

CHAPTER 32

CABLE COMMUNICATIONS

(Rep. & Rec. GO 22-96)

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32.01 **PURPOSES.** The purpose of this ordinance is to:

- (1) Provide for the franchising and regulation of cable television systems within the City of Green Bay; and
- (2) Provide for the payment of a fee and other valuable consideration to the City for the use of City streets and other public ways in the construction and operation of cable television systems, and to compensate the City for costs associated therewith; and
- (3) Provide for the development of cable television as a means to improve communication between and among the citizens and public institutions of the City; and
- (4) Provide remedies and prescribe penalties for violation of this ordinance and the franchise(s) granted hereunder.

32.02 **DEFINITIONS.** For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein, unless the context clearly indicates that another meaning is intended. 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 the words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

(1) "Agency" means the person, department or agency designated by the City Council to act in matters related to cable television. In the absence of any specific designation by City Council, the Mayor or his/her designate shall act as the Agency.

(2) "Auxiliary Services" means any cable services in addition to "regular subscriber services" including, but not limited to, services for which a per-program or per-channel charge is made, pay TV and any other service utilizing any facility or equipment of a cable television system operating pursuant to a franchise granted under this ordinance.

(3) "Cable Television System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service over the public right-of-way which includes video programming and which is provided to multiple subscribers within a community, but such a term does not include:

(a) a facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) a facility that serves subscribers without using any public right-of-way;

(c) a facility of a common carrier which is subject, in whole or in part, to the provisions of federal law, except that such facility shall be considered a cable system [other than for purposes of Section 621(c) of the Cable Communications Policy Act of 1984 (as it may hereinafter be modified or amended)] to the extent such facility is used in the transmission of video programming directly to subscribers; or

(d) any facilities of any electric utility used solely for operating its electric utility systems.

(4) "Channel" is a portion of the electro-magnetic spectrum, capable of carrying a television channel.

(5) "Converter" means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber; and with an appropriate channel selector also permits a subscriber to view all signals delivered at designated dial locations.

(6) "City Council" means the City Council of the City of Green Bay or the designated committee of jurisdiction.

(7) "Federal Communications Commission" or "FCC" means the present federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

(8) "Franchise" means an initial authorization or renewal thereof (including a renewal of an authorization which has been granted pursuant to Section 32.04(5) of this ordinance) issued by the franchising authority.

(9) "Franchising Authority" means the City of Green Bay.

(10) "Franchise Area" means that portion of the City for which a franchise is granted under the authority of this ordinance. If not otherwise stated in the franchise, the Franchise Area shall be the corporate limits of the City.

(11) "Grantee" means the natural person, partnership, domestic or foreign corporation, association, joint venture, or organization of any kind granted a franchise by the Council under this ordinance and its lawful and approved successor, transferee or assignee.

(12) "Gross Revenue" means all receipts derived directly from the operation or use of all or part of a cable television system franchised pursuant to this ordinance by the Grantee and its subsidiaries including, but not limited to, revenue from basic and expanded basic subscriber fees, premium channel fees, pay-per-view performance fees, equipment rentals and connection fees; provided, however, that this shall not include any home shopping, or date revenue or any taxes on services furnished by the Grantee herein imposed directly on any subscriber or user by the state, local or other governmental unit and collected by the Grantee on behalf of said governmental unit or separate revenues of affiliates of a parent company not attributable to the parent company's local cable operation. Advertising revenues will be included in this definition for franchise fee purposes beginning in January, 1997.

(13) "Net Profit" means the amount remaining after deducting from gross revenue all of the actual, direct and indirect, expenses associated with operating the cable television system, including the franchise fee, interest, depreciation and federal or state income tax.

(14) The term "Person" means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity.

(15) "Public Way" means the surface, the air space above the surface, and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkways, waterways, or other public right-of-way including public utility easements or rights-of-way, and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City which shall entitle the City and the Grantee to the use thereof for the purpose of installing and maintaining the Grantee's cable television system.

(16) "Regular Subscriber Service" means the distribution to subscribers of signals over the cable television system, which the FCC authorizes the Grantee to carry.

(17) "Schools" means all public educational institutions, including elementary and secondary schools, and other educational institutions where the City and Grantee jointly agree to provide service.

(18) "State-of-the-Art" equipment means that it is readily available from two or more supply sources, is able to perform the intended functions as demonstrated in a similar community, and is economically feasible.

(19) "Subscriber" means any person who pays for the regular subscriber services and/or any one or more of such other services as may be provided by the Grantee's cable television system and does not further distribute such service(s).

(20) "Two-Way Service" means the subscriber or any other location shall have the capability to choose whether or not to respond by utilizing any type of terminal equipment.

(21) "User" means a person or organization utilizing a system channel or system equipment and facilities for purposes of production and/or transmission of materials, as contrasted with receipt thereof in a subscriber capacity.

32.03 **GRANT OF AUTHORITY.**

(1) Requirement of a Franchise. No person, firm, company, corporation or association shall construct, install, maintain or operate a cable television system within the City, or within any other public property of the City, unless a franchise has first been obtained pursuant to the provisions of this ordinance, and unless such franchise is in full force and effect. Such franchise shall not take the place of any other license or permit which may be legally required of the Grantee in order to conduct such a business, or construct or install buildings, structures, facilities or equipment within the City.

(2) Franchise Applications.

(a) After receiving applications for a franchise, the City, after considering the legal, financial, technical and character qualifications of the applicants, may grant one or more non-exclusive franchises creating a right to construct and operate a cable television system within the public ways of the City. Franchise(s) may be granted to the applicant(s) which in the City's judgment may best serve the public interest; provided, however, no provision of this ordinance shall be deemed or construed as to require the City to grant a franchise.

(b) The application for an initial cable television franchise shall be submitted to the City Council, or its designee, on a written application form furnished by the City, and in accordance with procedures and schedules established by the City. The application form may request facts and information the City deems appropriate.

(c) After passage of this ordinance, no cable operator shall be granted a franchise by the City in which terms and conditions differ materially from those set forth in this ordinance. In the event that the City grants a non-identical franchise to another cable operator, Grantee shall have the right to comply instead with any less stringent terms and conditions of the subsequent franchise and to receive other appropriate adjustments in the event there is no economically reasonable way for the Grantee to reduce its franchise requirements to less stringent levels.

32.04 **FRANCHISE CONDITIONS.**

(1) Franchise Term and Non-Exclusivity. The term of an original franchise shall not be more than 15 years from the date the franchise is accepted by the Grantee. The term of a renewed franchise shall be no more than 15 years. No franchise granted pursuant to this ordinance shall give any exclusive right to a Grantee and every such franchise shall be deemed to reserve the right to grant other franchises to use and occupy the public ways of the City for cable television pursuant to the provisions of this ordinance.

(2) Notice to the Grantee. Except as otherwise provided in this ordinance, the Council shall not meet to take any final action involving the review, renewal, revocation or termination of the Grantee's franchise unless the City has:

(a) advised the Grantee in writing, at least 30 days prior to such meeting, as to its time, place and purpose; and

(b) published a notice, at least once, 10 days before the meeting in a newspaper of general circulation within the City. The cost of such notification shall be borne by the City.

(3) Modification of Franchise Obligations. The provisions of Section 625 of the Cable Communications Policy Act of 1984 (as it may hereinafter be modified or amended) are adopted by reference and made a part of this ordinance with the same force and effect as though set forth herein.

(4) Performance Evaluation Session.

(a) The Council and the Grantee may hold scheduled performance evaluation sessions within 30 days of the fifth and tenth anniversary dates of the Grantee's award of the franchise and as required by federal and state laws. All such evaluation sessions shall be open to the public. The City shall be solely responsible for notifying the Grantee, in writing, at least 60 days in advance, of each of the specified performance evaluation sessions. In addition, either party may request a special evaluation session.

(b) All evaluation sessions shall be open to the public and announced by the City Council in a newspaper of general circulation in accordance with the notice requirements of §32.04(2) of this ordinance. Grantee shall notify subscribers of all evaluation sessions by announcement on at least one appropriate channel on the system.

(c) Topics which may be discussed at any scheduled or special evaluation session may include, but not be limited to, franchise fees, penalties, applications of new technologies, services provided, programming offered, customer complaints, judicial and FCC rulings, line extension policies and Grantee or City rules.

(d) During a review and evaluation by the Council, the Grantee shall fully cooperate with the Council and shall provide such relevant information and documents as the Council may need to reasonably perform its review.

(5) Franchise Renewal. Renewal of this franchise shall be governed by applicable federal law.

(6) Franchise Revocation Procedures.

(a) Whenever a Grantee shall refuse, neglect or willfully fail to construct, operate or maintain its cable television system or to provide service to its subscribers in substantial accordance with the terms of this ordinance and the franchise, or to comply with the conditions of occupancy of any public ways, or to make required extensions of service, or in any other way substantially violate the terms and conditions of this ordinance, the franchise, or any applicable rule or regulation, or practices any proven fraud or deceit upon the City or its subscribers, or fails to pay timely franchise fees or other payments, such as real estate or personal property taxes due to the City, or if a Grantee becomes insolvent, or unable to or unwilling to pay its uncontested debts, or is adjudged bankrupt or seeks relief under uncontested debts or under the bankruptcy laws, then the franchise may be subject to revocation pursuant to existing rules of the Council.

(b) In the event the City believes that grounds for revocation exist or have existed, the City shall notify a Grantee, in writing, setting forth the nature and facts of such noncompliance. If, within 60 days following such written notification, the Grantee has not furnished reasonably satisfactory evidence that corrective action has been taken or is being actively and expeditiously pursued, or that the alleged violations did not occur, or that the alleged violations were beyond the Grantee's control, the City shall thereupon refer the matter to the City Council. Upon good cause shown as determined by the Council, the Grantee shall receive an extension of the 60-day time limit contained herein.

(c) The Council shall not revoke a franchise pursuant to §32.04(6)(a) of this ordinance until it has given notice to the Grantee that it proposes to take such an action and the grounds therefor. In any revocation hearing held by the City Council, both the Grantee and the City shall be afforded fair opportunity for full participation, including the right to introduce evidence and to question witnesses. The revocation hearing shall be conducted pursuant to Wisconsin Rules of Evidence and a transcript of proceeding shall be made. Grantee shall have the right to appeal an adverse decision to a Circuit Court of competent jurisdiction.

(d) A Grantee shall not be subject to the sanctions of this section for any act or omission wherein such act or omission was beyond the Grantee's control. An act or omission shall not be deemed to be beyond the Grantee's control if committed, omitted, or caused by a corporation or other business entity which holds a controlling interest in the Grantee, whether held directly or indirectly. Further, the inability of a Grantee to obtain financing, for whatever reason, shall not be an act or omission which is "beyond the Grantee's control".

(e) The termination of a Grantee's rights under a franchise shall in no way affect any other rights the City or Grantee may have under the franchise or under any provision of law.

(f) Upon lawful revocation of the franchise, Grantee shall be required to remove all aerial equipment or at its option to transfer, by sale or lease, its cable system to a third party within six months of the Council's notification of revocation, subject to §32.04(9), Transfer of Franchise provisions.

(7) Franchise Fee.

(a) The Grantee, in consideration of the privilege granted under the franchise for the operation of a cable television system within the public ways of the City and the expense of regulation pursuant to the franchise incurred by the City, shall pay to the City 5% of its quarterly gross revenues during the period of its operation under the franchise; or the maximum amount as may be set from time to time by controlling federal or state law, if such maximum is less than 5%.

(b) Grantee shall pay franchise fees by 60 days following the end of each of the first three quarters. Each payment shall be accompanied by a report of gross revenues received during the quarter. The Grantee shall file with the City within 90 days after the expiration of the Grantee's calendar year, a gross revenues statement clearly showing the gross cable revenues received by the Grantee during the previous franchise year by quarter, and shall simultaneously tender payment of the fourth quarter franchise fee.

(c) The City shall have the right, consistent with the provisions of this ordinance, to inspect the Grantee's cable revenue records, the right of audit and the recomputation of any amounts determined to be payable under this ordinance. Any additional amount due the City as a result of the audit shall be paid within 30 days following written notice to the Grantee by the City, which notice shall include a copy of the audit report. The reasonable cost of the audit up to \$5,000 shall be borne by the Grantee if it is properly determined that the Grantee's annual payment due the City for the preceding year is increased thereby by more than 5%.

(d) In the event that any franchise payment or recomputed amount is not made on or before the applicable dates heretofore specified, interest shall be charged from said due date at the rate of 1% per month.

(8) Insurance-Bonds-Indemnity.

(a) Upon the granting of a franchise and within 30 days following the filing of the acceptance required under §32.07 of this ordinance and at all times during the term of the franchise, including the time for removal of facilities or management as a trustee as provided for herein; the Grantee shall provide the City with a Certificate of Insurance, which names the City of Green Bay as an additional insured evidencing:

1. A comprehensive general liability policy indemnifying, defending, and saving harmless the City, its officers, boards, commissions, City Council, agents or employees from any or all third-party claims for loss or damage for personal injury, death and property damage occasioned by the operations of the Grantee under this franchise in the minimal amount of \$1,000,000 per occurrence, combined single limit, for bodily injury and/or property damage.

2. A comprehensive general liability policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whosoever for property damage occasioned by the operation of Grantee under the franchise herein granted, or alleged to have been so caused or occurred, with a minimum liability of \$1,000,000 for bodily injury, personal injury or death of one or more persons or property damage in any one occurrence.

3. A workers compensation and employers liability policy must carry coverage for Statutory Workers Compensation and employers liability insurance with limits of liability insurance with limits of liability as follows: Bodily Injury by Accident \$100,000 Each Accident; Bodily Injury by Disease \$500,000 Policy Limit; Bodily Injury by Disease \$200,000 Each Employee. The policy must include the following coverage: occupational disease, sickness and death; broad from All States Endorsement; and coverage for

any liability or claim that may be incurred under U.S. Longshoremen's and Harbor Worker's Act, Admiralty (Jones) Act, and Federal Employee Liability Act.

4. A construction bond running to the City with good and sufficient surety approved by the City in the amount specified in the franchise, or if no amount is specified therein, then in the sum of \$250,000, conditioned upon the faithful performance and discharge of the obligations imposed by the ordinance and the franchise awarded hereunder from the date thereof, including, but not limited to, faithful compliance with the construction timetable proposed by the Grantee in its application as incorporated into the franchise, unless appropriate extension is approved by the City Council. When regular subscriber service is available to more than 90% of the occupied dwelling units within the franchise area, as described in §32.06(1) of this ordinance, as certified by the Council, the bond requirement shall be removed. The City's right to recover under the bond shall be in addition to any other rights retained by the City under this ordinance and other applicable law.

(b) The bond and all insurance policies called for herein shall be issued by companies licensed to do business within the State of Wisconsin, and shall be in a form satisfactory to the City Attorney and shall require 30 days written notice of any cancellation to both the City and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City written evidence of the issuance of replacement bond or insurance certificates within 30 days following receipt by the City or the Grantee of any notice of cancellation.

(c) The Grantee shall, at its sole cost and expense, indemnify, defend and hold harmless the City, its officials, boards, commissions, consultants, agents and employees against any and all claims, suits, causes of action, proceedings, and judgments for damage arising out of copyright infringements and damages arising out of any failure by Grantee to secure consents from the owners, authorized distributors, or licenses of programs to be delivered by the Grantee's cable system whether or not any act or omission complained of is authorized, allowed, or prohibited by the franchise. Indemnified expenses shall include, but not be limited to, all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the City Attorney or his/her assistants, or any consultants, agents and employees of the City.

(9) Transfer of Franchise. Under this paragraph, a transfer of franchise is presumed to occur if 40% or more of the ownership interest is transferred.

(a) A franchise granted under this ordinance shall be a privilege to be held in personal trust by the Grantee. Except as stated in §32.04(9)(c) of this ordinance, it shall not be assigned, transferred, sold or disposed of by voluntary sale, sale and leaseback, merger, consolidation or otherwise or by forced or involuntary sales, without prior consent of the City. Such approval shall not be unreasonably withheld, i.e. in exercising the foregoing approval authority, the City may reasonably consider the qualifications of the proposed purchaser to fulfill the lawful terms and conditions of this ordinance, but may not impose any additional terms or conditions as a prerequisite to approval. The proposed assignee agrees to comply with all the provisions of this ordinance and the franchise and reasonable amendments thereto, and must be able to provide proof of legal, technical, financial and character qualifications as determined by the Council.

(b) Any sale, transfer or assignment authorized by the Council shall occur according to normal business practices and be filed with the City.

(c) Franchise transfers.

1. Grantee shall give the City at least 90 days advance written notice of Grantee's intention to transfer ownership or control of a cable television system. During the term of a franchise agreement, Grantee may not transfer ownership or control of a cable television system without the approval of the City. The City may not withhold approval of an ownership transfer or a transfer of control without good cause. If a hearing is necessary to determine if a transfer may have an adverse effect, the City may schedule a hearing to take place within 45 days after the date on which the City receives the notice. If the City withholds approval of an ownership transfer or a transfer of control, the City shall state its objections to the transfer in writing within 60 days after the date on which the City receives the notice. Under this paragraph, a transfer of control is presumed to occur if 40% or more of the ownership interest in a cable television system is transferred.

2. If between 10% and 40% of the ownership interest in a cable television system is transferred, the cable operator shall inform the municipality that authorized its franchise of the transfer in writing within 30 days after the date of transfer.

(d) The consent of the City Council to any sale, transfer, lease, trust, mortgage or other instrument of hypothecation shall not constitute waiver or release of any of the rights of the City under this ordinance or the franchise.

(10) Records to be Kept. Upon written request by the City, the Grantee will file any or all of the following annual records for the previous calendar year. Such request will allow 60 days following receipt of the request for the Grantee to file the records requested, such timing to be extended 30 days upon reasonable written request by the Grantee.

- (a) Total end-of-year subscribers by service level.
- (b) Copies of subscriber agreements, handbooks, or other subscriber communication materials requested.
- (c) Facilities report of total miles and new construction miles.
- (d) Any federal government filings as designated by the City which are relevant to administration of the franchise.
- (e) Subscriber service call summary.
- (f) Annual report of the company, if a public corporation. If a non-public corporation, a list of all current shareholders.
- (g) The names and addresses of all officers and directors of the Grantee.
- (h) Names and addresses and phone numbers of Grantee's managerial and engineering personnel available for emergency contact during off hours.
- (i) A listing of all current prices for all cable services offered.

32.05 SUBSCRIBER FEES AND RECORDS.

(1) All charges to subscribers shall be consistent with a schedule of fees as established by the Grantee for particular service levels. Changes in the basic service fee schedule shall not take effect until at least 30 days after notification of same to the City.

(2) The Grantee shall not, with regard to service, discriminate or grant any preference or advantage to any person based on race, creed or religion; provided, however, that the Grantee may establish different service levels for different classes of subscribers, provided that the Grantee not discriminate between any subscribers of the same class.

(3) The Grantee shall be required to apprise in writing each new subscriber of all applicable fees and charges for providing cable television service.

(4) Except as may be otherwise provided, a subscriber shall have the right to have its service disconnected without charge; such disconnection shall be made as soon as practicable and in no case less than 30 days following notice to the Grantee of same and, if requested, shall remove all of Grantee's equipment from the subscriber's property. No Grantee shall enter into any agreement with a subscriber which imposes any charge for service following disconnection, except for unreturned equipment and reconnection and subsequent monthly or periodic charges and payment on any delinquent account, and those charges shall be no greater than charges for new customers. This section shall not prevent a Grantee from refusing service to any person because the Grantee's prior accounts with that person remain due and owing.

(5) Except as may be otherwise provided, a Grantee may offer service which requires advance payment of periodic service charge for not more than one year in advance subject to the conditions contained in this paragraph. A customer shall have the right, at any time, to have his/her service disconnected with a refund of unused service charges paid to the customer within 30 days from the date of service disconnection.

32.06 SYSTEM OPERATIONS.

(1) Franchise Areas.

(a) Grantee will offer services to all occupied residential dwellings without discrimination, in all areas within the City, not otherwise wired for cable service and in all annexed areas not otherwise wired for cable service, provided, however, that area has a minimum of 30 occupied residential dwellings per cable mile as measured from the nearest point of existing useable cable trunk.

(b) Grantee must extend and make cable television service available to any isolated resident within the franchise area requesting connection at the standard connection charge, if the connection to the isolated resident would require no more than a standard 150 foot aerial or buried drop line.

(c) With respect to requests for connection requiring an aerial or buried drop line in excess of 150 feet, Grantee must extend and make available cable television service to such residents at a connection charge not to exceed the actual installation costs incurred by the Grantee for the distance exceeding 150 feet.

(2) Systems Description and Service.

(a) Minimum general design specifications shall be as follows: the system will include all necessary electronic equipment, power supplies, connectors, and other parts, components and equipment necessary to provide a system with the frequency range of 50 to 750 MHz.

(b) The franchise is required by the FCC to meet certain technical standards. If the FCC should delete its technical standards, the City hereby reserves the right to amend this ordinance to incorporate similar standards and every franchise granted pursuant to this ordinance shall be subject to such reserved power whether or not expressly so conditioned.

(c) Applications for a franchise or a franchise renewal shall, to the extent provided in §611 and §626, Cable Communications Policy Act of 1984, include proposals for the provision of three educational and local City government channels. Whenever an access channel is in use for a substantial portion of time and there is a request from the City for use of an additional channel, Grantee shall have six months in which to provide additional access channel space (three maximum). Such proposals by a Grantee shall be incorporated into the franchise granted and shall be subject to the following requirements:

1. The Grantee shall have available equipment and a studio for local production and presentation of cablecast programs other than automated services and permit its use for the production and presentation of access programs with 30 days notice. Access studio facilities must be made available to all access users who are City residents on a first-come, first-served basis in compliance with rules and regulations set forth by the FCC. The Grantee shall provide technical and production assistance to access users as needed. Studio and personnel must be available a minimum of 20 hours/week.

2. The Grantee shall have no control over the content of access cablecast programs; however, this limitation shall not prevent the Grantee from taking appropriate steps to insure compliance with the operating rules described herein; failure by the Grantee to comply with such operating rules shall constitute a violation of the ordinance.

3. The local government access channel(s) shall be made available for the use of the City free of charge.

(d) Grantee shall provide, without charge within the franchise area, one service outlet activated for basic and expanded basic service to each fire station, elementary, middle and high school, police station, City Hall, one Green Bay Transit building, public library, and such other buildings used for governmental purposes as may be designated by the City and agreed to by Grantee; provided, however, that if it is necessary to extend Grantee's trunk or feeder lines more than 200 feet solely to provide service to any such school or public building, except City Hall, the City or other such building owner shall have the option either of paying Grantee's direct costs for such extension in excess of 200 feet, or of releasing Grantee from the obligation to provide service to such building. Furthermore, Grantee shall be permitted to recover, from any public building owner entitled to free basic and expanded basic service, the direct cost of installing, when requested to do so, more than one outlet, or concealed inside wiring, or a service outlet requiring more than 250 feet of drop cable; provided, however that the Grantee shall not charge for the provision of regular basic subscriber service to the additional service outlets once installed.

(e) A Grantee, and all other persons using or making use of the cable communications system(s), shall comply with all federal, state and local laws, rules and regulations regarding the exhibition display or showing of obscene or indecent material.

(f) At the request of the subscriber, a Grantee shall provide a device capable of locking out any premium programming video and audio signals.

(3) Operational Requirements and Records.

(a) Grantee shall construct, operate and maintain the cable television system in full compliance with the rules and regulations, including applicable amendments, of the FCC and all other applicable federal, state or local laws and regulations, including the latest editions of the National Electrical Safety Code and the National Fire Protection Association National Electrical Code.

The cable television system and all its parts shall be subject to inspection by the City, and the City hereby reserves the right to review a Grantee's construction plans prior to the commencement of construction.

(b) Grantee will comply with the customer service standards set forth below.

1. Cable system office hours and telephone availability:

a. The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

b. Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

c. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.

d. Under normal operating conditions, telephone answer time by a customer representative, including wait time shall not exceed 30 seconds when the connection is made. These standards shall be met no less than 90% of the time under normal operating conditions, measured on a quarterly basis.

e. The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

f. Under normal operating conditions, the customer will receive a busy signal less than 3% of the time.

g. Customer service center and bill payment locations will be open at least during normal business hours and will be located within the greater Green Bay area.

2. Installations, outages and service calls:

a. RIGHTS:

(i) A cable operator shall repair cable service within 72 hours after a subscriber reports a service interruption or requests the repair if the service interruption is not the result of a natural disaster.

(ii) Upon notification by a subscriber of a service interruption, a cable operator shall give the subscriber a credit for one day of cable service if cable service is interrupted for more than four hours in one day and the interruption is caused by the cable operator.

(iii) Upon notification by a subscriber of a service interruption, a cable operator shall give the subscriber a credit for each hour that cable service is interrupted if cable service is interrupted for more than four hours in one day and the interruption is not caused by the cable operator.

b. STANDARDS:

(i) Under normal operating conditions, each of the following four standards will be met no less than 95% of the time measured on a quarterly basis.

(ii) Standard installations will be performed within seven business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.

(iii) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.

(iv) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)

(v) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.

(vi) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

3. Communications between cable operators and cable subscribers:

a. The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request: products and services offered; prices and options for programming services and conditions of subscription to programming and other services; installation and service maintenance policies; instructions on how to use the cable service; channel positions of programming carried on system; and billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.

b. Customers will be notified in writing of any changes in rates, programming services or channel positions as soon as possible. Notice must be given to subscribers a minimum of 30 days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers 30 days in advance of any significant changes in the other information required by the preceding paragraph.

4. Billing:

a. Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

b. In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.

c. Refunds. Refund checks will be issued promptly, but no later than either:

(i) the customer's next billing cycle following resolution of the request or 30 days, whichever is earlier, or

(ii) the return of the equipment supplied by the cable operator if service is terminated.

d. Credit. Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

5. Definitions.

a. Normal Business Hours means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.

b. Normal Operating Conditions means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

c. Service Interruption means the loss of picture or sound on one or more cable channels.

(c) Grantee shall exercise its best effort to design, construct, operate and maintain the system at all times so that signals carried are delivered to subscribers without material degradation in quality (within the limitations imposed by the technical state-of-the-art).

(d) Copies of all correspondence, petitions, reports, applications and other documents sent to or received by Grantee from federal or state agencies, which allege or contend any material violation of federal or state regulations shall simultaneously be furnished by the Grantee to the City.

(e) In the case of emergency or disaster, the Grantee shall, upon request of the City, make available its emergency alert facilities to the City, or other designated government authority, without costs, for emergency use during the emergency or disaster period.

(4) Service, Adjustment and Complaint Procedure.

(a) Except for circumstances beyond the Grantee's control, such as strikes, acts of God, weather, wars, riots and civil disturbances, the Grantee shall establish a maintenance service capable of locating and correcting major system malfunctions promptly. Said maintenance service shall be available at all hours to correct such major system malfunctions affecting a number of subscribers.

(b) A listed local telephone number shall be made available to subscribers for service calls at any time of the day or night. Investigative action shall be initiated reasonably promptly in response to all service calls, other than major outages. Corrective action shall be completed as promptly as practicable. Appropriate records shall be made of service calls showing when and what corrective action was completed. Upon request, such records shall be made available to the City for audit during normal business hours and retained in Grantee's files for not less than one year.

(c) The Grantee shall furnish each subscriber, at the time service is installed, written instructions that clearly set forth procedures for placing a service call or requesting an adjustment. Said instructions shall also include the name, address and telephone number of the City and a reminder that the subscriber can call or write for information regarding terms and conditions of the Grantee's franchise if the Grantee fails to respond to the subscriber's request for installation, service or adjustment within a reasonable period of time.

(d) In the event a subscriber does not obtain a satisfactory response or resolution to his/her request for service or an adjustment within a reasonable period of time, he/she may advise the City in writing of his/her dissatisfaction; and the City shall have the authority to investigate the matter and order corrective action as may be appropriate.

(e) The Grantee shall interrupt system service after 7:00 A.M. and before 1:00 A.M. of the following day only with good cause and for the shortest time possible and, whenever possible, only after cablecasting notice of service interruption at least 24 hours in advance of the service interruption. Service may be interrupted between 1:00 A.M. and 7:00 A.M. for routine testing, maintenance and repair on any day except Saturday or Sunday, or a holiday. The service interruptions described herein do not include what is commonly referred to as "sweeping".

(5) Use of Streets and Other Public Property. The authority granted above is expressly conditioned upon compliance with the provisions of this ordinance including, but not limited to, the following regulations:

(a) Approval of Construction and Inspection.

1. Grantee, prior to the commencement of any construction or installation of any facilities within the public streets, easement, or other public property shall submit to the Director of Public Works a complete set of plans and specifications, in a form to be approved by the Director of Public Works, detailing the proposed construction and installation. No such construction or installation may commence until the Director of Public Works has granted written approval of said plans and specifications.

2. The City shall have the right to inspect and supervise all construction or installation work performed in, under, upon, over, or through any street, easement or other public property. If, in the opinion of the Director of Public Works, such inspection requires such additional time of that department so that the same cannot be adequately provided by existing staff, the Director of Public Works may petition the Improvement and Service Committee and the Personnel Committee to hire such additional employees as may be necessary to provide adequate inspection.

(b) Use of Existing Poles or Conduits.

1. Nothing in this ordinance or any franchise granted hereunder shall authorize the Grantee to erect and maintain in the City any new poles where existing poles of other companies or utilities are servicing a geographic area. The Grantee shall apply to the Director of Public Works for permission to erect any new poles, underground conduit or appurtenances where none exist at the time the Grantee seeks to install its network.

2. Any franchise granted hereunder shall not relieve the Grantee of any obligation involved in obtaining pole or conduit use agreements from the utility companies or other persons maintaining poles or conduits within any street or other public property, whenever the Grantee finds it necessary to make use of said poles or conduits.

3. In the event that the Grantee has its facilities located upon poles or in conduits owned by other persons and the pole or conduit is removed, relocated or abandoned, the Grantee may be required to remove its facilities and provide services in another approved method.

(c) Underground Facilities. The Grantee shall be required to install its facilities underground in any location where other utilities are underground and in other locations where deemed necessary and directed by the Director of Public Works. In determining where Grantee's facilities shall be installed underground, the Director of Public Works shall not unreasonably require such installation and shall limit such installation only to those situations where it is likely that other utilities will be transferring their facilities underground and in cases where the public health, safety and general welfare so require. Any determination of the Director of Public Works hereunder which adversely affects the rights of the Grantee may be appealed to the Improvement and Service Committee of the Common Council. The determination of that Committee regarding the necessity for underground installation shall be final.

(d) Excavation Permits and Street Obstruction Permit. The Grantee shall not open or disturb the surface of any street in the City for any reason without first having obtained the permits required by the Code of Ordinances of the City of Green Bay.

(e) Facilities Not to be Hazardous or Interfere. All installations of equipment shall be of a permanent nature, durable, and installed in accordance with good engineering practice, sufficient to comply with all existing City of Green Bay regulations, and state laws so as not to interfere in any manner with the right of the public or individual property owner, and shall not interfere with the travel and use of public places by the public, and during the construction, repair or removal thereof, shall not obstruct or impede traffic unnecessarily or unreasonably interfere with the use or enjoyment of private property adjacent thereto. The Director of Public Works shall make inspection to enforce the provisions of this section. Failure to comply with reasonable orders of the Director of Public Works shall be cause for notice of violation.

(f) Restoration. In the event of disturbance of any street by Grantee, it shall, at its own expense and in a manner approved by the Director of Public Works, replace and restore such street in as good as a condition as before the work causing such disturbance was done.

(g) Notice of City Improvements. The City reserves the right upon reasonable notice to require the Grantee at its expense to protect, support, temporarily disconnect, relocate or remove from City's streets any property of the Grantee by reason of traffic conditions, public safety, street construction or vacation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracks or other types of structure or improvements by governmental agencies or any other structures of public improvements. Reasonable notice for this provision of the ordinance shall be construed to mean that at least 30 days prior to such improvements, the City will notify any Grantee that some time after said 30-day period the Grantee will be required to act hereunder within at least three days of further notice. At any time after the expiration of the 30-day period, the City may require action hereunder upon three additional days notice.

(h) Temporary Removal of Wire or Cable for Building Moving. The Grantee shall, on the request of any person holding a building moving permit, temporarily raise or lower its wires to permit the moving of said building. The expense of such temporary removal, raising or lowering of wires shall be paid by the persons requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than 48 hours written notice of any move contemplated to arrange for temporary wire changes.

(i) Reimbursement. In the event the Grantee fails to perform any such work detailed in §§32.06(5)(f), (g), and (h) of this ordinance within the time provided for notice as contained therein, the City shall have the right to perform said work or enter into appropriate contracts to have said work done at the sole expense of the Grantee.

(j) Authority to Trim Trees. The Grantee shall have the authority to trim trees upon and overhanging street so as to prevent the branches of such trees from coming in contact with the wires and cable of the company. All trimming is to be done under the supervision and direction of the Director of Parks, Recreation, and Forestry after the explicit prior written notification and approval of the City and at the expense of the Grantee. The Grantee may contract for such services; however, any firm or individual so retained shall receive City approval prior to commencing such activity.

(k) City's Right of Network Installation. The City reserves the right, during the life of any franchise granted hereunder, to install and maintain free of charge upon or in the poles and conduits of the Grantee any wire and pole fixtures necessary for municipal networks on the condition that such installation and maintenance therefore does not interfere with the operation of the Grantee.

(l) Alternate Routing of Plant. In the event continued use of a street is denied to the Grantee by the City for any reason, the Grantee will make every reasonable effort to provide service over alternate routes.

(m) Plant Records. The Grantee shall furnish the Director of Public Works upon completion of construction, maps, specification, and staking sheets, showing all locations of the Grantee's facilities. Upon any change as to construction and removals, the Grantee shall provide the Director of Public Works new and revised construction sheet for the City's records, except for individual subscriber connecting wires or cables.

(n) Construction and Installation - Obtaining Necessary Permits. Within 90 days after acceptance of any franchise, the Grantee shall proceed with due diligence and obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, authorization to

commence operation upon the filing of a registration statement with the FCC, or other federal authorization, microwave carrier licenses, any other permits, licenses and authorizations to be granted by duly constituted regulatory agencies having jurisdiction over the operation of CATV systems or associated microwave transmission facilities. Any utility joint use attachment shall be obtained within 90 days after acceptance of any franchise.

(o) Construction and Installation. Within 90 days after obtaining all necessary permits, licenses and authorizations, including right of access to poles and conduits, Grantee shall commence construction and installation of the cable television system. Within 180 days after the commencement of construction and installation of the system, Grantee shall proceed to render service to subscribers, and the completion of the installation and construction shall be pursued with reasonable diligence thereafter and in conformity with the proposal submitted by any franchisee.

(p) Proportional Expansion of Initial Construction. Recognizing the needs and desires of the citizens of the City to be provided with the services to be rendered under this franchise, any construction and installation of facilities by the Grantee of any franchise hereunder shall be performed in such a way that the system is installed and made operational proportionally on both sides of the Fox River in such a manner that, within reasonable limitations, the approximate distance of cable miles constructed, and the number of potential subscribers to be serviced is in proportion on either side of the Fox River.

(q) Easements Not Implied. The right of construction, including easements, is not implied, except on locations where the City has the authority to grant such rights and easements, and then only in conformity with the provisions of this Chapter. All other rights of construction, including easements, shall be the responsibility of the operator.

(6) Construction Schedule and Reports.

(a) Upon accepting the franchise, Grantee shall, within 60 days, file the documents required to obtain all necessary federal, state and local licenses, permits and authorizations required for the conduct of its business and shall submit monthly reports to the City on progress in this respect until all such documents are in hand. Failure of the Grantee to pursue all necessary steps to secure the aforementioned authorizations with due diligence shall constitute a substantial violation of this ordinance.

(b) The Grantee shall commence construction or upgrade of the cable system within eight months after receiving all necessary permits, authorizations and licenses, and shall complete construction of the system in the franchise area and offer and be capable of delivering cable television service in full accordance with this ordinance and the franchise granted hereunder to subscribers in not less than 20% of the occupied dwelling units in the franchise area within 12 months after commencing construction, and shall be capable of delivering service to the remaining 80% of the occupied dwelling units in the franchise area in the succeeding 12 month period thereafter, or such lesser periods as shall be specified in the franchise. Notwithstanding the foregoing, failure of the Grantee for any reason to commence construction within 12 months of the date of acceptance of the franchise shall be grounds for revocation of the franchise. For the purpose of this section, construction shall be deemed to have commenced when the first aerial strand cable has been attached to a pole or the first underground trench has been opened.

(c) Franchise applications shall include a timetable showing the percentage of occupied dwelling units within the Primary Service Area that will be capable of receiving cable television service each year of construction. Said timetable shall be incorporated into the franchise and shall be enforceable as to the Grantee under the provision of this ordinance.

(d) Each Grantee shall fill all requests for cable service, once facilities are in place consistent with the foregoing schedule of service, within 30 days after the date of each request. A record of all service requests shall be kept for at least one year and shall be available for public inspection at the local office of the Grantee during regular office hours with reasonable advance notice.

(e) Within three months after accepting the franchise, Grantee shall furnish the City a complete construction schedule and map setting forth target dates by areas for commencement of service to subscribers. The schedule and map shall be updated whenever the substantial changes become necessary.

(f) Every three months after the start of construction, Grantee shall furnish the City a report on progress of construction until complete. The report shall include a map that clearly defines the areas wherein regular subscriber service is available.

(7) Protection of Privacy. The provisions of §134.43 of the Wisconsin Statutes, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are hereby adopted and made a part of this section by reference. A violation of any such provision shall be a violation of this section.

(8) Area-Wide Interconnection of Cable Systems. Grantee, at its own option, may interconnect Access Channels and or Local Origination Channels of its cable television system with any or all other cable systems providing service in adjacent areas. While Grantee may provide such channels to multiple communities served by its distribution systems, this section refers to cabled area managed by other operators which may now or in the future offer Access or Local Origination Channels.

32.07 **GENERAL PROVISIONS.**

(1) Limits on Grantee's Recourse.

(a) The Grantee, by accepting the franchise, acknowledges that it has not been induced to accept same by any promise, verbal or written, by or on behalf of the City or by any third person regarding any term or condition of this ordinance of the franchise not expressed therein. The Grantee further pledges that no promise or inducement, oral or written, has been made to any City employee or official regarding receipt of the cable television franchise.

(b) Acceptance of the ordinance shall not be construed as a waiver of the Grantee of any existing or future right to challenge the legality of any provision of this ordinance. Nothing herein or in Grantee's acceptance may be construed to deny the Grantee the right to judicial review of any action or threatened action by the City arising out of this ordinance.

(2) Compliance with State and Federal Law. The Grantee shall, at all times, comply with all laws of the state and federal government and the rules and regulations of any federal or state administrative agency; provided, however, this section shall not be construed to require the City to make an initial determination of any such violation. Grantee and City acknowledge that this ordinance may be superseded by other state or federal laws, statutes or regulation.

(3) Special License. The City reserves the right to issue a license, easement or other permit to anyone other than the Grantee to permit that person to traverse any portion of the Grantee's franchise area within the City in order to provide service outside the City. Such license or easement, absent a grant of

franchise in accordance with this ordinance, shall not authorize nor permit said person to provide a cable television service of any nature to any home or place of business within the City nor to render any service or connect any subscriber within the City to the Grantee's cable television system.

(4) Conflict. In case of conflict or ambiguity between this ordinance, the franchise and the Grantee's franchise application, the Grantee and the City agree that the franchise shall prevail.

(5) Failure to Enforce Franchise. The Grantee shall not be excused from complying with any of the terms and conditions of this ordinance or the franchise by any failure of the City, upon performance or to seek Grantee's compliance with any one or more of such terms or conditions.

(6) Rights Reserved to Grantor. The City hereby expressly reserves the following rights:

(a) To exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the City.

(b) To adopt, in addition to the provisions contained herein and in the franchise and in any existing applicable ordinances, such additional reasonable regulations of general applicability as it shall find necessary in the exercise of its police power.

(c) The Grantee at all times in the installation, maintenance and operation of the cable television system shall be subject to the terms and conditions of City ordinances of general applicability and to the lawful exercise of the police power of the City provided, however, that no subsequent municipal actions shall in any way abrogate the rights granted to the Grantee herein.

(7) Employment Requirement. The Grantee shall not refuse to hire, nor discharge from employment, nor discriminate against any person regarding compensation, terms, conditions or privileges of employment without regard to race, religion, color, sex, or national origin. The Grantee shall take continuous, positive actions through the Affirmative Action Program to ensure fulfillment of this commitment as it relates to the following: recruitment, advertising, or solicitation for employment; hiring, placement upgrading, or promotion; treatment during employment; rates of pay, benefits, or other forms of compensation; selection for training and educational opportunities; tuition assistance; job eliminations; social and recreational programs; and demotions and terminations. The Grantee shall also ensure that promotional decisions are in accord with equal opportunity principles by imposing only valid, job-related requirements for promotional opportunities.

(8) Time Essence of Agreements. Whenever this ordinance or the franchise sets forth any time for any act to be performed by or on the behalf of the Grantee, such time shall be deemed of the essence and the Grantee's failure to perform within the reasonable time allotted shall be sufficient grounds for the City to invoke the remedies available under the terms and conditions of this ordinance and the franchise.

(9) Acceptance. This ordinance and the franchise and their terms and conditions shall be accepted by the Grantee by written instrument filed with the City within 30 days after the granting of the franchise, unless said period is extended by the City Council at its sole discretion.

(10) Publication Costs. The Grantee shall assume the cost of publication of this ordinance and franchise as much publication is required by law and such is payable 30 days after an invoice for the amount is provided by the City.

(11) Landlord/Tenant Relations.

(a) Interference with Cable Service Prohibited. Neither the owner of any multiple unit residential dwelling nor his/her agent or representative shall interfere with the right of any tenant or lawful resident thereof to receive cable television service, cable regulated by and lawfully operating under a valid and existing cable television franchise issued by the City.

(b) Gratuities and Payment to Permit Service Prohibited. Neither the owner of any multiple unit residential dwelling nor his/her agent or representative shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable communications service to the dwelling unit occupied by a tenant or resident requesting service.

(c) Penalties and Charges to Tenants for Service Prohibited. Neither the owner of any multiple unit residential dwelling nor his/her agent or representative shall knowingly penalize, charge or surcharge a tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable communications service from a Grantee operating under a valid and existing cable communication franchise issued by the City.

(d) Reselling Service Prohibited. No person shall resell, without the expressed written consent of both the Grantee and the City Council, any cable service, program or signals transmitted by a cable television company operating under a franchise issued by the City.

(e) Protection of Property Permitted. Nothing in this section shall prohibit a person from requiring that cable television system facilities conform to laws and regulations and reasonable conditions necessary to protect safety, functioning, appearance and value of premises or the convenience and safety of persons or property.

(f) Risks Assumed by Grantee. Nothing in this section shall prohibit a person from requiring a Grantee to indemnify the owner, or his/her agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable television facilities.

(12) Theft of Service. The provisions of Wisconsin Statutes §943.46 and §943.47 and the provisions of the §633 of the Cable Communications Policy Act of 1984, and any other applicable laws, exclusive of any provisions thereof relating to the penalty to be imposed or the punishment for violation of said statute, are adopted and hereby made a part of this section by reference. A violation of any such provision shall be a violation of this section. Additionally, this code governs obtaining cable services by fraud.

(13) Penalties.

(a) Notwithstanding any other remedies provided for in this ordinance, or otherwise available under law, the City shall have the power to impose the following monetary penalties in the event the Grantee violates any provision of this ordinance, the franchise, or any rule or regulation lawfully adopted thereunder:

1. For failure to submit plans indicating expected dates of construction of various parts of the system - up to \$100 per day.

2. For failure to commence operations in accordance with herein-stated provisions - up to \$100 per day.

3. For failure to complete construction and installation of system within proper time - up to \$100 per day.

(b) Persons, whether natural or artificial, or commercial entities who violate the following provisions of this ordinance hereinbefore deemed unlawful shall be subject to a fine not to exceed \$500 for each offense:

1. Willful failure by a Grantee to comply with the laws, rules or regulations described in §32.06(4)(a) of this ordinance.

2. Violation of subscriber's privacy as set forth in §32.06(8) of this ordinance.

3. Any person interfering with the provision of cable communications service as described in §§32.07(11)(a), (b), (c), or (d) of this ordinance.

4. Failure of Grantee to tender franchise fee payments at the time required by §32.04(7) of this ordinance will result in interest accruing at a rate of 1% per month from said due date.

(c) Procedure for Imposition of Penalties.

1. Whenever the City finds that Grantee has violated one or more terms, conditions or provisions of this franchise, a written notice shall be given to Grantee informing it of such violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have 30 days subsequent to receipt of the notice in which to correct the violation. Grantee may, within 15 days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to the City shall specify with particularity the matters disputed by Grantee.

2. The City shall hear Grantee's dispute at its next regularly or specially scheduled meeting. The City shall supplement the decision with written findings of fact.

3. If, after hearing the dispute, the claim is upheld by the City, Grantee shall have 30 days from such a determination to remedy the violation or failure. At any time after that 30 day period, the City may assess penalties as listed above.

(14) Grantee May Promulgate Rules. Grantee shall have the authority to promulgate such rules, regulations, terms and conditions of its business as shall be reasonably necessary to enable it to exercise its rights and perform its services under this ordinance and the rules of the FCC, and to assure uninterrupted service to each and all of its subscribers. Such rules and regulations shall not be deemed to have the force of law.

(15) Delegation of Powers. A delegable right, power or duty of the City or any official of the City under this ordinance may be transferred or delegated by resolution of the City Council to an appropriate officer, employee, or department of the City, or any other legal authority.

(16) Severability. If any section of this ordinance or the franchise, or any portion thereof, is held invalid or unconstitutional by any court of competent jurisdiction or administrative agency, such decision shall not affect the validity of the remaining portions hereof.

(17) Effective Date. This ordinance shall become effective upon passage.