

AN ORDINANCE GOVERNING THE GRANTING OF FRANCHISES FOR THE CONSTRUCTION AND OPERATION OF
COMMUNITY AND TENANT TELEVISION SYSTEMS IN CLAY COUNTY, NORTH CAROLINA

BE IT ORDAINED by the Board of Commissioners for the County of Clay as follows:

ARTICLE I.

TITLE

1. Short Title. This ordinance shall be known as the Community and Tenant Television Systems Ordinance for Clay County, North Carolina.

ARTICLE II.

BASIS

1. Authority and Purpose. Franchises are granted under this ordinance pursuant to statutory authority contained in N.C.G.S. 153A-137 and other applicable laws.

ARTICLE III.

DEFINITIONS

For the purposes of this ordinance, the following words, phrases, terms, abbreviations and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number and words in the singular number include the plural number, and the words in the masculine, feminine or neuter gender include each of the other genders. The word "shall" is always mandatory and not merely directory.

Board shall mean the board of county commissioners of Clay County, North Carolina.

Cablecasting shall mean programming (exclusive of broadcast signals) carried on a cable television system.

CATV shall mean community antenna television.

Community antenna television shall mean the business of providing an improved television reception service to the public for compensation by receiving broadcast television and radio signals and transmitting such signals by wire or cables to the subscribers, and including any subscription service. As a part of the service, AM and FM radio program material received over the air, background music, news, weather and other information, including public service programming, and access cablecasting, and civil defense type information, as required, may be furnished to all subscribers without additional charge.

Community antenna television system shall mean any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations, and distributes such signals by wire or cables to subscribing members of the public who pay for such service, but such term shall not include (1) any such facility that serves fewer

fifty (50) subscribers, of (2) any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of such an apartment house.

Franchise shall mean and include any authorization granted hereunder in terms of a franchise, privilege, permit, license or otherwise to construct or cause to be constructed, operate and maintain a CATV system in the unincorporated areas to the citizens of Clay County. The franchise may include such additional terms, conditions, restrictions and limitations as may be considered desirable by the board, provided such additional terms, conditions, restrictions and limitations are not inconsistent with this ordinance and other applicable state and federal laws and regulations.

Franchisee shall mean the person, firm, partnership, association, corporation, or other organization to whom or to which a franchise is granted by the board under this ordinance, and any lawful successor, transferee, or assignee of said person, firm, partnership, corporation or other entity.

Gross subscriber revenues shall mean any and all compensation and other consideration in any form paid by subscribers and received by franchisee arising from the sale of its regular monthly service and any additional services to its subscribers, provided, said term shall not include any sales, service, rent, occupational or other excise tax to the extent said taxes are charged separately in addition to the regular monthly service and any additional services and are remitted to a taxing authority and further provided that said term shall not include revenue resulting from installation and relocation charges, or from sales of tangible property.

Person shall mean any person, firm, partnership, association, corporation or organization of any kind.

Potential subscribers shall mean those households, commercial, industrial, or institutional establishments within a reasonable distance from the trunk cable where service could be provided to them; said distance shall be determined by the standards of the CATV industry in effect at the time the determination is made.

Property of franchisee shall mean all property owned and installed or used by a franchisee in the operation of a CATV system or service in the county under authority of a franchise granted pursuant to this ordinance.

Street or road shall mean the surface of and the space above and below any publicly or privately owned or maintained property or right of way, street, road, highway, freeway, lane, path, alley, sidewalk, parkway or drive, now or hereafter existing within said unincorporated areas of the county.

Subscriber shall mean any person or entity receiving for any purpose the CATV service or any franchisee.

ARTICLE IV,

FRANCHISE REQUIRED

Section 1. It shall be unlawful for any person to engage in the construction, operation or maintenance of a Community Antenna Television System (CATV) in the unincorporated areas of the county without first having obtained a valid franchise from the Board of Commissioners of Clay County. It shall also be unlawful for any person to provide a CATV service in the unincorporated areas of the county unless such person shall have first obtained and does currently hold a valid franchise granted pursuant to the provisions of this ordinance.

Section 2. Procedure for granting a franchise.

A. The Board of Commissioners may, by advertisement or any other means, solicit and call for applications for CATV system franchises, and may determine and fix any date upon or after which the same shall be received by the County, or the date before which the same must be received, or the date after which the same shall not be received, and may make any other determinations and specify any other times, terms, conditions or limitations respecting the soliciting, calling for, making and receiving of such applications.

B. The Board may request applications for an area less than the whole of the unincorporated area within the County.

Section 2.1 The Application Form. The application shall be on such form as shall be approved from time to time by the Board. However, the form when completed shall contain the name and address of the applicant, and if the applicant is a corporation, the names and addresses of its offices, directors and of all shareholders. Additionally, if the applicant is a corporation, a certified copy of its articles of incorporation shall be filed with the application.

Section 2.2. Franchise Territory. At the time of the filing of the application for a franchise, the applicants shall submit, in addition to the application for franchise, a map showing the franchise area. The map shall clearly delineate any areas which will not be served, if any.

Section 3. At the time of the filing of the application for a franchise the applicants shall submit a schedule of rates and costs to be charged for the installation of service and for the monthly service fee to be charged to customers and shall also set forth a schedule of stations, networks and services to be rendered by the applicant.

Section 4. If the board determines that no system proposed by any applicant is in the best interest of the public, no franchise will be granted. The franchise, as granted,

shall contain recitations that demonstrate that the board has examined and approved the franchisee's legal, financial and technical qualifications, as well as the adequacy and feasibility of franchisee's construction arrangements.

ARTICLE V.

ACCEPTANCE OF FRANCHISE; EFFECTIVE DATE

Section 1. Within fifteen (15) days after the board has granted a franchise, the grantee shall file with the Clerk to the board a written acceptance of the franchise, acknowledged before a notary public. Thereafter, and within ten (10) days, the board shall issue a certificate to the franchisee acknowledging that a franchise has been granted.

In the event the applicant fails to comply with the provisions of paragraph 1 of this section, he shall forfeit his rights to the franchise unless the time has been extended by mutual consent of the Board and applicant.

ARTICLE VI.

PROVISIONS GOVERNING THE LENGTH, RENEWAL AND TRANSFER OF A FRANCHISE

Section 1. Length of Franchise. The franchise shall be granted for a term of 15 years; thereafter, after full public hearings, and according to the franchise renewal procedure that follows, the franchise may be renewed for terms of fifteen years as in the opinion of the board will best serve the public interest.

Section 2. Procedure to Consider Franchise Renewal. Twelve months before the expiration of the franchise, a franchisee shall file with the board an application for renewal of the franchise. Thereafter, the Chairman of the Board of Commissioners shall cause the same to be placed on the agenda of the next regularly scheduled meeting of the commissioners.

Section 2.1. At the time of the meeting, the board shall proceed to determine whether the operator has satisfactorily performed his obligations under the franchise. To determine satisfactory performance, the board shall look at the technical development and performance of the system, programming, other services offered, cost of service and any other relevant factors such as the availability of programming equipment and personnel to aid access channel users; also, among other measurements, the board shall consider the franchisee's annual reports made to the county or the FCC, provision shall be made for community comment, and industry performance on a national basis shall be considered.

Section 2.2. A four month period shall be provided to determine the franchisee's eligibility for renewal.

Section 2.3. If the board finds the franchisee's performance satisfactory, a new franchise may be granted pursuant to the ordinance as amended.

Section 2.4 In the event the current franchisee is determined by the board to have performed unsatisfactorily, new applicants shall be sought and evaluated by the board and a franchise award made by the board according to CATV franchising procedures contained herein.

Section 3. Removal of facilities in the event of nonrenewal. In the event that the franchise held by any franchisee to construct, operate or maintain a CATV system is terminated by the board, or in the event that the franchise is not renewed, pursuant to the terms of this ordinance, and all negotiations to settle the differences by the parties have failed (provided, however, that such negotiations shall not be required), the board may advertise and seek another franchisee to operate the system. If a franchise is granted to another person, the terminated franchisee may be required to remove the entire CATV system from the area in which it was operating at its own expense.

Section 4. Transfers and Assignments. A. The franchisee operating under this ordinance shall not be permitted to sell, transfer, or otherwise change more than ten (10) percent of the ownership herein granted without prior written consent of the board. If, after five years the franchisee would consider sale of more than ten (10) percent or a transfer of control, then provided the transferee met the character, financial and experience criteria established by the Federal Communications Commission and the Board of Commissioners, the consent of the board would not be unreasonably withheld.

B. The franchisee operating under this ordinance shall not be permitted to sell, lease, sublease, transfer, or otherwise change working control of the franchise granted herein without prior written consent of the board. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the board may inquire into the prospective controlling party, and the franchisee shall assist the board in any such inquiry. If the board does not schedule a hearing on the matter within sixty (60) days after notice of the change or proposed change and the filing of a petition requesting its consent, it shall be deemed to have been consented. In the event that the board adopts a resolution denying its consent and such change, transfer or acquisition of control has been effected, the board may terminate the franchise as provided in Article VI, Section 5, infra.

C. The consent or approval of the board to any assignment, lease, transfer, sublease or mortgage of the franchise granted to the franchisee shall not constitute a waiver or release of the rights of the county in and to the streets.

Section 5. Termination of the franchise at expiration. A. The term of the franchise shall not exceed 15 years from the effective date thereof, as determined pursuant to Section 1, of Article V.

The board may terminate the franchise prior to the date of expiration thereof upon a finding, made after thirty days notice of any proposed termination to the franchise and public hearing, that:

(1) The franchisee has failed to comply in some material respect with any provision of this ordinance or has violated in some material respect any term or condition of any franchise or permit issued hereunder; or

(2) The franchisee made a material false statement in the application for the franchise knowing it to be false; or

(3) The franchisee, contrary to the best interest of the public, is not providing subscribers with regular, adequate and proper service; or

(4) If any portion of the CATV system ceases to be used and continues to be unused for a continuous period of twelve (12) months, the board may terminate the franchise only as to the unused portion of the system, if the board satisfied itself that such non-use was justified in the circumstances.

Provided, however, if the franchisee has committed some act which would permit the board to terminate the franchise pursuant to subparagraphs (1) and (3) above, the board at its option, may allow the franchisee sixty (60) days to correct the act or conduct which gave rise to the right to terminate, and if the board allows the franchisee sixty (60) days to correct the act or conduct which gave rise to the right to terminate, and such act or conduct is corrected within sixty (60) days, in the opinion of the board, the franchise will not be terminated; but, provided further, that allowing correction of such act or conduct by the franchisee shall not prejudice the right of the board to terminate the franchise for another act or other conduct, with or without allowing sixty (60) days for correction of such other act or conduct.

ARTICLE VII.

AUTHORITY GRANTED BY THE FRANCHISE

A. The grantee of any franchise granted pursuant to the provisions of this ordinance shall, subject to the conditions and restrictions set out in this chapter, be authorized to construct or have constructed, operate and maintain a CATV system, and to engage in the business of providing a CATV service in the unincorporated areas of Clay County, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, over, on, under, upon, across, and along any public street, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be necessary and appurtenant to the CATV system; provided, however, that before any pole, wire, or other thing mentioned above as necessary and appurtenant to the CATV system may be placed within any street or road, the proper permission and authority to do so must be obtained by the franchisee from the North

Carolina Department of Transportation, or other agency of competent jurisdiction; and, in addition to use, operate and provide similar facilities or properties rented or leased from other persons. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any other person, any poles, lines, facilities, equipment or other property for use in connection with the operation of a CATV system or service, unless such other person holds a valid franchise granted pursuant to the provisions of this ordinance.

B. The franchisee may make a charge to subscribers for installation or connection to its CATV system, and a fixed monthly charge for service in accordance with the schedule of rates and charges filed with and approved by the board as provided for herein.

C. Franchisee shall not engage in the sale, service, repair, rental or leasing of television receivers, radio receivers, parts or accessories, and shall not require or attempt to influence its subscribers to deal with any particular person with regard thereto.

D. Construction and maintenance of the CATV system, including house connections, shall be in accordance with the provisions of the National Electrical Safety Code of the American Insurance Association, and shall be in accordance with all state laws and county ordinances.

ARTICLE VIII.

CONDITION ON USE OF STREETS OR ROADS

A. The poles used for the distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this article, no poles except replacements for existing poles, shall be erected by or for the franchisee, in any street, without the prior approval of the board; any poles, wires, cables or other facilities to be constructed or installed within the streets or roads shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the North Carolina Department of Transportation, or other agency of competent jurisdiction, and said Department of Transportation or other agency of competent jurisdiction must approve such construction and maintenance. All facilities constructed or installed within streets or roads shall be so constructed and installed to cause minimum interference with the proper use of said streets or roads, and minimum interference with the property rights of property owners adjoining said streets or roads. Said facilities shall be constructed or installed so that, after construction or installation is complete, they shall cause no interference with proper use of said streets or roads and no interference with property rights of owners of property adjoining said street or road.

B. The installation of lines, including service drops to subscribers, shall be made underground in areas where either the telephone or power lines, or both are underground or hereafter may be placed underground. The same shall apply to installation of other facilities. Also, installation of lines and facilities shall be made underground, and any existing aboveground facilities shall be placed underground when required by rules, regulations and policies of the North Carolina Department of Transportation.

C. The franchisee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, any property of the grantee when required by the county or the North Carolina Department of Transportation by reason of traffic conditions, public safety, street closing or abandonment, highway or street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, or any other type of structures or improvements; and, the county or the North Carolina Department of Transportation shall not be liable for any disturbance of the franchisee's installations resulting therefrom. This section applies to streets or roads as defined herein. The franchisee shall carry out the instructions and directions of the North Carolina Department of Transportation District Engineer, whenever it is necessary to raise or remove any of the franchisee's wires or cables temporarily for the purpose of moving or removing structures on the public streets or roads of the county. The franchisee shall do such tree trimming or other maintenance work as shall be necessary to maintain their lines and cables and other property in good working order. All matters mentioned herein shall be performed at the franchisee's expense.

D. Whenever a franchisee takes up or disturbs any pavement, sidewalk or other improvement of any street or road, the same shall be replaced and the surface restored to as good condition as before entry, all in accordance with standards, rules and regulations of the North Carolina Department of Transportation or any subdivision thereon. Any opening or obstruction in the streets shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which shall be clearly designated by warning lights of approved types.

ARTICLE IX.

CONSTRUCTION AND INSTALLATION

A. Within thirty (30) days after acceptance of any franchise the franchisee shall proceed with due diligence to obtain all permits and authorization required for construction, installation of the system and the conduct of the franchisee's business, including, but not limited to any utility joint use attachment agreements, licenses and authorizations of any regulatory agencies having jurisdiction over the construction and operation of a CATV system.

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B. The franchisee shall commence operation within one (1) year of the effective date of the franchise. Operations shall be considered commenced with the bona fide retransmission and amplification of television signals on a regular basis to at least 100 residential subscribers.

C. The franchisee shall equitably and reasonably extend service to the entire geographical area to be served by the franchisee, as expeditiously as possible, but in no event later than 24 months after the effective date of the franchise.

D. Failure of the franchisee to commence and diligently pursue each of the foregoing requirements set forth in this Article shall be grounds for termination of the franchise; provided, however, the board may extend any of these requirements in the event the franchisee, acting in good faith, experiences delays due to circumstances beyond its control.

E. The standard of construction methods and equipment shall be that currently accepted in the CATV industry.

ARTICLE X.

OPERATIONAL REQUIREMENTS

A. A franchise shall provide to subscribers the best possible service consistent with the rates charged as provided for herein.

B. Any and all construction and maintenance costs, including but not limited to the costs of permits, shall be borne by the franchisee.

C. Upon request by the board, the franchisee shall provide to the board one copy of each agreement which the franchisee has with any utility company concerning the joint use of public utility poles and facilities.

D. A franchisee shall maintain an office in the county, which shall be open during all usual business hours, have a publicly listed telephone, and be so operated that complaints and requests for repairs or adjustments may be received on a twenty-four (24) hour basis.

E. A franchisee shall maintain a repair force capable of responding to subscriber complaints within twenty-four (24) hours.

F. A franchisee shall ensure that all subscribers, programmers, and members of the general public have recourse to a satisfactory hearing of any complaint.

G. A franchisee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, or sex. Additionally, a franchise shall strictly adhere to the equal employment opportunity requirements of the FCC, and shall at all times comply with all other applicable federal, state and county laws relating to non-discrimination.

ARTICLE XI.

RIGHTS RESERVED TO THE COUNTY

A. The county shall have the right to examine any and all financial records of the franchisee and to that end the franchisee shall make available to the county financial records during usual business hours and after having received a written request to do so.

Additionally, the franchisee shall furnish to the board a copy of its year end audit within thirty (30) days after the end of its fiscal year.

B. the county shall have the right to inspect any and all installations owned, operated, maintained or used by the franchisee in its operation of the CATV service.

C. The franchisee shall at all times defend, indemnify, protect and save harmless the County of Clay from and against any and all liability, losses and physical damage to property and bodily injury or death to persons, arising out of the exercise or enjoyment of its franchise, including but not limited to any liability for damages by reason of or arising out of any failure of the franchisee to secure consent from the owners, authorized distributors or licensees of programs of broadcast stations to be delivered by the CATV system of the franchisee, and against any loss, cost, expense and damages resulting therefrom, including reasonable attorney's fees.

D. Franchisee shall maintain insurance policies against all risks, required by the County, by such insurers as shall be approved by the county, with the county named as co-insured under said policies, all at the sole expense of franchisee. The risk insured against and the amount of such insurance shall be set forth in the franchise agreement and shall cover at least the following risks:

- (1) General liability insurance
- (2) Automotive liability insurance
- (3) Workmen's compensation insurance as required by the laws of the State of North Carolina.

E. All insurance coverage shall provide at least a thirty (30) day notice to the county in the event of material alteration, non-renewal or cancellation. A certificate showing that such coverage has been obtained and is currently in full force and effect shall be filed with the county prior to the commencement of construction by the franchisee, and annually within thirty (30) days of the anniversary date of the policy.

F. Neither the provisions of this section, nor any bonds, insurance policies or otherwise, accepted by the county pursuant hereto, nor any damage recovered by the county hereunder, shall be construed to excuse unfaithful performance by the franchisee or limit the liability of the franchisee under this ordinance or the franchise agreement.

G. The franchisee shall file with the Clerk to the Board at the time of filing of

the written acceptance, a cash bond or deposit in the amount of Two Thousand (\$2,000.00) Dollars or a good and sufficient bond in the penal amount of Two Thousand (\$2,000.00) dollars, executed by a surety authorized and qualified to do business in North Carolina, and said bond or deposit shall name the county as the party to whom payment will be made. This bond or cash bond shall be conditioned upon the faithful performance by the franchisee of all obligations created by this ordinance. This bond or cash bond shall be filed at the time of written acceptance of the franchise is filed. The form of said deposit or bond is subject to approval of the County Attorney.

ARTICLE XII.

FRANCHISE FEE

Upon acceptance of a franchise, and in consideration of the rights and privileges granted thereunder, the franchisee shall pay to the county an initial franchise fee of three (3%) per cent of gross subscriber revenues, per month for each month or major fraction of a month remaining between the date of acceptance and the next December 31 thereafter, during the life of the franchise, the franchisee shall pay to the county a franchise fee to cover the prior twelve month period beginning January 1 and ending December 31, payable by March 31, the amount of said franchise fee to be for the most recent calendar year ending prior to January 1. The franchise fee for the last year of the franchise shall be computed on the same basis. In the event that the franchise is terminated during the year, without fault of the franchisee, the county will return a pro-rata share of the fee. The payment of this fee is in addition to any ad valorem taxes which may be levied on the real and personal property of the franchisee. At any time during the three (3) years after payment of any annual franchise fee, the county shall have the right to inspect the franchisee's records showing the gross subscriber revenues from which the annual fee is computed and the right of audit of recomputation of any and all amounts under this ordinance. Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable under this ordinance, or for performance of any obligations created by this ordinance. In the event of hold over after expiration or other termination of the franchise, without the consent of the county, the franchisee shall pay to the county reasonable compensation and damages of not less than one hundred (100) percent of its total profits from gross subscriber revenues during said period.

ARTICLE XIII.

RATES

Any rate increase sought by the franchisee will be filed with the board and a notice

thereof given to each subscriber sixty (60) days before it is to be effective and the franchisee shall provide a public hearing at least thirty (30) days prior to the effective date of such increase, notice of which will be given to the board and to each subscriber at least ten (10) days prior to such hearing.

ARTICLE XIV.

FRANCHISE MODIFICATION

This ordinance is governed by and subject to the applicable rules and regulations of the Federal Communications Commission. Any modifications of the Rules and Regulations of the Federal Communications Commission, as they pertain to a CATV system, if applicable, shall be incorporated into this ordinance by the county within one year of the effective date of any such modifications, or at the time of the next franchise renewal, whichever occurs first.

ARTICLE XV.

PROCEDURE FOR INVESTIGATION AND RESOLUTION OF COMPLAINTS

The franchisee shall maintain a local business office in Clay County to the end that maintenance service shall be promptly available to all subscribers upon request. The franchisee shall adopt procedures for equitably handling all complaints regarding franchisee's CATV system. Franchisee shall give notice of the existence and availability of the procedures to each subscriber at the time of his initial subscription to the CATV system.

ARTICLE XVI.

VIOLATIONS; UNLAWFUL ACTS

A. It shall be unlawful for any person to make any unauthorized connection, by any method whatever, with any part of a franchised CATV system within the county for the purpose of taking or receiving television signals, radio signals, pictures, programs or sound, or to enable himself or others to receive any television signal, radio signal, picture, program or sound, without payment to the owner of said system.

B. It shall be unlawful for any person, without the consent of the owner of the system, to wilfully tamper with, remove or injure any cables, wires, or equipment used in the CATV system.

ARTICLE XVII

EXTENSION OF SERVICE BEYOND FRANCHISE AREA

A. Notwithstanding anything to the contrary herein stated, it shall not be unlawful for the franchisee to extend service to subscribers outside the franchise area in the unincorporated areas of the county when such service is a part of the CATV system serving the franchise area.

B. When extension of service upon payment of the extension costs is requested by a subscriber who lives outside the franchise area, the subscriber shall be furnished an itemized statement of all estimated charges prior to the commencement of any work and/or payment for extension, and no work shall commence until such subscriber has given his written approval thereof, and requested the commencement of work.

ARTICLE XVIII.

PUNISHMENT; CIVIL REMEDIES; LEGAL PROVISIONS

Section 1. From the effective date of this ordinance, any person found guilty by a court of competent jurisdiction of violating the provisions of this ordinance, shall be guilty of a misdemeanor and shall be subject to a fine and/or imprisonment as provided in North Carolina General Statute 14-4.

Section 2. The County may enjoin the construction and/or operation of any CATV system not in compliance with the provisions of this ordinance.

Section 3. Any person, firm or corporation which is providing a CATV service at the time of the adoption of this ordinance shall not be deemed to be in violation of this ordinance until such time as a franchise is issued pursuant to this ordinance for the area in which the person, firm or corporation without a franchise is operating. Providing, however, that within 30 days of the adoption of this ordinance, any such operator must apply for a franchise for that area in which the person, firm or corporation is providing CATV service. Upon failure to apply for a franchise under this ordinance within 30 days as provided for herein, the operator shall be in violation of this ordinance.

Section 4. Severability. Should any section or provisions of this ordinance be found by a court of competent jurisdiction to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole or any part thereof other than the part so found to be unconstitutional or invalid.

Section 5. Effective date. This ordinance shall become effective upon adoption as provided for in G.S. 153A-44.

Adopted this 6th day of October, 1980.

BOARD OF COUNTY COMMISSIONERS OF CLAY COUNTY (SEAL)

By B. Howard Wimpey
Chairman

ATTEST:

Deborah L. Nichols
Clerk to Board