

ORDINANCE NO. # 178

AN ORDINANCE CREATING A TEN (10) YEAR, NONEXCLUSIVE  
FRANCHISE FOR A CABLE SYSTEM WITHIN THE CONFINES OF OWEN COUNTY

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IT IS HEREBY ORDAINED AS FOLLOWS:

ARTICLE I

(DEFINITIONS)

For the purpose of the grant of this franchise the following terms shall have the meaning as described herein:

1. "Grantor" shall mean the unincorporated areas of the County of Owen, or its successors.

2. "Franchise" shall mean the permission, license, franchise or authority given hereunder to conduct and operate a community antenna television system in the unincorporated areas of the County of Owen.

3. "Grantee" shall mean the City of Williamstown or its successors, transferees or assigns, the recipient of the franchise granted herein,

4. "Street" shall mean the surface of and the space above and below any public street, road, highway, freeway, lane, path, alley, court, sidewalk, parkway, drive or other easement now or hereafter held by Grantor for the purpose of public travel and shall include such other easements or rights of way as shall be now held or hereafter held by Grantor which shall within their proper use and meaning entitle Grantor and its Grantees to the use thereof for the purpose of installing or transmitting CATV transmissions over poles, wires, cables, conductors, ducts, conduits, manholes, amplifiers, appliances, attachments or other property as may be ordinarily necessary and pertinent to a CATV system.

5. "CATV" shall mean a community antenna television system as hereinafter

defined.

6. "Community antenna television system" or "system" shall mean a system of antenna, coaxial cables, wires, wave guides, or other conductors, equipment or facility designed, constructed or used primarily for the interception and receipt of television or radio signals, directly or indirectly off the air, and the distribution or transmission of such signals by means of cables or other similar devices to subscribers.

7. "Subscriber" shall mean any person or entity receiving for any purpose the CATV service of the Grantee herein.

8. "Person" shall mean any individual or association in individuals or any firm, corporation or other business entity.

## ARTICLE II

### GRANT OF FRANCHISE

Section One: General Grant. Grantor hereby grants to the Grantee the non-exclusive right and privilege to construct, erect, operate and maintain a CATV system within the limits of the Grantor. And in so doing to use the streets of the Grantor by erecting, installing, constructing, repairing, replacing, reconstructing, maintaining and retaining in , on, under, upon or across any such street, such poles, wires, cables, conductors, ducts, conduits, manholes, amplifiers, appliances, attachments and other property as may be necessary and pertinent to a CATV system, and in addition, so to use, operate and provide for all or a part of such facilities by service offerings obtained from any public or private utility or any other franchise or operating telephone or electric company within the limits of the Grantor.

Section Two: Non-Exclusivity. The authority hereby granted to conduct a CATV system in the limits of Grantor and to use and to occupy the streets therefore is not and shall not be deemed to be an exclusive right or permission. Grantor expressly reserves the right to grant similar non-exclusive franchises to other persons, firms or corporations to conduct

CATV and to use the streets of the county therefore within the same or other areas of the county at any time or period of time. No such additional franchise granted by Grantor shall in any way affect the obligations of the Grantee hereunder.

Section Three: Right to Assign Exclusive Service Areas. Notwithstanding any other provision of this franchise to the contrary, Grantor reserves the right to assign to Grantee or to other Grantees under other CATV system franchises within the limits of Grantor, certain exclusive service areas within the limits of the Grantor, but shall not do so until at least one (1) year has passed from the date that the Grantee is first required to be able and willing to render service to the subscriber as hereinafter set forth. In no event shall grantor require Grantee to remove a part of its system from any area which it shall have been previously serving in order to make such area available to any other Grantee under any other CATV franchise.

### ARTICLE III

#### TERM

The franchise herein granted shall be for a term often (10) years unless the same shall sooner expire by reason of other provisions hereof.

The term of this franchise shall commence on the first day of the first month following the date the Grantee hereunder accepts and agrees to abide with the terms and conditions of this franchise by filing a written acceptance thereof with Grantor; which said acceptance shall be filed, if it is to be valid, within a period often (10) days from the effective date of the ordinance granting this franchise. If such acceptance shall not be filed within the time aforesaid, then the ordinance granting this franchise shall be deemed void and of no further force and effect and the offer of franchise contained in said ordinance shall stand revoked.

#### ARTICLE IV

##### ORDINANCE OF REVOCATION

No revocation provided for herein, except for reason of condemnation, shall be effective unless or until Grantor shall have adopted an ordinance setting forth the cause and reason for the revocation and the effective date thereof, which ordinance shall not be adopted without thirty (30) days prior notice thereof to Grantee and an opportunity for Grantee to be heard on the proposed adoption of such proposed ordinance. If the revocation as proposed in such ordinance depends on a finding of fact, such finding of fact as made by Grantor after the hearing provided for, if requested by Grantee, shall be conclusive, for purpose of action by the legislative body.

#### ARTICLE V

##### OPERATION AND MAINTENANCE

Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Interruptions for maintenance insofar as possible shall be preceded by notice and shall occur during the periods of minimum use of the system. In order to limit failures and malfunctions of the CATV system to a minimum and that the same might be promptly corrected at all times after notice of malfunction or failure, Grantee shall consistently maintain an office within the limits of the area covered by this franchise or within the limits of the City of Williamstown, at the option of the City of Williamstown, during the life thereof.

Failure or malfunctions of the system shall be corrected by Grantee as soon as is reasonable practicable.

#### ARTICLE VI

##### REMOVAL ON SUBSCRIBER'S REQUEST

On termination of service to any subscriber, the Grantee shall promptly remove all of

its facilities and equipment from the premises of such subscriber if the subscriber shall so request. In any event, the facilities of Grantee shall be so constructed and designed that by the use of ordinary household tools and without special skills or knowledge and without unreasonable risk of harm, the subscriber may be capable at any time of disconnecting the system of Grantee from the subscriber's television set or receiver so that said set or receiver may be used independently of the system for service of Grantee.

## ARTICLE VII

### EMERGENCY ALERT OVERRIDE

(a) In accordance with the provisions of the FCC Regulations Part 11, subpart D, Section 11.51, and as such provisions may from time to time be amended, the Grantee's cable system shall be capable of allowing the Judge/Executive (or his/her designee) in times of emergency, to override the audio of all channels simultaneously. The EAS System shall meet all federal and state requirements. In the event of a conflict between any of these laws, regulations or requirements, the federal and state laws, regulations or requirements shall control.

(b) The availability of this service is provided for the benefit of the community and neither the Grantee nor any of its agents, employees, or officers shall be liable in any manner for failure to use or for misuse of the override system. To the extent that federal law or regulations provide standards for the provision or use of emergency override services, such law or regulations shall supersede the requirements of this section.

ARTICLE VIII

The bid document submitted to the Owen Fiscal Court at its meeting of 4/12/11 is incorporated in this document and made a part hereof as fully as if copied at length.

ARTICLE IX

Whenever under the terms of this franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served upon Grantor shall be delivered either by first class U.S. Mail or by handing such notice to any elected official then serving on legislative body of Grantor and that the Grantee, by delivering by first class U.S. Mail or by handing such notice to such officer at such address as Grantee shall from time to time direct. The original name and address of the officer on behalf of the Grantee shall be included in Grantee's acceptance of this franchise as provided herein.

ARTICLE X

Should the City of Williamstown sell, assign or transfer its' cable system to another entity during the life of this franchise, it is the intention of the Grantor that this agreement shall be transferable during the life hereof provided only that the transferee shall accept same subject to the same duties as those imposed upon the City of Williamstown herein.

Introduced, recorded and given first reading on the 12<sup>th</sup> day of April 2011.

Adopted by the Fiscal Court of Owen County, Kentucky at its meeting on the 10<sup>th</sup> day of May 2011, and on said occasion signed in open session by the County/Judge Executive as evidence of his approval, attested under seal by the Owen County Fiscal Court Clerk and declared to be in full force and effect by its passage and publication of same.

Caryn H. Keith  
JUDGE/EXECUTIVE