

AN ORDINANCE of the City of Lynnwood, Washington, regulating the operation of community antenna television systems, providing for franchises therefor, prescribing penalties for violations, establishing franchise fees, regulating construction and maintenance of said systems and their appurtenances, providing for legal protection from claims; providing for bonds and insurance; and establishing criteria for issuance, expiration and revocation of said permits.

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DOES ORDAIN AS FOLLOWS:

Section 1. Definitions

A. A community antenna television system is defined as a facility utilizing a receiving antenna or antennas, connecting wire, cable or relay facilities and associated equipment for the reception by subscribing members of the public of the television and radio signals of one or more broadcast stations, and of locally originated programming.

B. The term "person" shall include one or more persons of either sex, corporations, partnerships, associations, or any other entity capable of having an action at law brought against such entity.

C. The "franchise holder" is defined as any person who has a current franchise from the City Council of the City of Lynnwood to install, operate and maintain a community antenna television system.

D. "City" shall mean the City of Lynnwood, Washington.

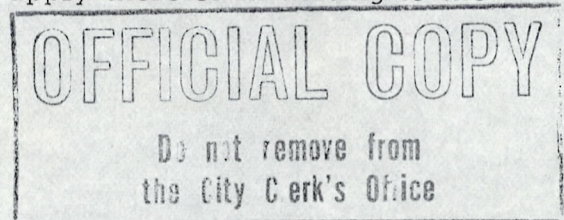
E. "City Council" shall mean the City Council of the City of Lynnwood, Washington.

Section 2. Franchise Requirement

It shall be unlawful for any person to operate or maintain a community antenna television system, or any part thereof, making use of the public rights-of-way of the City of Lynnwood unless that person shall have first secured a franchise therefor in the manner provided in this chapter.

Section 3. Application

A. Any person desiring to secure a franchise to operate and maintain a community antenna television system shall apply therefor in writing to the City Clerk.



B. Said application shall be in writing and shall state the name of the applicant, and if the applicant is a corporation or partnership, the names of its officers or partners, and the application shall also state in detail the information called for by the standards and criteria governing the granting of a franchise as set forth in paragraph D of this section.

C. Upon filing an application with the City Clerk as provided herein, the applicant shall pay an application fee of \$200, non-refundable.

D. The standards and criteria governing the issuance of a franchise are as follows:

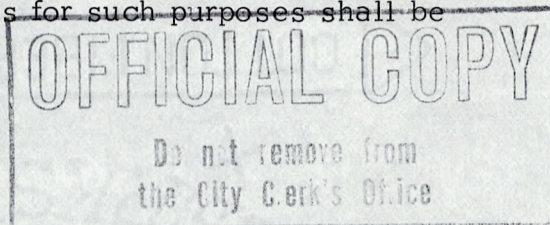
1. The experience, qualifications and financial responsibility of the applicant;
2. The staff, equipment and facilities available to the applicant for the service;
3. The capability of the applicant to serve the inhabitants of the proposed service area with signals of the highest quality which the state of the art will allow;
4. The rates contemplated to be charged by franchise holder for monthly service and initial installation;
5. The extent, type, variety and range of service and programming contemplated to be rendered by the franchise holder;
6. The specific area for which application for franchise is being made.

Section 4. Franchise, Rate Approvals

A. A franchise granted by the City Council upon application thereof shall be deemed to constitute a franchise to provide television cable service within the City of Lynnwood.

B. Such franchise shall remain in force until revoked as elsewhere set forth in this Ordinance, but in no event shall such franchise be in effect for any period greater than twenty (20) years from the date of issuance without a renewal thereof. At the termination of the franchise by expiration or revocation, unless the franchise is renewed at the end of its time, the franchise holder shall at its own cost and expense remove all construction and installations hereby authorized and shall place all portions of streets and other property that have been disturbed in as good conditions as the abutting portions thereof.

C. Such franchise shall be granted upon approval of the initial rates and charges to be made by the franchise holder for installation and service rendered by it to its customers, as contained in the original application or any amendment thereof. No rates or charges for such purposes shall be



changed by franchise holder from that approved in said franchise until the same shall have been approved by the City Council.

Section 5. Franchise Fees

The annual franchise fees for such person shall be payable quarterly at the rate of five (5) per cent of the gross receipts collected by franchise holder for the sale of its service in the City of Lynnwood in the preceding calendar quarter and shall be paid within twenty (20) days after the end of each calendar quarter. All franchise holders shall make available to the City, upon request, the franchise holder's books and customer list for verification of permit fees. Franchise fees shall be in lieu of other business license fees of the City.

Section 6. Franchise Rights

Franchise holder shall have the privilege, right, and authority to:

A. Construct, install, maintain and operate a coaxial cable subscriber system for television, radio and other audiovisual electrical signal distribution, using the streets, alleys, public highways and public places of the City of Lynnwood, with the necessary manholes and other appuretenances therefor:

B. To install, maintain and operate, antenna towers, lines, cable, necessary wiring and other apparatus for the purpose of receiving, amplifying, and distributing television, electronic, electrical and radio signals, audio and video to persons, business establishments and public places in the City of Lynnwood.

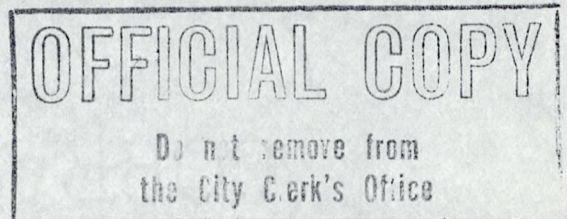
C. To charge its customers both a connection or installation fee to bring the service to their properties, and a monthly fee for their continued use of the service.

Section 7. Installation of Cables

Distribution and service lines may be placed on existing poles for overhead service except when the Power and Telephone Companies have placed their facilities underground.

Section 8. Avoidance of Traffic Obstructions

A franchise holder's facilities shall be so located and so installed as not to interfere with traffic over said streets, avenues, alleys, highways, bridges, easements and other public places so as to permit reasonable egress from and ingress to abutting property. Franchise holder shall not break up, excavate or block any street or alley or public thoroughfare without prior approval from the City Engineer. When any portion of a street is



excavated by franchise holder in the location, relocation, replacement or repair of any of its facilities, the portion of the street so excavated shall within a reasonable time and as early as the City Engineer deems practicable after said excavation be replaced by the franchise holder at its expense and in as good a condition as it was at the time of such excavation, all being in accordance with the applicable rules and regulations of the City.

Section 9. Filing of Plans

Before franchise holder shall lay underground or install overhead said coaxial cable along any street, avenue, alley, highway or other public place within the present or future corporate limits of the City, franchise holder shall file with the City Engineer a map showing the proposed location, height and depth thereof in such street, avenue, alley, easement, highway or other public place by surveyed measurements. If the location proposed does not interfere with the existing or contemplated sewers, water pipes or other public utilities, or violate ordinances of the City of Lynnwood, said Engineer shall approve said map, and the same thereafter be considered the official location of said coaxial cable or conduits, but if said proposed location would interfere with said existing or contemplated sewers, water pipes or other public utilities or violate any ordinance of the City of Lynnwood, said Engineer shall furnish the franchise holder with data so that an acceptable map of location of such conduits or cables may be filed. The City shall not be held liable for any disturbance of franchise holder's installations, resulting from any future altering, repairing or installation of streets or sewer or water installations.

Section 10. Safety of Any Future Systems

The City reserves the right to determine that any system is constructed and maintained in a safe condition, and if an unsafe condition is found to exist, to require the franchise holder to make necessary repairs and alterations forthwith, and if the franchise holder fails to make necessary repairs and alterations, the City may make them or have them made and collect all cost and expense thereof from the franchise holder, including all costs of collection, including reasonable attorney's fees and court costs.

Section 11. Changes of Grade

Whenever the prosecuting of any public work by the City shall involve the establishment or change of any street grade (established or otherwise), or sewer, water pipe or other public facility or utility and the same shall cross or require change of conduit, cable or apparatus located in any street, avenue, alley, highway or other public place under and by virtue of any ordinance, the same shall be changed by the franchise holder at its own expense after reasonable notice in writing of not less than fifteen (15) days to make the changes from the City Engineer.

Section 12. Furnishing of Cable Services

At all times during the term of any franchise issued pursuant to this Ordinance, franchise holder shall promptly and without discrimination furnish

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services upon request to persons and business establishments of the City of Lynnwood in conformance with reasonable rules and regulations of the franchise holder and in conformance with an approved schedule of service extensions within the franchised area. Service shall include television and radio signals of the highest quality which the state of the art at the time of installation will practically allow at the time. The franchise holder shall acquire, construct, maintain, equip and operate all necessary facilities for the reception, transmission and distribution and sale of television and radio signals for the benefit and convenience of the City's inhabitants, and shall make improvements to the system during its life as technological improvements to the art become available.

Section 13. Educational TV Channels

Franchise holder shall provide available broadcast educational channels as part of its service in accordance with a plan and schedule filed with the City at the time of application

Section 14. Conformance to Codes

A franchise holder shall comply with the National Electric Code, N.C.T.A. minimum technical standards, and all rules and regulations now in force or which may hereafter be put into force with respect to proper installation, construction and maintenance of lines, cables wiring and other apparatus authorized hereunder to be installed.

Section 15. Conformance to Federal and State Regulations

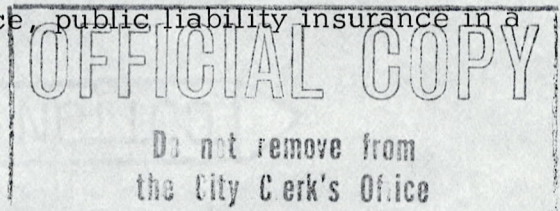
Franchise holder shall at all times comply with all applicable rules and regulations of the Federal Communications Commission and the Washington State Public Utilities and Transportation Commission which apply now and may hereafter be adopted. In the event of amendment or adoption of laws or regulations by those agencies, the City of Lynnwood reserves the right to amend this Ordinance accordingly and any franchises issued hereunder.

Section 16. Liability of City or Others

Franchise holder shall at all times protect and hold harmless the City, from all claims, actions, suits, liability loss, expense or damage of every kind and description, including court costs and attorneys' fees, which may accrue to or be suffered or claimed by any person or persons, or the City itself, arising out of the ownership, construction or copyright, property right, or other intangible, or patent of any article or system used in the construction or use of said system.

Section 17. Liability Insurance

Franchise holder shall maintain in full force and effect during the life of any franchise issued pursuant to this Ordinance, public liability insurance in a



solvent surety company authorized to do business in the State of Washington in the following amounts:

- A. \$250,000 for property damage to any one person;
- B. \$500,000 for property damage in any one accident;
- C. \$250,000 for personal injury to any one person;
- D. \$500,000 for personal injury in any one accident.

A certification of said policy or policies, authenticated by the insurance carrier or carriers shall be filed with the City Clerk and likewise certification of renewals shall be filed showing the above coverage for the duration of the franchise.

Section 18. Safety of Employees

Franchise holder shall carry workman's compensation insurance, and comply with all the workmen's insurance and safety laws of the State of Washington and amendments thereto.

Section 19. Surety Bond

Franchise holder shall post a surety bond in the face amount of One Hundred Thousand Dollars (\$100,000) with one or more sufficient sureties satisfactory to the City Attorney, which bond shall be in effect at all times during the period of any franchise issued pursuant to this Ordinance. Said bond shall insure and guarantee the faithful performance by the franchise holder of all the terms, conditions and requirements of this Ordinance and franchise thereunder, including, but not limited to, any and all construction of franchise holder, its agents or subcontractors, specifically including but not limited in the conditions that the applicant will indemnify and save the said City harmless from all claims, actions, or damages of every kind and description which may accrue to, or be suffered by, any person by reason of any construction or any opening in any street, alley, avenue or other public place made by franchise holder and that franchise holder will replace and restore such street, alley, avenue, planting, or other public or private property to as good a state or condition as at the time of the commencement of said work, and providing a recovery on the bond in case of failure to perform any of the terms and conditions of this ordinance or franchise granted hereunder.

Section 20. Assignment of Franchise

Except for a mortgage to secure a loan or loans to construct said system, franchise holder shall not sell, transfer, assign, merge, consolidate, or sublet its system and the privilege granted herein without first securing approval of the City Council as to the qualifications, as outlined in Section 3D above, of the purchasers, transferee, assignee or subleasee. Provided, however, that the franchise holder may sell, transfer, assign, merge, consolidate or sublet its system to an affiliated or subsidiary corporation without obtaining such approval.

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Section 21. Revocation of Franchise

Such franchises as issued shall be subject to revocation at any time by the City of Lynnwood upon a finding by the City Council that the franchise fees provided herein have not been paid; that the capability of such franchise holder has been so diminished that it is no longer able to offer proper service; that the service provided by such franchise holder is not adequate as set forth herein above; that said franchise holder has acted in derogation of the ordinance of the City of Lynnwood or the laws of the State of Washington, or laws or regulations of the United States or its agencies; or that the activities of franchise holder under said franchise for any reason are unlawful or transgress established rights of others. Such revocation shall be made only after a public hearing upon the matter has been held, and reasonable notice of said hearing having been given franchise holder in writing at least 30 days prior to said hearing directed to the address stated by the franchise holder in his application.

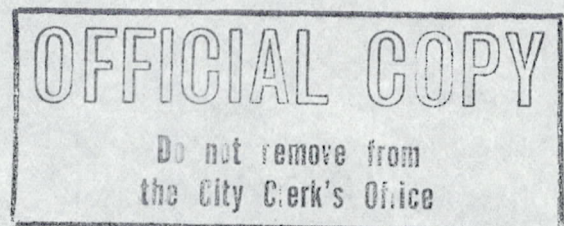
Such revocation shall be subject to a de novo review by the Snohomish County Superior Court, provided suit is filed by the aggrieved parties within 30 days of the final determination by the Council and any final determination by the City Council shall be held in abeyance for said 30 days pending and until decision of the Snohomish County Superior Court thereon if suit is filed in accordance herewith.

Section 22. Failure to Provide Service

If any franchise holder fails to place firm orders for equipment to commence construction of the community antenna television system within six (6) months from the date of issuance of said franchise holder's franchise or fails to begin operation, consisting of the transmission of electronic signals to subscribers, within a period of one (1) year from the date of issuance of said franchise, said franchise shall be forfeited, nullified, cease and be of no further force or validity, provided, however, that upon good cause being shown therefor, an extension of time within which franchise holder is to begin operation may be granted by the City Council of the City of Lynnwood. The failure to obtain necessary approvals from the Federal Communications Commission shall constitute good cause within the meaning of this section 22.

Section 23. Saving Clause

If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or illegal, the validity or illegality thereof shall not affect the validity or legality of any other section, sentence, clause or phrase of this Ordinance, it being the intent of the City Council that the remaining



portions have legal effect without regard to any invalid provision.

Section 24. Limits of Franchise

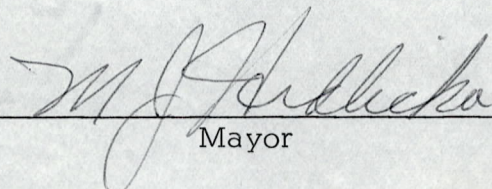
Franchise holder shall indemnify and save the City harmless and defend at its cost, any and all claims by persons for alleged violations of copyrights resulting from Franchise holder's activities or any and all claims by persons resulting from the granting of the right to operate a community antenna television system within the City to the Franchise holder.

This ordinance and the service provided hereunder is subject to, and this ordinance shall be deemed to be amended by, any regulations promulgated by the Federal Communications Commission and/or any state utility regulatory authority governing Community Antenna Television.

Section 25. Effective Date

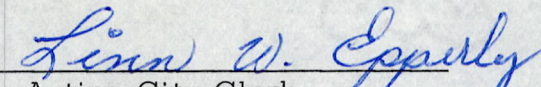
That the Effective Date of said Ordinance shall be five (5) days after its passage, approval and publication.

PASSED by the City Council this 14th day of July, 1969, and signed in authentication of its passage this 14th day of July, 1969.



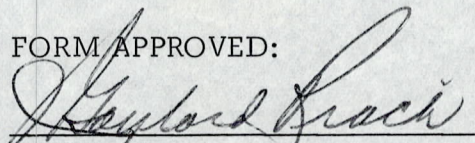
Mayor

ATTEST:



Acting City Clerk

FORM APPROVED:



City Attorney

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