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## **Title 14 Utilities**

- **Chapter 040 Underground Utility Installations**

- **Section 010 Definitions**

Whenever, in this chapter the words or phrases defined in this section are used, they shall have the respective meanings assigned to them in the following definitions:

- A. "Board" means the Glenn County board of supervisors;
- B. "Clerk" means the clerk of the Glenn County board of supervisors;
- C. "Commission" means the Public Utilities Commission of the state of California;
- D. "County" means the county of Glenn;
- E. "Person" means and includes individuals, firms, corporations, partnerships, and their agents and employees;
- F. "Poles, overhead wires and associated overhead structures" mean poles, towers, supports, wires, conductors, guys, stubs, platforms, cross arms, braces, transformers, insulators, cutouts, switches, communication circuits, appliances, attachments and appurtenances located above ground within a district and used or useful in supplying electric, communication or similar or associated service;
- G. "Road commissioner" means the Glenn County road commissioner;
- H. "Underground utility district" or "district" means that unincorporated area in the county within which poles, overhead wires, and associated overhead structures are prohibited as such area is described in a resolution adopted pursuant to the provisions of Section 14.04.040;

I. "Utility" includes all persons or entities supplying electric, communication or similar or associated service by means of electrical materials or devices.  
(Ord. 507 § 1, 1968.)

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**Section 020 Public Hearing by Board**

The board may from time to time call public hearings to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures within designated areas of the unincorporated area of the county and the underground installation of wires and facilities for supplying electric, communication, or similar or associated service. The clerk shall notify all affected property owners, as shown on the last equalized assessment roll, and utilities concerned, by mail, of the time and place of such hearings at least ten days prior to the date thereof. Each such hearing shall be open to the public and may be continued from time to time. At each such hearing all persons interested shall be given an opportunity to be heard. The decision of the board shall be final and conclusive. (Ord. 507 § 2, 1968.)

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**Section 030 Report by Road Commissioner**

Prior to holding such public hearing, the road commissioner shall consult all affected utilities and shall prepare a report for submission at such hearing containing, among other information, the extent of such utilities' participation and estimates of the total costs to the county and affected property owners. Such report shall also contain an estimate of the time required to complete such underground installation and removal of overhead facilities. (Ord. 507 § 2-1, 1968.)

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**Section 040 Underground Utility Districts--Designation**

If, after any public hearing, the board finds that the public necessity, health, safety or welfare requires removal of overhead facilities and underground installation within a designated area, the board shall, by resolution, declare such designated area an underground utility district and order the removal and underground installation. The resolution shall include a description of the area comprising the district and shall fix the time within which the removal and underground installation shall be accomplished and within which affected property owners must be ready to receive underground service. A reasonable time shall be allowed for the removal and underground installation, having due regard for the availability of labor, materials and equipment necessary for such removal and for the installation of the underground facilities as may be occasioned thereby. (Ord. 507 § 3, 1968.)

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**Section 050 Unlawful Acts**

Whenever the board creates an underground utility district and orders the removal of poles,

overhead wires and associated overhead structures therein as provided in Section 14.04.040, it is unlawful for any person or utility to erect, construct, place, keep, maintain, continue, employ or operate poles, overhead wires and associated overhead structures in the district after the date when the overhead facilities are required to be removed by such resolution, except as the overhead facilities may be required to furnish service to an owner or occupant of property prior to the performance by such owner or occupant of the underground work necessary for such owner or occupant to continue to receive utility service as provided in Sections 4.04.110 through 14.04.170, and for such reasonable time required to remove the facilities after the work has been performed, and except as otherwise provided in this chapter. (Ord. 507 § 4, 1968.)

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#### **Section 060 Exceptions--Emergency or Unusual Circumstances**

Notwithstanding the provisions of this chapter, overhead facilities may be installed and maintained for a period not to exceed thirty days, without authority of the board, in order to provide emergency service. The board may grant special permission on such terms as the board may deem appropriate in cases of unusual circumstances, without discrimination as to any person or utility, to erect, construct, install, maintain, use or operate poles, overhead wires and associated overhead structures. (Ord. 507 § 5, 1968.)

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#### **Section 070 Exceptions--Other**

This chapter and any resolution adopted pursuant to Section 14.04.050 shall, unless otherwise provided in such resolution, not apply to the following types of facilities:

- A. County facilities or equipment installed under the supervision and to the satisfaction of the road commissioner;
  - B. Poles, or electroliers used exclusively for street lighting;
  - C. Overhead wires (exclusive of supporting structures) crossing any portion of a district within which overhead wires have been prohibited, or connecting to buildings on the perimeter of a district, when such wires originate in an area from which poles, overhead wires and associated overhead structures are not prohibited;
  - D. Poles, overhead wires and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of thirty-four thousand five hundred volts;
  - E. Overhead wires attached to the exterior surface of a building by means of a bracket or other fixture and extending from one location on the building to another location on the same building or to an adjacent building without crossing any public street;
  - F. Antennae, associated equipment and supporting structures, used by a utility for furnishing communication services;
  - G. Equipment appurtenant to underground facilities, such as surface mounted transformers, pedestal mounted terminal boxes and meter cabinets, and concealed ducts;
  - H. Temporary poles, overhead wires and associated overhead structures used or to be used in conjunction with construction projects.
- (Ord. 507 § 6, 1968.)

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## **Section 080 Notice to Property Owners & Utility Companies**

Within ten days after the effective date of a resolution adopted pursuant to Section 14.04.040, the clerk shall notify all affected utilities and all persons owning real property within the district created by said resolution of the adoption thereof. The clerk shall further notify such affected property owners of the necessity that, if they or any person occupying such property desire to continue to receive electric, communication, or similar or associated service, they or the occupant shall provide all necessary facility changes on their premises so as to receive service from the lines of the supplying utility or utilities at a new location, subject to the applicable rules, regulations, and tariffs of the respective utility or utilities on file with the Commission. Notification by the clerk shall be made by mailing a copy of the resolution adopted pursuant to Section 14.04.040, together with a copy of the ordinance codified in this chapter, to affected property owners as shown on the last equalized assessment roll and to the affected utilities. (Ord. 507 § 7, 1968.)

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## **Section 090 Responsibility of Utility Companies**

If underground construction is necessary to provide utility service within a district created by any resolution adopted pursuant to Section 14.04.040, the supplying utility shall furnish that portion of the conduits, conductors and associated equipment required to be furnished by it under its applicable rules, regulations and tariffs on file with the Commission. (Ord. 507 § 8, 1968.)

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## **Section 100 Responsibility of Property Owners**

Every person owning, operating, leasing, occupying or renting a building or structure within a district shall construct and provide that portion of the service connection on his property between the facilities referred to in Section 14.04.090 and the termination facility on or within the building or structure being served. If the above is not accomplished by any person within the time provided for in the resolution enacted pursuant to Section 14.04.040, the road commissioner shall give notice in writing to the person in possession of such premises, and a notice in writing to the owner thereof as shown on the last equalized assessment roll, to provide the required underground facilities within ten days after receipt of such notice. (Ord. 507 § 9, 1968.)

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## **Section 110 Notice--Service**

The notice to provide the required underground facilities may be given either by personal service or by mail. In case of service by mail on either of such persons, the notice must be deposited in the United States mail in a sealed envelope with postage prepaid, addressed to the person in possession of such premises at such premises, and the notice must be addressed to the owner thereof as such owner's name appears, and must be addressed to such owner's last known address as the same appears on the last equalized assessment roll. If notice is given by mail, such notice shall be deemed to have been received by the person to whom it has been sent within forty-eight hours after the

mailing thereof. If notice is given by mail to either the owner or occupant of such premises, the road commissioner shall, within forty-eight hours after the mailing thereof, cause a copy thereof, printed on a card not less than eight inches by ten inches in size, to be posted in a conspicuous place on the premises. (Ord. 507 § 9-1, 1968.)

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#### **Section 120 Notice--Contents**

The notice given by the road commissioner to provide the required underground facilities shall particularly specify what work is required to be done, and shall state that if the work is not completed within thirty days after receipt of such notice, the road commissioner will provide such required underground facilities, in which case the cost and expense thereof will be assessed against the property benefited and become a lien upon such property. (Ord. 507 § 9-2, 1968.)

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#### **Section 130 Construction by County or Disconnection--Assessment**

If, upon expiration of the thirty-day period, the required underground facilities have not been provided, the road commissioner shall forthwith proceed to do the work; provided, however, if such premises are unoccupied and no electric or communications services are being furnished thereto, the road commissioner may, in lieu of providing the required underground facilities, authorize the disconnection and removal of any and all overhead service wires and associated facilities supplying utility service to the property. Upon completion of the work by the road commissioner, he shall file a written report with the board setting forth the fact that the required underground facilities have been provided and the cost thereof, together with a legal description of the property against which such cost is to be assessed. The board shall thereupon fix a time and place for hearing protests against the assessment of the cost of such work upon such premises which time shall not be less than ten days thereafter. (Ord. 507 § 9-3, 1968.)

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#### **Section 140 Notice of Protest Hearing**

The road commissioner shall forthwith, upon the time for hearing such protests having been fixed, give a notice in writing to the person in possession of such premises, and a notice in writing thereof to the owner thereof, in the manner provided in Section 14.04.110 for the giving of the notice to provide the required underground facilities, of the time and place that the board will pass upon such report and will hear protests against such assessment. The notice shall also set forth the amount of the proposed assessment. (Ord. 507 § 9-4, 1968.)

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#### **Section 150 Protest Hearing**

Upon the date and hour set for the hearing of protests, the board shall hear and consider the report and all protests, if there be any, and then proceed to affirm, modify or reject the assessment. (Ord. 507 § 9-5, 1968.)

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### **Section 160 Assessment--Lien Upon Property**

If any assessment is not paid within five days after its confirmation by the board, the amount of the assessment is made by the road commissioner, and the road commissioner is directed to turn over to the assessor and tax collector a notice of lien on each of the properties on which the assessment has not been paid, and the assessor and tax collector shall add the amount of the assessment to the next regular bill for taxes levied against the premises upon which the assessment was not paid. The assessment shall be due and payable at the same time as property taxes are due and payable, and if not paid when due and payable, shall bear interest at the rate of six percent per year. (Ord. 507 § 9-6, 1968.)

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### **Section 170 Responsibility of County**

The county shall remove at its own expense all county-owned equipment from all poles required to be removed hereunder in ample time to enable the owner or user of such poles to remove the same within the time specified in the resolution enacted pursuant to Section 14.04.040. (Ord. 507 § 10, 1968.)

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### **Section 180 Extension of Time**

In the event that any act required by this chapter or by a resolution adopted pursuant to Section 14.04.040 cannot be performed within the time provided on account of shortage of materials, war, restraint by public authorities, strikes, labor disturbances, civil disobedience, or any other circumstances beyond the control of the actor, then the time within which the act will be accomplished shall be extended for a period equivalent to the time of such limitation. (Ord. 507 § 11, 1968.)

## **• Chapter 060 Franchises--Cable Television**

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### **Section 010 Purpose**

The board of supervisors finds that the development of cable communications systems has the potential of having great benefit and impact upon the residents of Glenn County. The board of supervisors further finds that the public convenience, safety, and general welfare can best be served by establishing regulatory powers governing the installation, construction, operation, and

maintenance of cable communications systems which should be vested in the county and such persons as the county shall designate. It is the intent of this chapter to provide for and specify the means to attain the best possible public interest and public purpose in these matters and any franchise issued pursuant to this chapter shall be deemed to include this finding as an integral part thereof. (Ord. 942 § 4 (part), 1989.)

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## **Section 020 General Provisions**

Unless the contrary is stated or clearly appears from the context, the definitions set forth in this article shall govern the construction of the words and phrases used in this chapter.

1. "Basic cable service" means any service tier which includes the retransmission of local television broadcast signals.

2. "Broadcast signal" means a television or audio signal originating from a broadcast facility licensed by the FCC that is transmitted over the air to a wide geographic audience, is intended for reception by the general public, and is received by a cable communications system off-the-air by satellite, or by microwave.

3. "Cablecast signal" means a nonbroadcast signal that originates within the facilities of the cable communications system, including local origination programming and community access programming.

4. "Cable communications system," "cable system," or "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 which includes video programming and which is provided to multiple subscribers within the county, but such term does not include:

a. A facility that serves only subscribers in one or more multiple dwelling units under common ownership, control, or management, unless such facility uses any public street or right-of-way;

b. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video and/or audio programming directly to subscribers; or

c. Any facilities of any electric utility used solely for operating its electric utility system.

5. "Cable service" means (i) the one-way transmission to subscribers of video and/or audio programming or other programming service and (ii) subscriber interaction, if any, which is required for the selection of such video and/or audio programming or other programming service.

6. "Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel as defined by the FCC.

7. "Commence construction" means that time and date when construction of the cable communications system is considered to have commenced, which shall be when the first connection is physically made to a utility pole or undergrounding of cables is initiated after preliminary

engineering (strand mapping) and after all necessary permits and authorizations have been obtained.

8. "Commence operation" means that time and date when operation of the cable communications system is considered to have commenced, which shall be when sufficient distribution facilities have been installed so as to permit the offering of full service to one or more subscribers.

9. "Commercial subscriber" means a subscriber who receives cable service in a place of business, where the service may be utilized in connection with a business, trade, or profession.

10. "Community access channel" means such channel capacity on the cable communications system as from time to time may be allocated to public, educational, or governmental programming, together with such facilities and equipment as are made available for the use of such channel capacity.

11. "Completion of construction" means that point in time when all distribution facilities of the cable communications system required by a franchise have been installed and are in an operation state.

12. "Converter" means an electronic device which converts signal carriers from one form to another.

13. "County" means the county of Glenn, state of California.

14. "FCC" means the Federal Communications Commission and any legally appointed or elected successor.

15. "Franchise" means the nonexclusive rights granted pursuant to this chapter to install, construct, operate, and maintain a cable communications system along the public streets and rights-of-way within all or a specified area of the county. Any such authorization, in whatever form granted, shall be in lieu of any license or permit required for the privilege of transacting and carrying on a business within the county as required by other chapters of this code.

16. "Franchise fee" means any tax, fee, or assessment of any kind imposed by the county on the grantee or any of its cable subscribers, or both, solely because of their status as such. The term "franchise fee" does not include:

a. Any tax, fee, or assessment of general applicability;

b. Capital costs which are required by the franchise to be incurred by the grantee for community access facilities;

c. Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

d. Any fee imposed under Title 17, United States Code.

17. "Grantee" means any person receiving a franchise pursuant to this chapter and such person's lawful successor, transferee, or assignee.

18. "Gross revenues" means all compensation received by the grantee from subscribers in the county as the result of the use of the public streets and rights-of-way in the county for the operation

of its cable communications system; provided that there shall be deducted from gross revenues as so determined (i) refunds made in connection with such operations and (ii) bad debts written off by the grantee in the usual and ordinary course of business, in each case to the extent that the revenue with respect thereto has been included in the determination of gross revenues.

Gross revenues shall not include (i) amounts received in the nature of refundable security deposits, (ii) revenue received by the grantee from the provision of services or the sale, rental, or servicing of equipment or merchandise not required for the delivery of the grantee's cable service through its cable communications system in the county and (iii) sales, excise, or other taxes collected for direct pass-through to federal, state, or local authorities, including copyright and franchise fees.

In computing gross revenues for each calendar quarter from sources other than subscribers of the grantee's cable service located within the county, including, but not limited to, revenues derived from the sale of advertising or the lease of channel capacity by the grantee on its cable communications system, the aggregate of the revenues received by the grantee from such other sources during such calendar quarter shall be multiplied by a fraction, the numerator of which shall be the arithmetic average of the number of subscribers in the county as of the first and last day of such calendar quarter and the denominator of which shall be the arithmetic average of the number of subscribers within all areas to which the grantee provides its cable service by the same physical cable system as of the first and last day of such calendar quarter. The result obtained thereby shall be included in the determination of the grantee's gross revenues for purposes of computing the franchise fee due the county for such calendar quarter.

19. "Initial service area" means the area of the county which will receive cable service initially, as set forth in the grantee's franchise.

20. "Installation" means the connection of the cable communications system from feeder cable to subscribers' terminals and the provision of service.

21. "Monitoring" means observing a communication signal, or the absence of a signal, where the observer is neither of the communicating parties, whether the signal is observed by visual or electronic means for any purpose whatsoever. Monitoring shall not include individually addressed sweeps of the cable communications system solely for the purpose of detecting unauthorized connections to the system nor system-wide, nonindividually addressed sweeps of the system for purposes of verifying system integrity, controlling return path transmissions, or billing for pay cable.

22. "Nonbroadcast signal" means a signal that is transmitted by a cable communications system and that is not involved in an over-the-air broadcast transmission path intended for reception by the general public.

23. "Pay cable service" means the delivery to subscribers, over the cable communications system, of video and/or audio signals for a fee or charge to subscribers over and above the charge for basic cable service, or a per program, per channel, or other subscription basis.

24. "Programmer" means a person who or which produces or otherwise provides program material or information for transmission by video, audio, digital, or other signals, either live or from recorded tapes or other storage media, to subscribers by means of the cable communications system.

25. "Resident" means any person residing in the county as otherwise defined by applicable law.

26. "Residential subscriber" means a person occupying a dwelling unit who receives cable service and is billed directly by the grantee on an individual subscriber basis.

27. "School" means any nonprofit educational institution, including primary and secondary schools, colleges, and universities, both public and private.

28. "Service area" means the entire geographic area within the county in which the grantee is authorized to provide cable service under the terms of its franchise. Unless otherwise specified in the franchise, a grantee's service area shall be reduced by any territory which is annexed to a city immediately upon completion of annexation.

29. "Subscriber" means any person who or which elects to subscribe to, for any purpose, a cable service provided by the grantee by means of or in connection with the cable communications system.

(Ord. 942 § 4 (part), 1989.)

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### **Section 030 Franchise Required**

No cable communications system shall be allowed to occupy or use the public streets or rights-of-way of the county or be allowed to operate such a system without a franchise granted in accordance with the provisions of this chapter. (Ord. 942 § 4 (part), 1989.)

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### **Section 040 Franchise Application**

A. Application. Any person seeking a franchise to operate a cable communications system within the county shall file an application for such franchise with the county. Such application shall be in the form and contain the information required by the board of supervisors and shall be accompanied by a nonrefundable filing fee established by the board of supervisors in an amount not to exceed the reasonable cost of processing the application.

B. Public Hearing. When filed, the application shall be available for public inspection at places designated by the county clerk. No later than ninety days after filing the application, a public hearing or hearings shall be held by the board of supervisors on the application. Notice of the initial public hearing shall be published in a newspaper of general circulation within the county on three separate days not less than five nor more than ten days immediately preceding such hearing.

C. Decision. At the conclusion of such hearing or hearings, the board of supervisors shall determine to grant the franchise subject to any appropriate terms and conditions as the board of supervisors may prescribe or determine not to grant the franchise.

(Ord. 942 § 4 (part), 1989.)

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### **Section 050 Grant**

A. Scope of Grant. Any franchise granted under this chapter shall authorize and permit the grantee

to engage in the business of operating and providing a cable communications system in the county within the service area specified in the franchise and for that purpose to erect, install, construct, inspect, repair, replace, reconstruct, maintain, and retain in, under, on, across, along, over, and above any street or right-of-way such structures and equipment as are necessary, appurtenant, or useful in the operation of the cable communications system.

B. Grant Both a Right and an Obligation. In the event that the board of supervisors shall grant to the grantee a franchise to install, construct, operate, and maintain a cable communications system within a service area, the franchise shall constitute both a right and an obligation to provide the services of a cable communications system as required by the provisions of this chapter and the franchise.

(Ord. 942 § 4 (part), 1989.)

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#### **Section 060 Franchise Nonexclusive**

Any franchise granted shall be nonexclusive. The board of supervisors specifically reserves the right to grant, at any time, such additional franchises for cable communications system as it deems appropriate. (Ord. 942 § 4 (part), 1989.)

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#### **Section 070 Use of Public Streets & Rights-of-Way**

For the purpose of operating and maintaining a cable communications system in the service area, and subject to the provisions of this chapter, the grantee may erect, install, construct, inspect, repair, replace, reconstruct, maintain, and retain in, under, on, across, along, over, and above any street or right-of-way within the service area such wires, cables, conductors, connectors, poles, anchors, guys, pole attachments, ducts, conduits, vaults, manholes, amplifiers, transformers, appliances, pedestals, drops, attachments, and other structures and equipment as are necessary, appurtenant, or useful to the operation of the cable communications system. Prior to construction or alteration of any part of the cable communications system situated in the streets or rights-of-way for which an encroachment permit or other approval is required by this code, the grantee shall in each case file plans with the appropriate county department and receive such encroachment permit or other approval before proceeding. The grantee shall comply with all applicable county requirements relating to construction performed within county streets or rights-of-way. (Ord. 942 § 4 (part), 1989.)

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#### **Section 080 Term**

The term of any franchise and all rights, privileges, obligations, and restrictions pertaining thereto shall be as set forth in the grantee's franchise, but shall in no event be for a period of more than twenty years from the effective date of the franchise. The effective date of the franchise shall be the date written acceptance thereof by the grantee is filed with the county clerk or such other date as may be specified in such franchise. (Ord. 942 § 4 (part), 1989.)

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#### **Section 090 Service Area**

The board of supervisors may grant a franchise for the construction, operation, and maintenance of a cable communications system for the entire county or any defined portion of the County. (Ord. 942 § 4 (part), 1989.)

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### **Section 100 Franchise Fee**

A. Amount of Franchise Fee. A grantee of a franchise granted hereunder shall pay to the county a franchise fee in the amount specified in grantee's franchise.

B. Acceptance by County. The acceptance of a franchise fee payment by the county shall not be construed as a release or as an accord and satisfaction of any claim the county may have for further or additional sums payable as a franchise fee under this chapter or for the performance of any other obligation of the grantee.

C. Failure to Make Required Payment. In the event that any franchise fee payment is not made on or before the date specified herein and the grantee fails to make such payment within five days after receipt of written notice from the county demanding such payment, the grantee shall pay as additional compensation:

1. An interest charge, computed from such due date, at the legal rate of interest under California law in effect upon the due rate;

2. A sum of money equal to five percent of the amount due (exclusive of interest due under subdivision 1 of this subsection) in order to defray those additional expenses and costs incurred by the county by reason of delinquent payment.

D. Quarterly Payments. Franchise fee payments due the county under this section shall be computed quarterly, for the preceding quarter, as of March 31st, June 30th, September 30th, and December 31st. Each quarterly payment shall be due and payable no later than forty-five days after the dates listed in the previous sentence. Each payment shall be accompanied by a statement of gross revenues received by the grantee for such quarterly period showing the basis for the computation of the franchise fee then due. Such statement shall be certified as accurate by an authorized representative of the grantee.

E. Annual Certification. Within one hundred eighty days after the expiration of each calendar year or portion thereof during which the franchise is in force or within such other time as may be specified in the grantee's franchise, the grantee shall file with the county auditor a statement prepared by a certified public accountant for the grantee setting forth the gross revenues for such calendar year or portion thereof. If the amount of the gross revenues reported by such certified public accountant exceeds the amount thereof as reported in the statements prepared by the grantee for all quarterly periods of such calendar year, the grantee shall pay to county, within fifteen days after the time for filing the statement certified by such certified public accountant, the amount of the additional franchise fee due for such calendar year or portion thereof; provided that if the amount of the additional franchise fee is in excess of five percent of the gross revenues as reported by such certified public accountant, the grantee shall also pay the county interest on the amount of the additional franchise fee at the legal rate of interest under California law as in effect and computed from and after January 1st of the year in which such certified statement is furnished to the county. If the amount of the gross revenues reported by such certified public accountant is less than the amount thereof as reported in the quarterly statements prepared by the grantee, the county shall pay to the grantee, within fifteen days after the time for filing the statement certified by such certified public accountant, the amount by which the franchise fee was overpaid or, at the option of the county, such overpayment shall be credited against the franchise fee next becoming due and

payable to the county.

F. Right of Inspection. At all reasonable times upon prior written notice to the grantee, the county shall have the right to inspect and audit the grantee's records showing the gross revenues from which its franchise payments are computed; provided that such inspection and audit shall extend to no other books or records of the grantee. If any independent audit of the grantee's records directed by the county evidences an underpayment of the franchise fee in excess of five percent, the grantee shall assume all reasonable costs for said audit. (Ord. 942 § 4 (part), 1989.)

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## **Section 110 Transfer of Ownership or Control**

A. Transfer of Franchise. Any franchise granted hereunder shall be a privilege to be held for the benefit of the public. Said franchise cannot in any event be sold, transferred, leased, assigned, or disposed of by forced or voluntary sale, merger, consolidation, receivership, or other means without the prior consent of the county, which consent shall not be unreasonably withheld and then only under the conditions as the county may establish; provided that the franchise may be transferred to any affiliate of grantee or to any entity controlled by or under common control of grantee as of the effective date of the initial franchise without such consent.

B. Ownership or Control. The grantee shall promptly notify the county of any proposed change in, transfer of, or acquisition by any other party of control of the grantee. The word "control" as used herein is not limited to major partners or stockholders but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or transfer by any person or group of persons of twenty-five percent of the aggregate partnership interests in or voting shares of the grantee. Every change, transfer, or acquisition of control of the grantee shall make the franchise subject to cancellation unless and until the county shall have consented thereto, except as provided in subsection A of this section. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the county may inquire into the qualifications of the prospective controlling party, and the grantee shall assist the county in any such inquiry. In seeking the county's consent to any change in ownership or control of the grantee, the grantee shall have the responsibility to establish to the reasonable satisfaction of the county:

1. Whether the proposed purchaser, transferee, or assignee (the "proposed transferee") which, in the case of a partnership or corporation, shall include all partners, officers, director, and all persons having a legal or equitable interest in five percent or more of its partnership interests or voting stock, or any of the proposed transferee's principals:

a. Has ever been convicted or held liable for acts involving moral turpitude or is presently under an indictment, investigation, or complaint charging such acts, or

b. Has ever had a judgment in an action for fraud, or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction, or

c. Has pending against it, her, him, or them any legal claim, lawsuit, or administrative proceeding arising out of or involving a cable communications system; and

2. Whether the proposed transferee has the financial and technical capability to enable it to maintain and operate the cable communications system for the remaining term of the franchise under the existing franchise provisions.

C. Right of Lender to Operate System. Notwithstanding anything to the contrary contained in this chapter, any financial institution having a pledge of the franchise for the advancement of money for the construction and/or operation of the cable communications system operating under authority of such franchise shall have the right to notify the county that it or its designee satisfactory to the

county will take control and operate the cable communications system in the event of a grantee default in its financial obligations. Further, said financial institution shall also submit a plan for such operation that will insure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one year unless extended by the county in its discretion and during the period of time it shall have the right to petition the county to transfer the franchise to another grantee. If, after considering the legal, financial, character, technical, and other public interest qualities of the proposed transferee, the county finds that such transfer is satisfactory, the county will approve the transfer and assign the rights and obligations of such franchise to such proposed transferee.

D. No Transfer before Completion of Construction. In the absence of extraordinary circumstances, the county will not approve any transfer or assignment of the franchise prior to completion of construction or reconstruction of the proposed cable communications system.

E. Transferee to Assume Grantee's Obligations Under Franchise. In no event shall a transfer of ownership or control be approved without the successor in interest to the grantee assuming all of the grantee's obligations under its franchise. Notwithstanding the requirements of the grantee's franchise, the county may require, as a condition of the transfer of such franchise, that the proposed transferee furnish either or both a security fund and a performance bond in such amount or amounts as the county shall designate.

F. Permitted Encumbrances. Notwithstanding the provisions of this section, the grantee may pledge, assign, hypothecate, or create a security interest in its franchise without the consent of the county in favor of any bank, financial institution, or other lender with respect to any indebtedness of the grantee to such person.

(Ord. 942 § 4 (part), 1989.)

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## **Section 120 Franchise Renewal**

Renewal of any franchise granted under this chapter shall be undertaken in accordance with applicable federal or state law or, in the absence of any such renewal procedures, the following provisions of this section shall apply:

A. Application. Not later than eighteen nor earlier than twenty-four months prior to the expiration of any franchise granted pursuant to this chapter, a grantee may submit an application for renewal of such franchise. Such application shall be in the form and contain the information required by the board of supervisors and shall be accompanied by a nonrefundable application fee established by the board of supervisors in an amount not to exceed the reasonable cost of processing the application;

B. Public Hearing. When filed, the application shall be available for public inspection at places designated by the county clerk. No later than ninety days after filing the application, a public hearing or hearings shall be held by the board of supervisors on the application. Notice of the initial public hearing shall be published in a newspaper of general circulation within the county on three separate days not less than five nor more than ten days immediately preceding such hearing;

C. Decision. At the conclusion of such hearing or hearings, the board of supervisors shall determine to renew the franchise subject to any appropriate terms and conditions as the board of supervisors may prescribe or determine not to renew the franchise;

D. Nonrenewal. If the decision of the board of supervisors is not to renew the franchise, the board of supervisors may initiate public solicitations for applications for a new franchise. The original

grantee shall not be precluded from submitting such an application;

E. Additional Services. In any renewal or public solicitation, the board of supervisors may require additional services, system upgrade, or any other conditions it deems feasible and appropriate in the light of the state of art of the cable communications industry at that time, taking into consideration the cost of such services, upgrades, or other conditions to both the grantee and its subscribers;

F. Renewal of Existing Franchises. The provisions of this section relating to the time for filing a franchise renewal application and the time for holding a hearing or hearings on such application shall not be applicable to any franchise originally granted prior to January 1, 1987. (Ord. 942 § 4 (part), 1989.)

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### **Section 130 Franchise Processing Costs**

For either a new franchise award, a franchise transfer, or a franchise renewal, costs to be borne by the grantee, unless otherwise specified in the grantee's franchise, shall include, but shall not be limited to, all costs incurred for publication of any notice of a public hearing on the franchise award, transfer, or renewal, all costs incurred in the development and publication of relevant ordinances or agreements, and any cost not covered by the application fee but reasonably incurred by the county in its study, preparation of proposal solicitation documents, and evaluation of applications, including, but not limited to, consultant and attorney fees and county staff time. (Ord. 942 § 4 (part), 1989.)

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### **Section 140 County Regulations**

Every cable communications system for which a franchise is required by this chapter shall be constructed, operated, and maintained in accordance with the regulations now or hereafter adopted by or pursuant to this chapter, as well as the provisions of any county law or regulation of general application now or hereafter in effect, including, but not limited to, any such county law or regulation requiring the issuance of a permit and payment of a permit fee incident to the performance of work within a public street or right-of-way; provided that in the event of a conflict between a regulation adopted by or pursuant to this chapter and the provisions of any county law or regulation of general application, the regulations adopted by or pursuant to this chapter shall prevail. However, the provisions of this section shall not be construed to accord to the county any right to adopt any law or regulation which results in the unconstitutional impairment of any right of a grantee under a franchise granted pursuant to this chapter. (Ord. 942 § 4 (part), 1989.)

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### **Section 150 Federal & State Regulations**

The regulations adopted by or pursuant to this chapter shall be interpreted and applied so as to be consistent with any applicable federal or state law or regulation now or hereafter in effect to the extent such federal or state law or regulation is preemptive of local laws and regulations; provided that in the event of any conflict between this chapter or any regulations adopted by or pursuant to this chapter and any such federal or state law or regulation, the federal or state law or regulation shall prevail. (Ord. 942 § 4 (part), 1989.)

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### **Section 160 Joint Regulatory Responsibility**

If the area served by the grantee's cable communications system also serves other contiguous or neighboring communities, the county may, at its sole option, participate in a joint regulatory agency with the delegated responsibility in the area of cable and related communications. The county, acting jointly with other grantors, may exercise or delegate the following regulatory responsibility:

- A. Administration. Administering and enforcing the provisions of this chapter and the cable communications system franchise(s);
  - B. Coordination. Coordination of the operation of community access channels and public programming services;
  - C. Support. Providing technical, programming, and operational support to public agency users, such as governmental agencies, schools, and health care institutions;
  - D. Interconnection. Analyzing the possibility of integrating cable communications systems with other national, state, or local telecommunications networks;
  - E. Policy. Formulating and recommending long-range telecommunications policy.
- (Ord. 942 § 4 (part), 1989.)

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### **Section 170 Initial Rates**

The grantee shall establish initial rates that must be applied fairly and uniformly to all subscribers similarly situated in its service area. (Ord. 942 § 4 (part), 1989.)

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### **Section 180 Rate Change Procedures**

The procedures set forth in this section shall apply only to the extent the county is permitted, consistent with applicable federal and state law, to regulate or control the rates, charges, and rate structures established by the grantee for the services provided over its cable communications system:

- A. Application. A grantee seeking a rate change shall file an application for such rate change with the board of supervisors. Such application shall be in the form and contain the information required by the board of supervisors and shall be accompanied by such records, financial data, and other information as the board of supervisors may request, including, but not limited to, financial statements of the grantee with respect to the operation of its cable communications system within

the county;

B. Public Hearing. When filed, the application shall be available for public inspection at places designated by the county clerk. No later than ninety days after filing the application, a public hearing or hearings shall be held by the board of supervisors on the application;

C. Notice. The grantee shall notify its subscribers of its application for a rate change by including notice of the application in a regular billing statement mailed by the grantee to its subscribers not less than twenty nor more than seventy-five days immediately preceding the date of the initial public hearing on the proposed rate change. Such notice shall set forth the proposed rate change and the time and place of the initial public hearing on the proposed rate change;

D. Decision. Within ninety days after the hearing or hearings, the board of supervisors shall render a decision on the grantee's application, either approving, rejecting, modifying, or deferring the same and reciting the basis for its decision. The board of supervisors may consider whatever factors or employ whatever methods it shall consider necessary or appropriate for the purpose of evaluating the grantee's application for rate change. The board of supervisors shall have the right to audit the records, financial data, and other information submitted by the grantee in support of its application to verify the accuracy thereof. If the results of any such audit reveal an understatement of gross revenues or an overstatement of expenses in excess of five percent, the grantee shall bear the reasonable cost of such audit;

E. Rates Deemed Approved. If the board of supervisors fails to render a decision either approving, rejecting, modifying, or deferring the grantee's application within one hundred eighty days of the filing of the grantee's application and receipt of requested records, financial data, and other financial information pursuant to this section, the grantee shall thereafter be entitled to put its proposed new rates into effect as contained in such application;

F. Submission of Rate Increase Requests. The grantee shall not submit an application for rate increases earlier than twelve months after approval of a prior request for the same level of service. (Ord. 942 § 4 (part), 1989.)

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### **Section 190 Limitations Respecting Rates**

A. Schedule of Rates. The grantee shall maintain and file with the county, upon request of the board of supervisors or within thirty days after any change therein, a complete schedule of subscriber rates, including, but not limited to, rates for basic cable service, pay cable services, ancillary services, installation, converter rental, and related charges.

B. No Consideration Beyond Schedule. If subject to rate regulations by the county in accordance with the provisions of this chapter, the grantee shall receive no consideration whatsoever for or in connection with its provision of cable service to its subscribers over or by means of its cable communications system other than as set forth in the schedule of subscriber rates approved by the board of supervisors for those rates which the county may regulate of as set forth in Section 14.06.180 of this chapter.

C. Disconnections. There shall be no charge for disconnection from the cable communications system. However, if a subscriber has failed to pay properly due monthly fees or if a subscriber disconnects for seasonal periods, the grantee may require, in addition to full payment of any delinquent fees, a reasonable fee for reconnection.

(Ord. 942 § 4 (part), 1989.)

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## **Section 200 System & Service Review**

To evaluate technological, economic, and regulatory changes in the state of the art of cable communications, to facilitate renewal procedures, and to promote a continuing, advanced modern system, the county and the grantee shall comply with the system and services review provisions set forth in the following sections. (Ord. 942 § 4 (part), 1989.)

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### **Section 210 Tri-annual Review**

A. Review. At the board of supervisors' sole option, the board of supervisors and the grantee shall hold a system and services review session on or about the third anniversary of the effective date of the franchise. Subsequent review sessions may be scheduled by the county each three years thereafter. The grantee shall, at its expense, notify its subscribers of each such review reasonably in advance thereof so as to afford such subscribers the opportunity to comment with respect to any proceedings held in connection with such review. Such notice may be given by electronic means across one or more channels of the grantee's cable communications system.

B. Issues. Topics for discussion and review at the system and services review session shall include, but shall not be limited to, services provided, application of new technologies and the economic impact with respect thereto, system performance, programming, subscriber complaints, user complaints, rights of privacy, undergrounding processes, developments in the law, and regulatory constraints.

C. Additional topics. Either the board of supervisors or the grantee may select additional topics for discussion at any such review session.

D. Services Not Offered. Prior to the date scheduled for any such review, the grantee shall furnish the board of supervisors with a report of those cable services, if any, being provided on a full-time operational basis (excluding test and demonstrations) by similarly situated local cable communications systems which services are not then offered by the grantee.

E. Findings. Not later than sixty days after the conclusion of each system and services review session, the board of supervisors may issue findings.

(Ord. 942 § 4 (part), 1989.)

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### **Section 220 Annual Review of Performance**

A. Review. At the board of supervisors' sole option, within ninety days after any anniversary of the effective date of the grantee's franchise, the board of supervisors and the grantee shall meet to review the grantee's performance and quality of service with respect to operation of the cable communications system. The reports required of the grantee under this chapter regarding subscriber complaints and the records of performance tests shall be utilized as the basis for review. In addition, any subscriber may submit comments or complaints during the review meetings, either orally or in writing, and these shall be considered. The grantee shall, at its expense, notify its subscribers of any such review reasonably in advance thereof, which notice may be given by electronic means across one or more channels of the grantee's cable communication system.

B. Findings. Within thirty days after the conclusion of such meetings, the board of supervisors may

issue findings with respect to the adequacy of system performance and quality of service. If any event of default (as defined in this chapter) by the grantee is found to exist, the county may direct the grantee by written notice to correct such default within such period of time as is specified therefore in accordance with the provisions of this chapter.  
(Ord. 942 § 4 (part), 1989.)

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### **Section 230 Default**

The grantee shall be deemed to be in default with respect to the performance of its obligations under its franchise upon the occurrence of any of the following events (any such occurrence, an "event of default"):

A. The grantee is in violation of the provisions of its franchise, this chapter or any federal or state law or regulation applicable to the operation of the grantee's cable communications system in the county and such violation is not corrected within thirty days following receipt of written notice thereof from the board of supervisors specifying such violation or, if more than thirty days are reasonably required to correct such violation within such additional time as the board of supervisors shall consider reasonably necessary to effect such correction;

B. The grantee has engaged in repeated violations of any of its material obligations under its franchise or this chapter or any material federal or state law or regulation applicable to the operation of the grantee's cable communications system in the county which, for purposes of this chapter, shall be deemed to exist if the same or similar violation occurs three or more times within any twelve-month period. In any such case, the grantee shall not be entitled to notice or a period to correct the third such violation; or

C. If the grantee ceases to operate the cable communications system in all or substantially all of its service area for a period of seven consecutive days without the prior approval of the county or for any reason within the control of the grantee.

(Ord. 942 § 4 (part), 1989.)

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### **Section 240 Remedies Upon Default**

A. Upon the occurrence of any event of default by the grantee, the board of supervisors may:

1. Assess against the grantee monetary penalties as specified in any franchise for each such event of default or series of related events of default and/or require the grantee to cure each such event of default within such time, in such manner, and upon such terms and conditions as the board of supervisors shall designate; or

2. Revoke and terminate the grantee's franchise.

B. Public Hearing. Prior to imposing any such remedy or remedies upon the grantee upon the occurrence of any such event of default, the county shall do the following:

1. The county shall provide the grantee with at least thirty days prior written notice of the time and place of a public hearing to be held before the board of supervisors for purposes of determining whether such event of default has occurred and, if it has occurred, whether such event of default

was for just cause. Notice as to the time and place of such hearing shall be published at least once ten days before such hearing in a newspaper of general circulation within the grantee's service area;

2. The grantee shall be afforded full due process in connection with such hearing, including, but not limited to, adequate notice of the hearing and fair opportunity to introduce evidence, to require the production of evidence, and to introduce and/or question persons connected with or having knowledge of the alleged default. A transcript may be made of the hearing at the grantee's expense;

3. The board of supervisors shall hear any persons interested therein and, based upon the evidence presented at such hearing, shall determine whether or not an event of default by the grantee has occurred;

4. If the board of supervisors shall determine that there occurred an event of default by the grantee and such default was with just cause, the board of supervisors shall direct the grantee to correct or remedy the same within such additional time, in such manner, and upon such terms and conditions as the board of supervisors determines to be necessary; or

5. If the board of supervisors shall determine that there occurred an event of default by the grantee and such default was without just cause, then the board of supervisors may, by resolution, impose any one or more of the remedies set forth in subsection A of this section.

C. Remedies Cumulative. The board of supervisors may, in its sole judgment and discretion, impose any one or more of the foregoing remedies against the grantee, which administrative remedies shall be in addition to any and all other legal or equitable remedies it has under the franchise or under any applicable law.

(Ord. 942 § 4 (part), 1989.)

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## **Section 250 Procedures in the Event of Termination or Expiration**

A. Disposition of Facilities. In the event the franchise expires, is revoked, or is otherwise terminated, the board of supervisors may order the removal of the cable communications system facilities from the franchise area or require the original grantee to maintain and operate its cable communications system until a subsequent grantee is selected and a subsequent or modified cable system becomes operational, but in no event shall the original grantee be required to continue maintenance and operation of its cable system for more than six months after such expiration, revocation, or termination. If the board of supervisors orders removal of the system facilities of the grantee upon any such expiration, revocation, or termination, such removal shall be diligently pursued and shall be completed by the grantee within twelve months after the grantee's receipt of notice of termination or forfeiture of its franchise; provided that the board of supervisors may extend the time for removal for such reasonable additional period as shall be required to complete the same in the event the grantee, acting in good faith, cannot reasonably remove its cable system within such twelve-month period or by reason of any circumstance beyond the grantee's control.

The grantee may, at its option, abandon all or any part of the system; provided the part so abandoned does not unreasonably interfere with the use of the public streets or rights-of-way. Upon abandonment of any such property, the grantee shall cause to be executed, acknowledged, and delivered to the county such instruments as the board of supervisors shall prescribe and approve transferring and conveying the ownership of such property to the county.

B. Restoration of Property. In removing its facilities, the grantee shall refill, at its own expense, any excavation that shall be made by it and shall leave all streets affected by such removal in as good condition as that prevailing prior to the grantee's removal of its facilities without unreasonably affecting the electrical or telephone cable, wires, or attachments. Grantee shall obtain encroachment permits before proceeding with removal of any facilities. The county shall inspect and approve the condition of such streets after removal. Any liability insurance and performance bond required of the grantee under its franchise shall continue in full force and effect during the period of removal and until full compliance by the grantee with the terms and conditions of this section.

C. Restoration by County--Reimbursement of Costs. In the event of a failure by the grantee to complete any work required of it under this section within the period allowed there for to the satisfaction of the county, the county may upon five-days notice to grantee to complete any work required of it grantee shall reimburse the county of cost thereof within thirty days after receipt of an itemized list of such costs or the county may recover such costs through the security fund or bonds provided by the grantee in accordance with the terms of its franchise.

D. Extended Operation. In the event the board of supervisors requires the grantee to continue to operate the cable communications system subsequent to the expiration, revocation, or termination of its franchise, the grantee shall, as trustee for its successor in interest, continue to operate the cable system under the terms and conditions of this chapter and its franchise and to provide the cable services that may be provided at that time. The grantee shall be entitled to collect and retain all revenues derived from the operation of the cable communications system during this period, subject to the obligation to pay the franchise fee with respect thereto in accordance with the provisions of this chapter.

E. County's Rights Not Affected. The termination and forfeiture of any franchise shall in no way affect any of the rights of the county under the franchise or any provision of law.  
(Ord. 942 § 4 (part), 1989.)

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## **Section 260 Receivership & Foreclosure**

A. Receivership. Any franchise granted shall, at the option of the county, cease and terminate one hundred twenty days after the appointment of a receiver or receivers or trustee or trustees to take over and conduct the business of the grantee whether in a receivership, reorganization, bankruptcy, or other action or proceeding unless such receivership or trusteeship shall have been vacated prior to the expiration of the one hundred twenty days or unless:

1. Such receivers or trustees shall have, within one hundred twenty days after their election or appointment, fully complied with all the terms and provisions of this chapter and the franchise granted pursuant hereto, and the receivers or trustees within said one hundred twenty days shall have remedied all material defaults under the franchise; and

2. Such receivers or trustees shall, within the one hundred twenty days, execute an agreement duly approved by the court having jurisdiction in the premises whereby such receivers or trustees assume and agree to be bound by each and every term, provision, and limitation of the franchise.

B. Foreclosure. Subject to the provisions of this chapter permitting a lender to operate a cable communications system upon the default of the grantee in its obligations to such lender, in the case of a foreclosure or other judicial sale of the plant, property, and equipment of the grantee, or any part thereof, the county may serve notice of termination upon the grantee and the successful bidder at such sale, in which event the franchise and all rights and privileges of the grantee hereunder shall cease and terminate thirty days after the service of such notice, unless:

1. The board of supervisors shall have approved the transfer of the franchise in the manner provided by this chapter; and

2. Such successful bidder shall have covenanted and agreed with the county to assume and be bound by all the terms and conditions of the franchise.

(Ord. 942 § 4 (part), 1989.)

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### **Section 270 Construction Bond**

A. Filing Bond. Within thirty days after the granting of a franchise and prior to the commencement of any construction work by the grantee, the grantee shall, if required by the franchise, file with the county a construction bond in the amount specified in the franchise in favor of the county and any other person who may claim damages as a result of the breach of any duty by the grantee assured by such bond. Such bond shall be in a form approved by the county counsel.

B. No Limitation of Liability. In no event shall the amount of the bond be construed to limit the liability of the grantee for damages.

C. Waiver. The county, at its sole option, may waive this requirement, or permit consolidation of the construction bond with the performance bond and/or security fund specified in this chapter.

(Ord. 942 § 4 (part), 1989.)

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### **Section 280 Performance Bond**

A. Filing of Bond. In addition to the construction bond set forth in Section 14.06.270, the grantee shall, at least thirty days prior to the commencement of operation or, if completion of construction of the cable communications system has occurred, within thirty days after the effective date of the franchise, file with the county a performance bond in the amount specified in the franchise in favor of the county and any other person who may be entitled to damages as a result of any act or omission of the grantee, its employees, agents, and contractors arising in the operation or

termination of the cable communications system operated under the franchise, and including the payments required to be made to the county hereunder. Such bond shall be in a form approved by the county counsel.

B. No Limitation of Liability. In no event shall the amount of said bond be construed to limit the liability of the grantee for damages.

(Ord. 942 § 4 (part), 1989.)

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### **Section 290 Security Fund**

A. Deposit and Amount. If so required under its franchise, within thirty days after the effective date of the franchise the grantee shall deposit with the county, and maintain on deposit through the term of the franchise the sum specified in the franchise as security for the faithful performance by it of all the provisions of the franchise, and compliance with all orders, permits, and directions of any department of the county having jurisdiction over its acts or defaults under this chapter, and the payment of the grantee of any claims, liens, and taxes due the county which arise by reason of the installation, construction, operation, or maintenance of the cable communications system. No interest shall accrue or be paid to the grantee with respect to such security fund. The security fund may be assessed by the county for purposes including, but not limited to, the following:

1. Failure of the grantee to pay the county sums due under the terms of the franchise;
2. Reimbursement of costs borne by the county to correct franchise violations not corrected by grantee, after due notice; and
3. Monetary remedies or damages assessed against the grantee due to default or violation of franchise requirements.

B. Letter of Credit in Lieu of Deposit. At the county's sole option, all or a portion of the security fund may be provided by way of an irrevocable letter of credit in a form approved by the county counsel.

C. Restoration of Fund. Within thirty days after notice that any amount has been withdrawn by the county from the security fund or letter of credit pursuant to the provisions of this section, the grantee shall deposit with the county a sum of money sufficient to restore such security fund to the original amount or shall restore the letter of credit to the original amount thereof.

D. Withdrawal from Fund. If the grantee fails, after ten-days notice, to pay to the county any franchise fees or taxes due and unpaid, or fails to pay to the county within such ten days, any damages, costs, or expenses which the county shall be compelled to pay by reason of any event of default of the grantee in connection with the franchise, or fails, after notice of such failure by the county and expiration of the applicable cure period, to comply with any provision of the franchise which the county reasonably determines can be remedied by an expenditure of the security fund or draw against the letter of credit, as the case may be, the county may immediately withdraw the amount thereof, with interest and any penalties, from the security fund or the letter of credit. Upon such withdrawal, the county shall notify the grantee of the amount and date thereof.

E. Forfeiture or Return of Fund. The security fund deposited pursuant to this section shall become

the property of the county in the event that the franchise is revoked for cause by reason of the occurrence of an event of default by the grantee in accordance with the procedures of this chapter. The grantee, however, shall be entitled to the return of such security fund, or portion thereof, as remains on deposit no later than ninety days after the expiration of the term of the franchise; provided that there is then no outstanding default on the part of the grantee in the performance of its obligations required under its franchise.

F. No Limitation of Liability. In no event shall the amount of such security fund be conserved to limit the liability of the grantee for damages.

(Ord. 942 § 4 (part), 1989.)

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### **Section 300 Insurance**

A. Scope of Coverage. The grantee shall maintain throughout the term of the franchise insurance in amounts at least as follows:

1. Worker's Compensation Insurance. Worker's compensation insurance shall be maintained in accordance with the worker's compensation insurance and safety laws of the state of California.

2. Comprehensive General Liability. Comprehensive general liability insurance, including, but not limited to, coverage for bodily injury and property damage shall be maintained in the sum(s) specified in the franchise.

3. Comprehensive Automobile Liability. Comprehensive automobile liability insurance including, but not limited to, nonownership and hired car coverage, as well as owned vehicles with coverage for bodily injury and property damage, shall be maintained in the sum(s) specified in the franchise.

B. Certificates of Insurance. The grantee shall furnish the county with copies of such insurance policies or certificates of insurance evidencing compliance by the grantee with the provisions of this section and the corresponding provisions of the franchise.

C. County as Additional Insured. The county, its officers, boards and commissions, and members thereof, its employees and agents shall be named as additional insured in any of the liability insurance policies required under subsections A(2) and A(3) of this section. The obligation of the insurer under such policies to provide coverage in the amounts specified in the grantee's franchise shall be primary up to the limits of liability as set forth in such franchise without right of contribution from any insurance in effect for the county. Such policies shall not be canceled or reduced in coverage without thirty days prior written notice to the county of the effective date thereof.

D. No limitation of Liability. The minimum amounts set forth in the franchise for such insurance shall not be construed to limit the liability of the grantee to the county under the franchise issued hereunder to the amounts of such insurance.

E. Licensed Insurers. All insurance carriers providing coverage under this section shall be duly licensed to operate in the state of California and shall be subject to approval of the county, which approval shall not be unreasonably withheld.  
(Ord. 942 § 4 (part), 1989.)

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### **Section 310 Indemnification**

The grantee shall by acceptance of any franchise granted herein indemnify the county, its officers, boards and commissions, and members thereof, its employees and agents from any and all liabilities which might arise out of or relate to the exercise or enjoyment by the grantee of such franchise, except with respect to any such liability as may be due to the active negligence of the county, its employees, agents or contractors. Should the county or any of its officers, boards and commissions, and members thereof, its employees or agents be named in any suit, or should any claim be made against it or any of them by suit or otherwise, whether the same be groundless or not, arising out of or relating to any claim for which the grantee may be required to indemnify the county hereunder, the grantee shall defend the county and said officers, boards and commissions, and members thereof, its employees and agents and shall indemnify them for any judgment rendered against them or any sums paid out in settlement or otherwise, provided that neither the county nor any such other person shall agree to any settlement, compromise, or other resolution or disposition with respect to such suit or claim without the prior written consent of the grantee. (Ord. 942 § 4 (part), 1989.)

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### **Section 320 System Design**

The cable communications system shall be constructed in accordance with the design requirements contained in the franchise. (Ord. 942 § 4 (part), 1989.)

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### **Section 330 Geographical Coverage**

- The grantee shall design and construct the cable communications system in such a manner as to have the eventual capability to pass by every residential dwelling unit, commercial establishment, school, and public agency within the service area of the franchise, except as otherwise provided in the grantee's franchise. Cable system construction and provision of service shall be nondiscriminatory, and the grantee shall not delay or defer service to any section of the service area on the grounds of economic preference, but shall extend the cable system to such section in accordance with the construction schedules and/or line extension policies established in grantee's franchise. (Ord. 942 §4 (part), 1989.)

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### **Section 340 System Construction Schedule**

A. Compliance with Schedule. The grantee shall comply with the requirements of the system construction schedule contained in the franchise.

B. Construction Plan. If required by the franchise, the grantee shall provide a detailed construction

plan indicating progress schedule, area construction maps, test plan, and projected dates for offering service. In addition, the grantee shall update this information on a monthly basis, showing specifically whether schedules are being met and the reasons for any delay. (Ord. 942 § 4 (part), 1989.)

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### **Section 350 Remedies for Delay in Construction**

The county may, at its sole option, apply any or all of the following remedies in connection with delays in system construction occasioned by events within the grantee's reasonable control:

A. Forfeiture of Bonds and Other Monetary Assessments. Forfeiture of any construction bond, as well as the assessment of monetary penalties in such amounts as are specified in the grantee's franchise;

B. Termination (Delay in Construction). Termination of the franchise within one year after award of the franchise if the grantee has failed to commence construction within such period;

C. Termination (Other Delays). Termination of the franchise for other delays exceeding eighteen months, including failure to commence operation within such period.

Any remedies applied for delays in construction shall be in accordance with the procedures provided in this chapter, including, but not limited to, notice, hearing, and due process. (Ord. 942 § 4 (part), 1989.)

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### **Section 360 Provision of Service**

Following commencement of operations in any area, the grantee shall provide service to any person requesting cable service in such area within thirty days from the date of request, provided that (i) such person's residence or commercial establishment for which such service is requested is located within one hundred fifty feet of the grantee's activated trunk cable and (ii) that such person has the financial capacity to pay the grantee for such services as are to be provided to such subscriber and (iii) that grantee can secure all rights of access to such person's residence on terms reasonably satisfactory to grantee. (Ord. 942 § 4 (part), 1989.)

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### **Section 370 Undergrounding of Cable**

The undergrounding of cable is encouraged. In any event, cables shall be installed underground at the grantee's cost where both telephone and electric utilities are already underground. Previously installed aerial cable shall be undergrounded and relocated in concert with other utilities when both telephone and electric utilities convert from aerial to underground construction. Where public funds or funds from property owners are specifically available for which work of undergrounding the cable system whether pursuant to statute or otherwise, the grantee shall be reimbursed for such work to the extent of the availability of such funds. (Ord. 942 § 4 (part), 1989.)

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### **Section 380 New Development Undergrounding**

A. Preinstallation. In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give the grantee at least thirty-days advance notice of the particular date on which utilities are to be placed underground in conjunction with such construction or property development. The grantee shall promptly thereafter provide the developer or property owner with specifications as needed for trenching, installation of conduit, vaults, pedestals, cable, and related components, and for the prewiring of the units being constructed.

B. Installation. The developer or property owner will, at its own cost and expense, (i) perform all necessary trenching and backfilling for underground distribution and service laterals required for the extension of the underground distribution system of any cable communications system authorized to provide service in such area, (ii) provide for the installation of all conduit, vaults, and pedestals required for the distribution and transmission lines of the cable system to be located in such distribution and service laterals (with the grantee to place the cable therein and attach all required electronic components thereto), and (iii) provide for the prewiring of each residential dwelling unit located in such development or on such property so as to enable it to receive cable service, all as directed by the grantee. The cost of all conduit, vaults and pedestals required for such underground distribution system or for such prewiring which are to be installed by the developer or property owner under the provisions of this section shall be borne by the developer or property owner. The cost of the cable and associated electronics required for such underground distribution system or for such prewiring shall be borne by the grantee. (Ord. 954 § 2, 1989; Ord. 942 § 4 (part), 1989.)

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### **Section 390 Undergrounding at Multiple-Dwelling Units**

In cases of multiple-dwelling units serviced by aerial utilities, the grantee shall make every effort to minimize the number of individual aerial drop cables giving preference to undergrounding of multiple drop cables between the pole and the dwelling unit. (Ord. 942 § 4 (part), 1989.)

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### **Section 400 Street Occupancy**

A. Existing Facilities. The grantee shall utilize existing poles, conduit occupied by the grantee's

activated cable distribution system, and other facilities whenever possible, and shall not construct or install any new, different, or additional poles, conduits or other facilities in the streets until the written approval of the county is obtained. However, no location of any pole or wire-holding structure of the grantee in the streets shall be a vested interest and such poles or structures shall be removed or modified by the grantee at its own expense for any of the reasons set forth in this section.

B. Notice of Construction. The grantee shall notify the county at least ten days prior to the intention of the grantee to commence any construction in any streets. The county shall cooperate with the grantee in granting any permits required therefore. Construction by the grantee shall not unreasonably interfere with the use of such streets and shall be done in accordance with the pertinent provisions of this code and the grantee's franchise.

C. Manner of Installation. All transmission lines, equipment, and structures shall be so installed and located as to cause minimum interference with the rights and reasonable convenience of property owners and shall be kept and maintained in a safe, adequate, and substantial condition, and in good order and repair. The grantee shall employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public. Suitable barricades, flags, lights, flares, or other devices shall be used at such times and places as are reasonably required for the safety of members of the public. Any poles or other fixtures placed in any street by the grantee shall be placed in such a manner as not to unreasonably interfere with the usual travel on such public way.

D. Restoration. The grantee shall, at its own expense, and in a manner approved by the county, restore to the standards and specifications required by this code or the grantee's franchise any damage or disturbance caused to the streets by the grantee, and its employees, agents, or contractors as a result of its operations or construction on its behalf in connection with the exercise of its rights under its franchise.

E. No Charge to County. Whenever, in case of fire or other disaster, it becomes necessary in the judgment of the county to remove any of the grantee's facilities due to material and imminent harm to the public health, safety, property, or welfare, no charge shall be made by the grantee against the county for restoration and repair.

F. Tree Trimming. The grantee shall have the authority to trim trees on public property in accordance with the provisions of this code at its own expense as may be necessary to protect its wires and facilities, subject to the supervision and direction of the county. Trimming of trees on private property shall require consent of the property owner.

G. Relocation. The grantee at its expense shall protect, support, temporarily disconnect, relocate, or remove any property of the grantee when, in the opinion of the county, the same is reasonably required by reason of traffic conditions, public safety, street vacation, freeway or street grade, installation of sewers, drains, water pipes, power line, signal line, transportation facilities, tracks, or any other type of structure or improvement by governmental agencies whether acting in a governmental or a proprietary capacity, or any other public improvement, including, but not limited to, movement of buildings, redevelopment, or any general program under which the county shall undertake to cause any such properties to be located beneath the surface of the ground. Where public funds or funds from property owners are specifically available for such work of protection, support, disconnection, relocation, removal, or under grounding of the cable system, whether pursuant to statute or otherwise, the grantee shall be reimbursed for such work to the extent of the

availability of such funds. Nothing hereunder shall be deemed a taking of the property of the grantee and the grantee shall be entitled to no surcharge by reason of anything hereunder.

H. Right of County to Perform. Upon failure of the grantee to commence, pursue, or complete any work required by law or by the provisions of this chapter or the grantee's franchise to be done by the grantee in any street within the time prescribed therein or herein and to the satisfaction of the county, the county may, at its option, upon five-days notice to grantee cause such work to be done if the grantee has failed to promptly commence such work, and the grantee shall pay to the county the reasonable cost thereof in the itemized amounts reported by the county to the grantee within thirty days after receipt of such itemized report; provided that no such written direction need be given by the county in the event of material and imminent harm to the public health, safety, property, or welfare.

I. Paving or Curb Cuts. The grantee shall make no paving or curb cuts in the streets unless absolutely necessary, and only after the grantee has secured an encroachment permit issued by the county authorizing such cuts.

J. Conduit Required. The county reserves the rights to require conduit for underground cabling. (Ord. 942 § 4 (part), 1989.)

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#### **Section 410 Construction & Technical Standards**

A. Construction Standards.

1. The grantee shall comply with all applicable county construction codes and permit procedures and pay all applicable permit and inspection fees with respect thereto.
2. Construction undertaken by the grantee with respect to its cable communications system shall comply with all federal, state, and county laws, rules, and regulations applicable thereto.
3. All the grantee's plant and equipment, including, but not limited to, the antenna site, head end, distribution system, towers, house connections, structures, poles, wire, cable, coaxial cable, fixtures, and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained, and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or unreasonably interfere with the streets or public improvements or to unreasonably interfere with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.

B. Technical Standards. The cable communications system shall meet all technical and performance standards contained in the franchise.

C. Test and Compliance Procedures. The grantee shall submit within sixty days after request by the county a detailed test plan describing the methods and schedules for testing the cable communications system on an ongoing basis to determine compliance with the provisions of the franchise. The proof of performance requirements for cable communications system set forth in the FCC's Rules and Regulations shall constitute a satisfactory test plan for purposes of demonstrating compliance with such provisions.

D. Special Tests. At any time after commencement of service to subscribers the county may require additional tests, full or partial repeat tests, or tests involving a specific subscriber's terminal. Requests for such additional tests will be made on the basis of complaints received or other evidence, indicating a material unresolved controversy or significant noncompliance, and such tests shall be limited to the particular matter in controversy. The county shall endeavor to so arrange its requests for such special tests so as to minimize hardship or inconvenience to the grantee and to the subscriber.

(Ord. 954 § 3, 1989; Ord. 942 § 4 (part), 1989.)

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#### **Section 420 Services to be Provided**

The grantee shall initially provide the cable services set forth in its franchise. (Ord. 942 § 4 (part), 1989.)

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#### **Section 430 Open Books & Records**

The county shall have the right to inspect at any time during normal business hours and upon reasonable prior notice to the grantee all maps, cable communications system construction plans, financial records limited to gross revenues, service complaint logs, and performance test results which relate to the operation of the franchise and are maintained at the grantee's office within the service area. If any of such records are not kept in the grantee's local office, or upon reasonable request made available to the county, and if the county shall determine that an examination of such records is necessary or appropriate to the performance of any of the county's duties, then all travel and maintenance expenses necessarily incurred in making such examination shall be paid by the grantee. (Ord. 942 § 4 (part), 1989.)

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#### **Section 440 Records Required**

In any event the grantee shall at all times maintain:

A. Subscriber Complaints. Grantee shall maintain a written record, or the equivalent stored in computer memory and capable of being retrieved, of complaints received and interruptions and/or degradation of service for a period of three years. In any event the grantee shall maintain: Such records or a reasonable summary thereof identifying the number and nature of complaints and their disposition for each month at issue shall be furnished to the county upon request of the county, allowing reasonable time to assemble and/or copy the same.

B. System Maps. A full and complete set of plans, records, and "as-built" maps as of a reasonably current date accurately showing the location of the cable communications system equipment then installed or in use in the service area, exclusive of subscriber service drops. Such plans, records, and maps will be furnished to the county upon request of the county, allowing reasonable time to

assemble and/or copy the same.  
(Ord. 942 § 4 (part), 1989.)

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## **Section 450 Consumer Protection**

A. Consumer Service Standards. The grantee shall maintain the necessary facilities, equipment and personnel to comply with the following consumer standards under normal conditions of operation:

1. Sufficient toll-free telephone line capacity during normal business hours to assure on twenty consecutive business days average that a minimum of ninety percent of all callers for any service will not be required to wait more than three minutes before being connected to a customer service representative. The grantee shall also acquire, install and maintain adequate monitoring equipment to assure that this requirement is satisfied. For purposes of the computation required in this section, the grantee shall be allowed to exclude any days on which material system outages occur or other material events which are beyond grantee's reasonable control.

2. Emergency toll-free telephone answering capacity on a twenty-four hour basis, including weekends and holidays. A tape-recorded answering machine does not constitute an answering service. A bona fide answering (business) service is acceptable.

3. An emergency system maintenance and repair staff, capable of responding to and commencing repairing of major system malfunction on a twenty-four hour basis.

4. An installation staff, capable of installing service to any subscriber within ten business days after receipt of a bona fide request, in all areas where trunk and feeder cable have been activated.

5. Grantee shall schedule, within a specified time period, e.g. either before noon or after noon, all appointments with subscribers for installation or service.

B. Requests for Cable Service Repairs.

1. The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. A written log or an equivalent stored in computer memory and capable of access and reproduction, shall be maintained for all service interruptions and requests for cable service repair as required. Such records shall be maintained for thirty-six months.

2. The grantee shall maintain a repair force of technicians normally capable of responding to subscriber requests for service within the following time frames:

a. System Outage. Within two hours, including weekends and holidays, of determining that a sound or picture outage of one or more channels has occurred which affects all or a considerable number of the subscribers of the system;

b. Isolated Outage. Within twenty-four hours, including weekends, of receiving requests for service identifying an isolated outage of sound or picture for one or more channels.

3. Grantee shall be deemed to have responded to a complaint or a request for service under the

provisions of this section when a technician arrives at the service location and begins work on the problem or attempts to diagnose the problem by way of telephone contact with the customer. In the case of a subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

As in the case of calls for installation service, the grantee, when scheduling service calls, shall advise the person requesting the repair service of a time period either before noon or after noon within which the call will be made. Moreover, no charge shall be made to a subscriber for a repair service call unless the service request can be demonstrated by both repeated and non-cable in origin, or to involve subscriber negligence.

4. Grantee shall interrupt cable service only for good cause and for the shortest time possible. Scheduled interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum use of the cable system, preferably between midnight and six a.m.

C. Verification of Standards. Upon reasonable notice, the grantee shall demonstrate compliance with any or all of the standards required in subsections A and B of this section. The grantee shall provide sufficient detail to permit the grantor to verify the extent of compliance no more than twice per year, however, if any noncompliance is detected the grantor may in its sole discretion require such additional verification as it deems necessary and at grantee's expense for each time additional verification is needed.

D. Noncompliance with Standards. A repeated and verifiable pattern of noncompliance with the consumer protection standards of subsections A and B of this section, after grantee receipt of due notice and an opportunity to cure, may be termed a breach of the franchise, subject to any and all remedies as prescribed in Section 14.06.240 of this chapter and applicable law.

E. Local Office. The grantee shall maintain an office in Glenn County which shall be open during normal business hours and have a publicly listed toll-free telephone. Such office shall be adequately staffed to accept subscriber payments and respond to service requests and complaints. The grantee may use an answering service to receive such complaints and requests during other than the grantee's usual business hours or on such days as the grantee is not open for business. (Ord. 954 § 4, 1989; Ord. 942 § 4 (part), 1989.)

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#### **Section 460 Complaint Procedures**

The grantee shall establish procedures for receiving, acting upon, and resolving subscriber complaints. The procedures shall prescribe the manner in which a subscriber may submit a complaint, either orally or in writing, that the grantee has violated any provisions of this chapter, the franchise granted by the county to grantee pursuant to this chapter, or in the terms and conditions of the subscriber's contract with the grantee. (Ord. 942 § 4 (part), 1989.)

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#### **Section 470 Subscriber Notices**

A. Notice of Operating Policies. As subscribers are connected or reconnected to the cable system, the grantee shall provide each such subscriber with written information about grantee including the

name, address, telephone number and normal business hours of grantee. The purpose of providing this information to the subscriber is to keep the subscriber informed of whom to contact with inquiries or complaints regarding the service.

B. Notice of Change in Rates and Services. The grantee shall provide all subscribers with at least ten-days written notice prior to the implementation of any change in rates or programming services. (Ord. 942 § 4 (part), 1989.)

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#### **Section 480 Rights of Individuals**

A. Nondiscrimination. The grantee shall not deny service, deny access, or otherwise discriminate against subscribers, channel users, or general citizens on the basis of race, color, religion, national origin, age, or sex. The grantee shall comply at all times with all other applicable federal, state, and county laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this chapter by reference.

B. Equal Employment Opportunity. The grantee shall strictly adhere to the equal employment opportunity requirements of the FCC and state and local authorities, as amended from time to time.

C. Monitoring. No signals of a cable communications channel shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type or classification of cable television activity planned, provided that the grantee shall be entitled to conduct system-wide or individually addressed sweeps for the purpose of verifying system integrity, controlling return path transmissions, or billing for pay services, or for the purpose of detecting unauthorized connections to the cable communications system.

D. Subscriber Information. The grantee's policy with respect to personally identifiable information shall be consistent with federal, state, and local laws, rules, and regulations with respect thereto. (Ord. 942 § 4 (part), 1989.)

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#### **Section 490 Continuity of Service**

A. Continuity Required. It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to the grantee are honored. In the event that the grantee elects to overbuild, rebuild, modify, or sell the cable communications system, or the county gives notice of intent to terminate or fails to renew the franchise, the grantee shall act so as to minimize the period of any interruption in service resulting therefrom. Such interruptions, insofar as possible, shall be preceded by notice to the affected subscribers and shall be limited to periods of minimum

use of the service or services to be interrupted.

B. Operation by Grantee After Termination. In the event of a change of grantee, or in the event a new operator acquires the cable communications system, the grantee shall cooperate with the county, new grantee, or operator in maintaining continuity of service to all subscribers. During such period, the grantee shall be entitled to the revenues for any period during which it operates the system.

(Ord. 942 § 4 (part), 1989.)

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### **Section 500 Grantee Rules & Regulations**

The grantee shall have the authority to promulgate such rules, regulations, terms, and conditions governing the conduct of its business as the grantee shall consider reasonably necessary to enable the grantee to exercise its rights and perform its obligations under the franchise and to assure service to each and all of its subscribers; provided that such rules, regulations, terms, and conditions shall not be in conflict with the provisions hereof or applicable federal and state laws, rules, and regulations. The grantee shall provide the county with copies of any such rules, regulations, terms, and conditions within thirty days after any change therein. (Ord. 942 § 4 (part), 1989.)

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### **Section 510 Tenant Rights**

The grantee shall be required to provide tenants in individually billed units of a multiple-dwelling unit housing facility with all cable services offered to other dwelling units located within the service area, so long as the owner of the facility consents in writing, if requested by the grantee, to the following:

A. To the grantee's providing of the service directly to individual units of the facility;

B. To reasonable conditions and times for installation, maintenance, and inspection of the system on the facility premises;

C. To reasonable conditions promulgated by the grantee to protect the grantee's equipment and to encourage widespread use of the system; and

D. To not discriminate in retail charges or otherwise between tenants who receive cable service and those who do not.

(Ord. 942 § 4 (part), 1989.)

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### **Section 520 Right to Purchase System**

The county may in any lawful manner and upon the payment of a fair valuation lawfully ascertained, purchase, condemn, acquire, take over, and hold the property and plant of the grantee in whole or in part. If such purchase or taking over be upon revocation of the franchise or at the expiration of the term of the franchise, such evaluation shall not include any sum for the value of

the franchise or grant under which such plant and property is being operated. (Ord. 942 § 4 (part), 1989.)

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### **Section 530 Right of Inspection of Construction**

The county shall have the right to inspect all construction or installation work performed in the streets pursuant to the provisions of the grantee's franchise and to make such tests as are provided in this chapter, such franchise, or applicable federal, state, or county law as it shall find necessary to ensure compliance with the terms of this chapter, the franchise, and such other pertinent provisions of law. (Ord. 942 § 4 (part), 1989.)

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### **Section 540 Rights of Grantee Generally**

In the event of any dispute between the county and the grantee arising with respect to this chapter or the grantee's franchise, or with respect to any rights or obligations arising therefrom, the grantee shall first pursue and exhaust all available administrative remedies. Thereafter, the grantee may pursue appropriate legal action. (Ord. 942 § 4 (part), 1989.)

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### **Section 550 Annual Reports**

At the county's sole option, within sixty days after the close of the grantee's fiscal year, the grantee shall submit a written annual report, in a form approved by the county, which shall contain the following information:

A. **Activities Undertaken.** A summary of the previous year's (or, in the case of the initial report year, "the initial year's") activities in development of the cable communications system, including, but not limited to, services begun or discontinued during the reporting year and the number of subscribers for each class of service.

B. **Partners, Officers and Directors.** A list of the grantee's general partners, officers, members of its board of directors, or other principals, as the case may be.

C. **Principal Partners and Stockholders.** A list of partners, stockholders, or other equity investors holding five percent or more of the partnership interests in the grantee or the voting interest in the grantee, its parent, and subsidiary and affiliated corporations, if any.  
(Ord. 942 § 4 (part), 1989.)

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### **Section 560 Plant Survey Report**

At the county's sole option, the grantee shall submit to the county within ninety days after its request therefore an annual plant survey report which shall be a complete survey of the grantee's

plant and a full report thereon relating to the most recently completed calendar year. Said report shall contain a description of the portions of the service area that have been cabled and have all cable services available and shall reference the availability of "as-built" maps showing location of the cable communications system installed in the service area as of the end of the calendar year for which such report is requested. Said report shall be in sufficient detail to enable the county to ascertain that the technical standards of the FCC are achieved and maintained, which shall be satisfied by incorporating in the plant survey report the proof of performance report completed by the grantee for such calendar year. If the county has reason to believe that portions or all of the system materially fail to satisfy the FCC technical standards applicable to cable communications system, at the county's request, but no more often than once each three years, the grantee and the county shall agree upon the appointment of a qualified independent engineer to evaluate and verify the technical performance of the cable system. The cost of such evaluation shall be borne equally by the grantee and the county, unless such evaluation indicates that the cable communications system materially fails to meet such FCC technical standards, in which case the cost thereof shall be borne solely by the grantee. (Ord. 942 § 4 (part), 1989.)

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#### **Section 570 Public Reports**

Upon request of the county, the grantee shall furnish copies of any publicly available reports concerning the grantee, its parent, or affiliates, including, but not limited to, annual and other periodic reports filed with the Securities and Exchange Commission. (Ord. 942 § 4 (part), 1989.)

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#### **Section 580 Surveys**

Upon request of the county, the grantee shall furnish the results of any survey undertaken by the grantee of a representative sample of all of its subscribers; provided that the grantee shall give the county at least ten-days prior notice of any such survey to permit the county to submit requests for items to be included in such survey. The grantee may, in its reasonable judgment, elect not to include any or all of those items requested by the county for incorporation in such survey. (Ord. 942 § 4 (part), 1989.)

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#### **Section 590 Miscellaneous Reports**

The grantee shall submit to the county such other information or reports in such forms and at such times as the county may reasonably request; provided that such information or reports shall relate directly to information or reports which the county is entitled to receive under the terms of this chapter or the grantee's franchise and, provided further, that the grantor shall bear the reasonable expense of preparing such information or reports. (Ord. 942 § 4 (part), 1989.)

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#### **Section 600 Inspection of Facilities**

The grantee shall allow the county to make inspections of any of the grantee's distribution facilities and equipment at any time during the grantee's normal business hours upon reasonable notice or, in case of emergency, upon demand without prior notice, to allow the county to verify the accuracy of any submitted report. (Ord. 942 § 4 (part), 1989.)

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**Section 610 Public Inspection**

All reports subject to public disclosure and maintained in the county's records shall be available for public inspection at a designated county office during normal business hours. (Ord. 942 § 4 (part), 1989.)

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**Section 620 Failure to Report**

The refusal, failure, or neglect of the grantee to file any of the reports required under this chapter or the grantee's franchise shall be deemed a material breach of the franchise if the grantee fails to file such report, after receipt of written notice from the county with respect thereto, within the period of cure allowed under this chapter for an event of default by the grantee in the performance of any of its material obligations under this chapter, and shall subject the grantee to all remedies, legal or equitable, which are available to the county under the grantee's franchise or otherwise. (Ord. 942 § 4 (part), 1989.)

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**Section 630 False Statements**

Any materially false or misleading statement or representation made knowingly by the grantee in any report required under this chapter or the franchise shall be deemed a material breach of the franchise and shall subject the grantee to all remedies, legal or equitable, which are available to the county under the grantee's franchise or otherwise. (Ord. 942 § 4 (part), 1989.)

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**Section 640 Cost of Reports**

All reports and records required under this or any other section shall be furnished at the sole expense of the grantee, except with respect to miscellaneous information and reports as set forth herein. (Ord. 942 § 4 (part), 1989.)

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**Section 650 Severability**

If any term, covenant, condition, or provision of this chapter or any person or circumstance is, to any extent, invalid or unenforceable, the remaining terms, covenants, conditions, and provisions of

this chapter or such franchise, or the application of such term, covenant, condition, or provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this chapter or such franchise shall be valid and enforced to the fullest extent permitted by law. (Ord. 942 § 4 (part), 1989.)

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#### **Section 660 Notices**

The grantee shall maintain within Butte or Glenn Counties throughout the term of the franchise an address for service of notices by mail. (Ord. 942 § 4 (part), 1989.)

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#### **Section 670 Nonenforcement by the County**

The grantee shall not be relieved of its obligation to comply with any of the provisions of this chapter by reason of any failure of the county to enforce prompt compliance. (Ord. 942 § 4 (part), 1989.)

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#### **Section 680 Theft of Services & Tampering**

No person, whether or not a subscriber to the cable communications system, may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment, apparatus, or appurtenance of the grantee, or commit any act with intent to cause damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit, equipment, apparatus, or appurtenance of the grantee with the intent to obtain a signal or impulse from the cable communications system without authorization from or compensation to the grantee, or to obtain cable or other communication services with intent to cheat or defraud the grantee of any lawful charge to which it is entitled. (Ord. 942 § 4 (part), 1989.)

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#### **Section 690 Force Majeure**

In the event the grantee's performance of any of the terms, conditions, obligations, or requirements of its franchise, including such terms, conditions, obligations, or requirements as are set forth in this chapter, is prevented or impaired due to any cause beyond its reasonable control or not reasonably foreseeable, such inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof; provided that the grantee has notified the county in writing within thirty days of its discovery of the occurrence of such an event. Such causes beyond the grantee's reasonable control or not reasonably foreseeable shall include, but shall not be limited to, acts of God and civil emergencies. (Ord. 942 § 4 (part), 1989.)

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