORIZING THE TRANSFER OF

CABLE TELEVISION FRANCHISE

WHEREAS, U.S. Cable Television Group, L.P., currently owns and operates a cable television system (the “System”) operating in the County of Perquimans, N.C. (the “County”) pursuant to that certain Cable Television Franchise award June 13, 1996 and all renewals and extension thereof (the “Franchisee”); and

WHEREAS, U.S. Cable Television Group, L.P., E.C.C. Holding Corporation, Missouri Cable Partners, L.P. Cablevision Systems Corporation and Mediacom L.L.C. (“Mediacom”) have entered into an Asset Purchase Agreement dated as of August 29, 1997 (the “Purchase Agreement”) , providing for, among other things, the sale, assignment and transfer of the Franchise and the assets of the System to Mediacom Southeast L.L.C. (“Mediacom Southeast”), a subsidiary of Mediacom, (the “Transfer”) and requiring U.S. Cable Television Group, L.P., to obtain any required consents of governmental franchising authorities for the Transfer pursuant to applicable law and the Franchise; and

WHEREAS, U.S. Cable Television Group, L.P., as Assignor, and Mediacom Southeast, as Assignee, have jointly submitted to the Perquimans County Board of Commissioners (the “Board”) an application on Federal Communications Commission (“FCC”) Form 394 requesting consent for the transfer and have submitted such other information concerning the transfer, Mediacom and Mediacom Southeast as required by law and the Franchise and as requested by the Board (collectively, the “Transfer Application”); and

WHEREAS, the Board has reviewed the Transfer Application (FCC Form 394); and

WHEREAS, the Franchise is in full force and effect without default thereunder by U.S. Cable Television Group, L.P., as of the date hereof in accordance with its terms and conditions as set forth therein, and Mediacom Southeast has agreed to comply with the Franchise and applicable law from and after the completion of the Transfer; and

WHEREAS, the Board hopes that this Transfer will result in a substantial expansion of the Cable T.V. Network throughout the County of Perquimans; and

WHEREAS, the Board strongly urges Mediacom Southeast to reduce the required number of households per mile to fifteen in the Franchise Agreement; and

WHEREAS, one of Perquimans County’s neighboring counties, Pasquotank, which has a Franchise with ADELPHIA, is required to have no more than fifteen homes per mile for a new cable line extension to be made; and

WHEREAS, the Board is opposed to the mandatory use of Special Events Boxes.

NOW, THEREFORE, BE IT RESOLVED, by the Board as follows:

1. The Board hereby approves the Transfer Application and grants its consent for the Transfer to Mediacom Southeast.
2. The Board hereby acknowledges that (I) the Franchise is valid and outstanding and in full force and effect without default thereunder by U.S. Cable Television Group, L.P., to the date hereof; (II) the Franchise authorizes service throughout the unincorporated areas of the County.

3. The Board's consent to the Transfer to Mediacom Southeast herein provide shall be effective immediately upon adoption of this Resolution, and shall continue and remain in effect upon the consummation of the Transfer and the closing of the transactions described in the Purchase Agreement, and Mediacom Southeast shall notify the Board promptly upon the closing of such transactions.

Adopted this 3rd day of November, 1997 on the motion of Bert Hayes and the second of Evelyn Stubbins and an affirmative vote of the Perquimans County Board of Commissioners.

PERQUIMANS COUNTY

BY: Charles H. Ward (SEAL)
Chairman, Perquimans County
Board of Commissioners

ATTEST:

Mary P. Hunnicutt
Clerk to the Board of the
Perquimans County Board
of Commissioners