ORDINANCE NO. 67-5

AN ORDINANCE GRANTING AUTHORIZATION TO CONSOLIDATED CABLE UTILITIES, INC., ITS SUCCESSORS AND ASSIGNS, TO CONSTRUCT, OPERATE AND MAINTAIN A COMMUNITY ANTENNA TELEVISION SYSTEM IN KENDALL COUNTY.

BE IT ORDAINED BY THE CHAIRMAN OF THE BOARD OF SUPERVISORS OF THE COUNTY OF KENDALL:...
SUPERVISORS OF KENDALL COUNTY, ILLINOIS:

Section 1. SHORT TITLE. This ordinance shall be known and may be cited as the Kendall County Community Antenna Television Ordinance.

Section 2. DEFINITIONS. For the purposes of this ordinance, the following terms, phrases, words and 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. The word "shall" is always mandatory and not merely directory.

a. "County" is Kendall County, Illinois.
b. "Operator" is Consolidated Cable Utilities, Inc., an Illinois Corporation, its successors and assigns.
c. "Board of Supervisors" is the Chairman of the Board of Supervisors and the County Board of Supervisors of Kendall County, Illinois.
d. "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
e. "System" shall mean the lines, fixtures, equipment attachments, and all appurtenances thereto which are used in the construction, operation and maintenance in the unincorporated portions of the County of the community antenna television system herein authorized.
f. "Utility" means any public utility doing business in the County.
g. "Service" means community antenna cable television service.

Section 3. GRANT OF AUTHORITY. There is hereby granted to Operator, its successors and assigns, the right and privilege to construct, erect, install, operate, and maintain in, upon, along, across, above, over and under, the streets, alleys, public ways and public places, now laid out or dedicated and all extensions thereof and additions thereto, in the County wires, poles, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in the County of a community antenna television system for the reception and distribution of television signals and energy, frequency modulated radio signals, and any visual and aural signals which are not otherwise herein prohibited. The rights herein granted shall extend to any area annexed to the County, and Operator shall be bound by the same rules, and regulations as to such area as are otherwise herein or hereafter provided. This grant extends to the leased or rented use of poles and other facilities of any utility now or in the future operating in the County.

Should Operator use any poles or other facilities of any utility, the following provisions shall be met:

(a) Operator and the utility shall execute a written agreement covering the terms of such usage, and (b) a certified copy of such agreement shall be filed in the office of the County Clerk.

Section 4. COMPANY LIABILITY AND INDEMNIFICATION.

a. LIABILITY COVERAGE. It is expressly understood and agreed by and between Operator and the County that Operator shall save the County, its officials and employees harmless from all loss sustained by the County, its officials and employees on account of any suit, judgment, execution, claim or demand whatsoever arising out of the construction, operation and maintenance of the system by Operator. Operator agrees to maintain and keep in full force and effect at all times during the term of this ordinance, liability insurance coverage to protect the County, its officials and employees against any such claims, suits, judgments, executions, or demands to
the extent of not less than $250,000 per person as to any one claim, $500,000 as to any one accident or occurrence, and not less than $200,000 for property damage as to any one accident or occurrence, or to such greater extent on any or all such coverage as may be required of operator by any other utility under Section 3 hereof.

b. INSURANCE COVERAGE. There shall be filed in the office of the County Clerk a Certificate of Insurance, naming the County as additional insured under the liability Insurance required by this ordinance. The insurance company writing such insurance and certificate shall carry a "Triple A" financial rating in the then current edition of Best's Insurance Guide.

Section 5. PERFORMANCE BY OPERATOR.

a. Subject to the provisions of Section 10 hereof, Operator shall, within sixty months from the effective date of this ordinance, be offering service to at least 30 per cent (30%) of the dwelling units in the County, and within ten years of such effective date shall be offering service to all dwelling units in the County, provided that Operator shall not be required to provide service to any area having a population of less than 50 dwellings per cable mile nor to any areas as to which Operator, in order to reach such area, is caused to install more than one mile or more of cable through areas which do not have at least 50 dwellings per mile of cable.

b. At the request of the County, Operator hereby agrees to provide service (at no charge other than the direct charge, if any, which operator pays a utility in connection with the provision of such service, under an agreement of the type contemplated by Section 3 hereof) to the following building within the unincorporated portions of the County, all municipal buildings, police and fire stations, park district buildings, public libraries, public and private schools. Operator's obligation under this Section shall be limited to providing the service to one matching transformer in each such building.

c. Operator hereby agrees that the rates it charges customers in the unincorporated portions of the County for services shall not be unreasonably discriminatory, and, except as herein provided, that no free service will be permitted to any customer. This section shall not prevent Operator, however, from conducting promotion campaigns to attract new customers, including elimination or reduction of the initial connection fee or of the monthly service charge for a specified period.

Section 6. CONDITIONS OF STREET OCCUPANCY AND SYSTEM CONSTRUCTION.

a. USE. All structures, lines, and equipment erected or installed by Operator within the unincorporated portions of the County shall be so located as not to cause unreasonable interference with the proper use of streets, alleys, and other public ways and places, and to avoid unreasonable interference with the rights or reasonable convenience of property owners who adjoin any of said streets, alleys, or other public ways and places.

b. RESTORATION. In case of any disturbance of pavement, sidewalks, driveways, or other surfacing, Operator shall, at its own expense and in a manner approved by the County, replace and restore such places so disturbed in as good condition as before said work was commenced, and shall maintain the restoration in a condition approved by the County for the full period of one year.

c. RESLOCATION. In the event that at any time during the term of this ordinance, the County shall lawfully elect to alter or change the grade of any street, alley or other public way, Operator, upon reasonable notice by the County, shall (except when Operator's equipment is located on private property) remove, re-lay and relocate its
equipment at its own expense.

d. **PLACEMENT OF FIXTURES.** The location by Operator of its lines and equipment shall be in such manner as not to interfere with the normal travel on said streets, alleys, and public ways and normal use of the same by utility, water and sewer lines and equipment.

e. **TEMPORARY REMOVAL OF WIRES FOR BUILDING MOVING.**

Operator shall, on the request of the County, temporarily raise or lower its wires to permit the moving of buildings. This work shall be at the expense of the person moving the building.

f. **TREE TRIMMING.** When necessary for the installation of poles, cables, conduit, house connections or other structures, Operator is hereby authorized to trim trees located on public property. Such trimming shall be done in a workmanlike manner, in such a way as to preserve the beauty and balance of the tree, and under the supervision of properly designated County personnel.

g. **NON-LIABILITY OF COUNTY.** The County, its officials and employees shall not be liable for any damage occurring to the property of Operator caused by employees of the County in the performance of their duties, nor shall the County, its officials and employees be held liable for the interruption of service by actions of County employees in the performance of their duties, nor shall the County be held liable for the failure of Operator to be able to perform normal services due to acts of God.

h. **PERMITS FROM OTHERS.** Operator shall be responsible for securing any rights-of-way, easements, permits or agreements from any other persons or utilities that may be needed by Operator for any reason.

Section 7. **CONSTRUCTION APPROVAL BY COUNTY.** Except for individual service drops, Operator shall not, in the unincorporated portions of the County, erect any pole, run any line, make any attachment, nor shall construction of any kind be commenced without the prior approval (which shall not be unreasonably withheld) of the County, in the form of a permit issued by the County, upon approval of layout maps showing the location of the facility or equipment to be installed. The County shall have and maintain the right to inspect the construction, operation and maintenance of the system by Operator to insure the proper compliance with the terms of this ordinance. In the event Operator should violate any of the terms of this Section or the terms of any permit granted under authority of this Section or any rules and regulations that may be from time to time lawfully adopted by the County, the County shall immediately give to Operator written notice to correct such violation, and in the event Operator does not make such correction within ninety (90) days from the receipt of such written notice, the County may make such correction itself and charge the cost of same to Operator.

Section 8. **CUSTOMER SERVICE.**

a. **IN GENERAL.** Each system shall carry all signals of every commercial television station as to which the system tower and antenna equipment are located within the Federal Communications Commission approved predicted Grade B contour line of such television station. The television signals at no time shall be wilfully altered, interrupted, or blacked out in any way by Operator except for emergency.

b. **EDUCATIONAL SERVICE.** The Operator shall reserve one television channel for the use of educational institutions within the unincorporated portions of the County for the origination of educational television telecasts and the interconnection of all said educational
Section 9. SERVICE STANDARDS.

a. The system shall maintain at all times:

1. Equipment that passes standard color television signals without substantial degradation and with no appreciable phase shift and no appreciable effect on color fidelity and intelligence. The reception shall be of broadcast signal quality.

2. A system and all equipment designed and rated for 24-hour per day continuous operation.

3. A signal-to-noise ratio of not less than forty (40) decibels.

4. A television signal with a hum modulation less than three per cent (3%).

5. Components having voltage standing wave ratio of 1.4 or less.

b. Operator shall provide accurately calibrated test equipment for the testing of all service and operational standards outlined in this ordinance and shall conduct these tests as requested by the County under the supervision of a County representative, in order to establish the level of performance of the system.

Section 10. DEFAULTS. Operator shall not be deemed nor declared to be in default under any of the conditions, provisions, requirements or limitations of this ordinance in any case in which the performance of any such condition, provision, requirement or limitation is prevented by reason of strikes, injunctions or any other cause, including any lawsuit or administrative agency proceeding, reasonably beyond the control of Operator. In the event that Operator's performance is prevented by any such cause, the time for performance shall be extended by the period during which such cause was in effect.

Section 11. PAYMENTS TO COUNTY.

a. GROSS REVENUE TAX. Operator shall pay to the County a tax of five per cent (5%) of the gross revenues (excluding any revenues received by Operator under Section 5 (b) hereof) received by Operator from the operation of the system in the unincorporated portions of the County for the duration of this ordinance.

b. MANNER OF PAYMENT. All payments of such tax or fee shall be made to the County semi-annually and shall be due on or before August 1 and February 1 of each year commencing with the year in which Operator begins to render service in the unincorporated portions of the County.

Section 12. RECORDS AND REPORTS. On or before March 1 of each year, commencing with the year following the year in which Operator begins to render service in the County, Operator shall submit to the County a summary report, prepared by a competent firm of Certified Public Accountants, showing gross revenue received by Operator from the operation of the system within the unincorporated portions of the County during the preceding year.

Section 13. TERM OF ORDINANCE. This ordinance shall remain in full force and effect for a term of twenty (20) years and shall, at the conclusion of such term, be subject to renewal by the County by negotiation upon reasonable terms with Operator for additional periods.

Section 14. REGULATION. The provisions of this ordinance are subject to
such rules and regulations as are now or may hereafter be adopted by the Illinois Commerce Commission or any other state or federal agency having jurisdiction of Operator.

Section 15. PENALTIES. Should Operator, its successors or assigns, violate any of the provisions of this ordinance, or any rules and regulations lawfully adopted by the County or any other laws, or fail to perform any of the provisions hereof, Operator shall forfeit all its rights hereunder to the County upon the continuation of such violation or failure for a period of more than ninety (90) days from the date Operator receives written notice from the County of such violation or failure. In the event of the bankruptcy or receivership of Operator, all rights herein given to Operator shall at the option of the County be forfeited and terminated.

Section 16. SUCCESSORS AND ASSIGNS. All provisions of this ordinance which are obligatory upon, or inure to the benefit of Operator shall also be obligatory upon and shall inure to the benefit of any and all successors and assigns of Operator.

Section 17. SEPARABILITY. In the event any section or part of this ordinance shall be held invalid, such invalidity shall not affect the remaining sections or portions of this ordinance.

Section 18. CONFLICTING ORDINANCES. Where the provision of any ordinance or parts of ordinances are in conflict herewith, the more restrictive regulation shall apply.

Section 19. EFFECTIVE DATE. This ordinance, if accepted by Operator, shall be in full force and effect on and after June 26, 1967.

PASSED BY THE COUNTY BOARD OF SUPERVISORS OF KENDALL COUNTY, ILLINOIS THIS 26 day of June, 1967.

Jean P. Brady
County Clerk

APPROVED by the Chairman of the Board of Supervisors of Kendall County, Illinois, this 26 day June, 1967.

Russell Naden
Chairman of the Board of Supervisors

ATTEST:

Jean P. Brady
COUNTY CLERK


On motion by Supervisor Sleezer seconded by Supervisor Mann the Board adjourn to July 11, 1967 at 9 o'clock A.M.

Read and approved as read

Jean P. Brady
County Clerk