ORDINANCE NO. 55

AN ORDINANCE OF THE CITY OF SHORELINE, WASHINGTON, EXTENDING PURSUANT TO RCW 35.02.160 THE FRANCHISE OF TCI OF SEATTLE INC. FOR THE OPERATION OF A CABLE TELEVISION SYSTEM IN THE CITY OF SHORELINE.

WHEREAS, the City of Shoreline officially incorporated on August 31, 1995; and

WHEREAS, RCW 35.02.160 provides that any franchise or permit theretofore granted to any person, firm, or corporation by the state or county authorizing or otherwise permitting the operation of any public transportation, garbage collection and/or disposal, or other similar public service business or facility, is automatically canceled upon incorporation, but that upon incorporation the City must grant such businesses a franchise or permit to continue such business within the City for a term of not less than the remaining term of the original franchise or permit, or five years, whichever is the shorter; and

WHEREAS, Ordinance No. 45 extended the franchises of other franchise holders in the City; and

WHEREAS, TCI of Seattle, Inc. has previously been granted by King County a franchise to operate a cable television system in portions of King County which have now been incorporated within the City limits of the City of Shoreline; and

WHEREAS, the City of Shoreline intends to allow all franchise holders to continue operation under the same terms and conditions as pre-existing franchises with King County for the remaining term of the original franchise or five years, whichever is the shorter period; NOW, THEREFORE

THE CITY COUNCIL OF THE CITY OF SHORELINE WASHINGTON DOES ORDAIN AS FOLLOWS:

Section 1. Extending a Franchise to TCI of Seattle. TCI of Seattle, Inc. is hereby granted a franchise to operate a cable television system within the City of Shoreline under the same terms and conditions as granted by King County for franchise agreement 562 pursuant to the Franchise Extension Agreement dated September 6, 1994 and attached as Exhibit A, hereto except that this franchise will expire no later than September 1, 2000 unless earlier terminated pursuant to Exhibit A.

Section 2. Severability. If any section, sentence, clause, or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.
Section 3.  Directions to City Clerk. The City Clerk is hereby authorized and directed to forward certified copies of this ordinance to the franchises set forth in this ordinance. Each franchisee shall have 30 days from receipt of certified copy of this ordinance to accept in writing the terms of the franchise granted to the franchisee in this ordinance.

Section 4.  Official Bonds. The franchisee shall take all necessary steps to transfer any bonds, certificates of insurance, or other security currently held by King County to the City of Shoreline. The franchise rights granted herein shall not be effective until such transfers are made.

Section 5.  Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall be in full force and effect five days after publication.

PASSED BY THE CITY COUNCIL ON SEPTEMBER 11TH, 1995

[Signature]
Mayor Connie King

ATTEST:

Sharon Mattioli
Sharon Mattioli, CMC
City Clerk

APPROVED AS TO FORM:

[Signature]
Timothy X. Sullivan, Interim City Attorney

Date of Publication:  9/13/95
Effective Date:  9/18/95
FRANCHISE EXTENSION AGREEMENT

WHEREAS, TCI of Seattle, Inc. currently holds franchise numbers 547, 551, 552, 563, 562, 599, and 609 granted by King County, Washington for the operation of a portion of its cable television system in unincorporated King County; and

WHEREAS, these franchises are scheduled to expire on September 1, 1994; and

WHEREAS, TCI of Seattle, Inc. has requested that franchise numbers 547, 551, 552, 553, 562, 599, and 609 be extended; and

WHEREAS, through the passage of Ordinance No. 11453, subject to the conditions contained in the ordinance and this agreement, King County has approved the extension of these franchises until the earlier of sixty (60) days after the King County hearing examiner’s written decision on TCI of Seattle, Inc.’s renewal proposal or King County’s renewal of these franchises.

NOW, THEREFORE, King County, Washington and TCI of Seattle, Inc. agree as follows:

1. The term of King County cable television franchise numbers 547, 551, 552, 553, 562, 599, and 609 are hereby extended so that they will now expire on the earlier of sixty (60) days after the King County hearing examiner’s written decision on TCI of Seattle, Inc.’s renewal proposal or King County’s renewal of these franchises.

2. All other conditions of King County cable television franchise numbers 547, 551, 552, 553, 562, 599, and 609 shall remain in full force and effect are not modified by this agreement or by Ordinance No. 11453.

THIS AGREEMENT entered into this 16th day of September, 1994.

TCI OF SEATTLE, INC.

BY: ___________________________

TITLE: DAVID M. REYNOLDS-EXEC. VP/COO

DATE: SEP - 6 1994

KING COUNTY, WASHINGTON

BY: ___________________________

TITLE: GARY LOCKE

DATE: 9/16/94

Approved as to Form:

Deputy Prosecuting Attorney
ORDINANCE NO. 10159

AN ORDINANCE relating to cable communications, establishing policies and rules for the granting of franchises for cable communications systems and the regulation of such systems, and providing for the implementation and enforcement of said policies and rules, and repealing Ordinance No. 7841, Ordinance No. 8443 and K.C.C. 6.27A.010 through K.C.C. 6.27A.220.

PREAMBLE:

A. Approximately 120,000 households and businesses in unincorporated King County subscribe to cable television. In addition, many public institutions receive cable television service on a nonsubscriber basis. Many King County residents cannot receive clear over-the-air television broadcasts without the use of a cable system. In addition, cable provides a wider range of services than is provided by over-the-air broadcasts. The county desires that the benefits of cable be available to as many of the county's residents, businesses and public institutions as possible.

B. King County currently has twenty-nine (29) franchise agreements with eight (8) cable companies for the provision of cable television in unincorporated King County. The construction, repair, maintenance and operation of cable systems affects the health, welfare and safety of King County residents. Almost all of the areas of King County currently served by cable television are served by only one company.

C. Cable systems use King County rights-of-way and compatible easements for their facilities. Therefore, the county has the authority to regulate the use of this property. The Cable Communications Policy Act of 1984, Public Law 98-549, 47 U.S.C. 521, et. seq. authorizes local governments to regulate cable communications within their jurisdictions. This ordinance provides for the regulation of cable communications in King County consistent with the Cable Act and Chapter 36.55 R.C.W.

D. Customer service standards are an issue nationwide. In recognition of this concern, the cable industry has adopted industry-wide standards for voluntary adoption by cable companies. In King County, customer service standards vary among cable companies. It is in the public interest that cable companies in King County implement customer service standards adequate to meet subscribers' needs.

E. It is the intent of the county and the purpose of this ordinance and the cable rules to promote the public health, safety, and general welfare by providing for the grant of one or more franchises for the construction and operation of a cable system; to provide for the regulation of each cable system that is in the public interest; to provide for the payment of fees and other valuable consideration by a franchisee
to the county for the privilege of using public rights-of-way for constructing and operating a cable system; to promote the widespread availability of cable service to all residents within all unincorporated areas of the county; to encourage the widespread availability of diverse information to all residents within the unincorporated areas of the county using cable technology; and to encourage the development of cable technology and cable systems as a means of communication between and among the members of the public and public institutions.

F. It is the intent of the county to encourage experimentation and innovation in the development of cable system uses, services, programming, and technology that will be of general benefit to the community to the extent all such experiments and innovations are consistent with applicable federal, state and local laws.

G. The persons and businesses affected by this ordinance have had the opportunity for extensive comment through a series of meetings and public hearings. The ordinance incorporates many of the comments received at these meetings. The standards and requirements set cut in this ordinance are the minimum necessary to accomplish the purposes of this ordinance.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Repeal. Ordinance 7841, sections 1 through 24, Ordinance 8443, sections 1 and 2, K.C.C. 6.27A.010 through 6.27A.220 and the King County cable television franchise regulations promulgated thereunder are each repealed.

NEW SECTION. SECTION 2. Short title. This ordinance shall be known and may be cited as the King County Cable Television Ordinance or the cable ordinance.

NEW SECTION. SECTION 3. Definitions. For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory, and "may" is permissive. Words not defined herein shall be given the meaning set forth in the Cable Act. Words not defined in this ordinance or the cable act shall be given their common and ordinary meaning.

A. Abandonment means failure by the franchisee to operate the entire cable system for ten (10) consecutive days without just cause. Just cause shall include circumstances beyond the
The franchisee's control, such as natural disasters and material breakdown of the system that is not the result of the franchisee's fault or negligence.

B. Access channel means any channel or bandwidth on a cable system set aside for public, educational and/or governmental use.

C. Basic cable service means any service tiers which include the retransmission of local television broadcast signals.

D. Bulk rate means a rate charged to an owner of a structure or parcel of land containing multiple dwelling units in return for the provision of cable service to those units.

E. Cable Act means the Cable Communications Policy Act of 1984, codified at 47 U.S.C. §§521 et seq., and as hereafter may be amended.

F. Cable manager means the manager of the cable office.

G. Cable office means the King County office of cable communications, an office of the King County department of executive administration.

H. Cable rules means rules promulgated by the King County department of executive administration for the purpose of administering the terms and requirements of this ordinance.

I. Cable service means the transmission of video or other service over a cable system to subscribers together with any subscriber interaction provided in connection with such service.

J. Cable 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 that includes video programming and that is provided to subscribers within King County. A cable system does not include:

1. a facility that serves only to retransmit the television signals of one or more television broadcast stations;
2. a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility uses any public right-of-way;

3. a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, codified at 47 U.S.C. §201 et seq., except that such facility will be considered a cable system to the extent it is used in the transmission of video programming directly to subscribers; or

4. any facilities of any electric utility used solely for operating its electric utility systems.

K. 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 television channel is defined by the FCC by regulation).

L. Commercial rate means a rate charged to a business in return for the provision of cable service to that business.

M. Council means the King County council.

N. County means the King County government or its officers, employees or authorized agents while acting within the scope of their official duties.

O. Disabled subscriber means a subscriber with a physical or mental impairment that substantially limits one or more of the major life activities of such individual.

P. Senior Citizen subscriber means a subscriber sixty-five years of age or over.

Q. Equitable price means the price that a willing buyer would pay to a willing seller for a going concern, less any value attributed to the franchise itself, less the amount of harm to the community, and less any expenses incurred by the county as a result of the actions giving rise to the revocation.

R. Executive means the King County executive, as established by Article 3 of the King County Charter, or his designee.
S. Fair market price means the price that a willing buyer
would pay to a willing seller for a going concern, less any
value attributed to the franchise itself.

T. FCC means the Federal Communications Commission and any
legally appointed, designated or elected agent or successor.

U. Franchise means the right granted by the county to a
franchisee to construct, reconstruct, repair, maintain and
operate a cable system over, on, along, or under any public
rights-of-way within all or specified areas within
unincorporated areas of the county. The term does not include
any license or permit required by other laws, ordinances or
rules of the county for the privilege of transacting and
carrying on a business within the county, or for construction,
reconstruction, repair or maintenance on, over or under or use
of any public rights-of-way.

V. Franchise agreement means a document entered into
between the county and a franchisee that sets forth the terms
and conditions under which the franchise will be exercised.

W. Franchisee means any person granted a franchise
pursuant to this ordinance who has entered into a franchise
agreement with King County.

X. Gross revenues means the annual gross revenue of the
franchisee from all sources in the operation of the cable
communications system, excluding any bad debt, sales tax,
excise tax, or other taxes collected for direct pass-through to
local, state or federal government.

Y. Installation means the connection and/or activation of
the system from feeder cable to subscriber terminals.

Z. Institutional network means a voice, data and/or video
communications system, whether physically integrated with a
cable system or not, that is constructed, operated or
maintained by a franchisee, whose transmissions are principally
available to persons other than cable television subscribers.
AA. Interconnect means the sharing of video, audio and/or
data transmissions between two or more cable systems,
institutional networks and/or users.

BB. Minority persons means African-Americans, Hispanics,
Mexican-Americans, Asian Americans, Pacific Islanders, American
Indians and Alaska Natives.

CC. Person means any individual, corporation,
partnership, limited partnership, association, joint venture,
organization, or any other legal entity of any kind, and any
lawful trustee, successor, assignee, transferee or personal
representative thereof.

DD. Public rights-of-way means the surface of and the
space along, above and below any street, road, highway,
freeway, lane, sidewalk, alley, court, boulevard, parkway,
drive, utility easement, and road right-of-way now or hereafter
held or administered by the county.

EE. State means the State of Washington.

FF. Subscriber means any person who legally receives
cable service delivered over the cable system.

GG. Transfer means any transaction in which:

1. an ownership or other interest in a franchisee is
   transferred from one person to another person so that control
   of the franchisee is transferred, or

2. the rights held by the franchisee under a franchise
   agreement are transferred or assigned, in whole or in part, to
   another person.

Provided, the transfer of ownership or other interest in
a franchisee between members of the same immediate family shall
not be a transfer for the purpose of this ordinance so long as
the county is notified of the fact of the transfer of ownership
or other interest no later than fourteen (14) days prior to the
transfer of ownership or other interest, except where the
transfer of ownership or other interest occurs due to death or
disability, in which case the county shall be notified within
fourteen (14) days after the transfer of ownership or other
interest. The franchisee shall insure that its insurance coverage and all other commitments continue in force without interruption and provide evidence of the same to the county.

For the purposes of this provision, a transfer shall be deemed to be between members of the same family if the transferee is the spouse, parent, sibling, adopted or natural child or other lineal descendant of the transferor, or if the transferee is a trust established for the benefit of such a person or for the benefit of the transferor. If the ownership or other interest in the franchisee is held by the trustee of a trust, then a transfer shall be deemed to be between members of the same family if the transferee is the spouse, parent, sibling, adopted or natural child or other lineal descendant of any other beneficiary of the trust, or any trust created for the benefit of such a person.

Provided further that, the transfer of ownership or other interest in a franchisee in connection with an internal reorganization or internal merger to a direct or indirect parent, subsidiary or affiliated entity under common control with the franchisee shall not be a transfer for the purpose of this ordinance so long as:

1. the county is notified of the proposed transfer no later than thirty (30) days prior to the transfer of ownership or other interest;

2. the transferee shall insure that insurance coverage and all other commitments under the franchise agreement continue in force and without interruption and provide evidence of the same to the county no later than thirty (30) days prior to the proposed transfer; and

3. there is no increased risk of liability to the county or non-performance of the terms of the franchise agreement.
A. A franchise authorizes the use of the county's public rights-of-way and compatible utility easements, as defined in the Cable Act, to construct, reconstruct, repair and maintain a cable system and/or institutional network.

B. No person shall construct or operate a cable system in the county without a franchise granted by the county and a franchise agreement executed with the county.

C. A franchisee must obtain any permits and pay any permit fees required by the county for use of the public rights-of-way. Such permits shall be obtained by and issued to a franchisee prior to any construction, reconstruction, repair or maintenance activity on any public rights-of-way.

D. A franchisee, in consideration of its use of the public rights-of-way, must pay to the county quarterly a franchise fee equal to five percent of the franchisee's gross revenues.

E. A franchisee is at all times subject to and must comply with all generally applicable federal, state and local laws, ordinances, codes, rules, regulations and orders. A franchisee shall at all times be subject to the exercise of the police power of the county.

NEW SECTION. SECTION 5. Franchises and franchise agreements.

A. The county may grant one or more franchises to serve all or a specified portion of unincorporated areas of the county. Any new franchise, renewal, transfer or modification shall be granted by ordinance and shall be for a term not to exceed fifteen years from the date the franchise is fully executed.

B. Any franchise granted shall be nonexclusive, and does not expressly or implicitly preclude the issuance of other franchises, or affect the county's right to use or authorize the use of its public rights-of-way to other persons as it determines appropriate.

C. In evaluating an application for a new franchise or a transfer of a franchise, the county may consider, among other
things, the following factors: the applicant's technical, financial, and legal qualifications to construct and operate the proposed system; the nature of the proposed facilities, equipment, and services; the applicant's record and experience in constructing and operating cable systems and providing cable service in other communities, if any; the capability of the county's public rights-of-way to accommodate the proposed system; the potential disruption to existing users of the county's public rights-of-way and the resulting inconvenience to the public caused by the construction or operation of the proposed system; and whether the proposal will meet reasonably anticipated community cable-related needs and interests and serve the public interest.

D. The terms, conditions and provisions of a fully executed franchise agreement, together with all applicable laws, ordinances, codes, rules, regulations and orders, enacted now or in the future, shall define the rights and obligations of the franchisee and the county relating to the franchise.

E. The county may modify franchises consistent with its police powers as follows:

1. at the time of renewal, transfer, or other disposition;

2. when the franchisee's service area is altered, provided the franchisee is given thirty (30) days written notice of the proposed modification and is provided an opportunity to present arguments against the modification, or alternatives in lieu of it;

3. upon giving thirty days written notice to the franchisee of the proposed modification, provided the franchisee is given an opportunity to present arguments against the modification or alternatives in lieu of it;

4. upon request of the franchisee under the circumstances provided in the Cable Act; or

5. when the franchise and/or franchise agreement is inconsistent with governing laws or statutes.
F. Except as expressly provided to the contrary, all costs incurred by an applicant or franchisee in complying with this ordinance, the cable rules, a franchise, applicable law, or any action thereunder shall be the sole responsibility of the applicant or franchisee and shall not be charged to the county.

G. The notice requirements contained in RCW 36.55.040 shall apply to this section.

NEW SECTION. SECTION 6. Interpretation of franchise terms. All franchise agreements shall include the following provision: The provisions of the cable ordinance and the cable rules shall apply to the franchise agreement as if fully set forth in the franchise agreement, and the express terms of this ordinance and the cable rules will prevail over conflicting or inconsistent provisions in the franchise agreement unless the franchise agreement expresses an explicit intent to waive a requirement of this ordinance and/or the cable rules.

NEW SECTION. SECTION 7. Applications for franchise, renewal, modification or transfer.

A. All applications for the following must be filed in writing with the clerk of the county council:

1. grant of a new franchise;

2. renewal of a franchise under the franchise renewal procedures set forth in the Cable Act and this ordinance;

3. modification of a franchise agreement; or

4. transfer of a franchise.

B. An applicant shall demonstrate in its application compliance with all requirements of this ordinance, the cable rules, and applicable federal, state and local law.

C. An application for a new franchise or renewal of an existing franchise must contain, at a minimum, the following:

1. information regarding the characteristics and location of the proposed system;

2. the applicant's technical and financial ability to construct and operate the proposed system;
3. a proposal for the provision of public, educational
and/or governmental ("PEG") access channels, and equipment and
facilities relating to such channels sufficient to meet
community needs and interest; and

4. a proposal to meet future cable-related community
needs and interests.

D. If the county issues a request for franchising
proposals or a request for refinancing proposals, an
application must comply with the requirements of such request.

E. An application for approval of a transfer of a
franchise must contain, at minimum, information regarding the
applicant's technical and financial ability to construct and
operate the system and a statement that the proposed transferee
will comply with the transferor's franchise agreement, this
ordinance, the cable rules and applicable law.

F. An application for a new franchise must be accompanied
by a $5,000 deposit to cover the costs incurred by the county
to review and process the application. This deposit shall be
made payable to the county and delivered to the clerk of the
council.

NEW SECTION. SECTION 8. Franchise renewal.

A. Franchises may be renewed using either the formal
process specified in the Cable Act and in subsection B of this
section or the informal process specified in subsection C of
this section.

B. The following procedure shall be used for all formal
renewals effected under the Cable Act:

1. During the six-month period which begins with the
thirty-sixth month prior to the expiration of a franchise, the
county may on its own initiative, and shall at the request of
the franchisee, commence proceedings which afford the public in
the franchise area appropriate notice and participation to
identify the future cable-related community needs and interests
and to review the franchisee's performance under the franchise.
2. Upon completion of the proceeding, the franchisee may, on its own initiative or at the request of the county, submit a renewal application. All such applications must meet the requirements of this ordinance. If the county requests a renewal proposal, it shall establish a date when the renewal proposal shall be due, which shall not be less than thirty (30) days after the request is made.

3. Upon submittal of a completed application by the due date, the county shall notify the public of the application and, during the four (4) month period which begins on the completion of any proceedings under subsection B.1., the county shall issue a preliminary assessment that the franchise should not be renewed or the county shall grant the renewal. The county's failure to make a preliminary assessment or to grant the renewal within the four (4) month period shall be deemed to be a preliminary assessment that the franchise should not be renewed and shall entitle the franchisee to the procedure set out in subparagraph 4.

4. Whenever a preliminary assessment is made that a franchisee should not be renewed, the county may on its own initiative, and shall at the request of the franchisee, commence an administrative proceeding by the King County hearing examiner pursuant to K.C.C. 20.24.080 A.19, after providing notice to the public and the franchisee, to consider whether:

a. the franchisee has substantially complied with the material terms of the existing franchise and with applicable law;

b. the quality of the franchisee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;
c. the franchisee has the financial, legal, and
technical ability to provide the services, facilities, and
equipment as set forth in the franchisee's proposal; and
d. the franchisee's proposal is reasonable to meet the
future cable-related community needs and interests, taking into
account the cost of meeting such needs and interests.

The franchisee and the cable office shall be afforded
fair opportunity for full participation in the proceeding. At
the completion of the proceeding, the county shall issue a
written decision granting or denying the renewal based upon the
record of such proceeding, and transmit a copy to the
franchisee.

5. Any denial of a renewal shall be based on one or more
adverse findings made with respect to the factors described in
subparagraphs a. through d. of subsection B.4., pursuant to the
record of proceeding under that subsection. The county may not
base a denial of renewal on conditions listed in subparagraphs
a or b of subsection B.4. unless the county has provided the
franchisee with notice and the opportunity to cure, or in any
case in which it is documented that the county has waived its
right to object, or has effectively acquiesced.

6. Any franchisee whose renewal proposal has been denied
by a final decision of the county made pursuant to subsection
B. or has been adversely affected by a failure of the county to
act in accordance with the procedural requirements of
subsection B. may appeal such final decision or failure
pursuant to the provisions of the Cable Act.

C. Not withstanding the provisions of subsection B., a
franchisee may submit an informal renewal application pursuant
to this subsection at any time. The following procedure shall
be used for all informal renewal applications:

1. A franchisee may submit a renewal application meeting
the requirements of this ordinance. Submission of a renewal
application in accordance with this subsection shall not invoke
the formal application process contained in subsection B.
2. Upon submittal of a completed application, the county shall notify the public of the application and solicit public comments.

3. After receiving the public comments and completing any other review, the county shall either deny or grant the renewal. In determining whether to grant or deny the renewal, the county may consider whether:
   a. the franchisee has the technical, legal, and financial ability to provide the services, facilities, and equipment as set forth in the franchisee's proposal;
   b. the franchisee has substantially complied with the material terms of the existing franchise and with applicable law;
   c. the quality of the franchisee's service, including signal quality, response to consumer complaints, billing practices, service mix, or service level, has been reasonable in light of community needs;
   d. the franchisee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests; and
   e. such other factors consistent with the intent of this ordinance and the Cable Act.

4. The denial of a renewal pursuant to this subsection shall not affect action on a renewal application that is submitted in accordance with subsection B.

NEW SECTION. SECTION 9. Notices. All notices from a franchisee to the county pursuant to this ordinance and the cable rules shall be filed with the cable office. A franchisee shall maintain with the cable office, throughout the term of the franchise, an address for service of notices by mail.

NEW SECTION. SECTION 10. Insurance requirements.
A. For any franchise agreement entered into after the effective date of this ordinance, a franchisee must carry commercial general liability, automobile liability and stop gap or employers liability coverage, each in minimum limits of not
less than one million dollars ($1,000,000.00), in an amount
approved by the King County office of risk management. All
policies must name King County as an additional named insured.

B. All policies shall be placed with insurers having a
Bests' rating of no less than A:VIII or, if not rated by Bests,
with surpluses equivalent to or greater than Bests' A:VIII
rating. A franchisee shall send copies of certificates,
endorsements or other adequate evidence of compliance with this
section to the cable office prior to the county's execution of
the franchise agreement.

NEW SECTION. SECTION 11. Liability and indemnification.

A. All franchise agreements shall contain the following
provision: a franchisee shall have no recourse whatsoever
against the county or its officials, boards, commissions,
agents, or employees for any loss, costs, expenses, or damages
arising out of any provision or requirement of the franchise,
franchise agreement, or this ordinance because of the
enforcement of the franchise, franchise agreement, or this
ordinance except if such loss, costs, expenses or damages are
the result of the sole negligence or misconduct on the part of
the county or its agents.

B. All franchise agreements shall contain the following
provision: to the extent permitted by law, a franchisee shall,
at its sole cost and expense, indemnify, hold harmless, and
defend the county and its officers, boards, commissions, agents
and employees, against any and all claims, including but not
limited to third-party claims, suits, causes of action,
proceedings and judgments for damages or equitable relief
arising out of the construction, repair, maintenance or
operation of its cable system, or in any way arising out of the
franchisee's enjoyment or exercise of a franchise granted
pursuant, or otherwise subject, to this ordinance, regardless
of whether the act or omission complained of is authorized,
allowed or prohibited by this ordinance, the cable rules, or a
franchise agreement. This provision includes, but is not
limited to, expenses for reasonable legal fees and for
disbursements and liabilities assumed by the county as follows:

1. To persons or property, in any way arising out of or
through the acts or omissions of the franchisee, its officers,
employees, or agents or to which the franchisee's negligence
shall in any way contribute;

2. Arising out of any claim for invasion of the right of
privacy, for defamation of any person, firm or corporation; or
the violation or infringement of any copyright, trademark,
trade name, service mark or patent; or a failure by the
franchisee to secure consents from the owners, or authorized
distributors of programs to be delivered by the cable system;
or of any other right of any person, excluding claims arising
out of or relating to programming provided by the county;

3. Arising out of a franchisee's failure to comply with
the provisions of any federal, state or local statute,
ordinance, rule, or regulation applicable to the franchisee
with respect to any aspect of its cable television business to
which this ordinance, the cable rules, and/or franchise
agreement apply.

C. The county shall give the franchisee timely written
notice of the making of any claim or the commencement of any
action, suit or other proceeding covered by this ordinance. In
the event any such claim arises, the county or any other
indemnified party shall tender the defense thereof to the
franchisee and the franchisee shall have the right to defend,
settle, or compromise any claims arising hereunder and the
county shall cooperate fully therein.

NEW SECTION. SECTION 12. Security fund or letter of
credit. An applicant for a grant of a franchise or franchise
renewal or transfer must provide the cable office, for deposit
with the King County office of financial management, in an
amount determined by the cable office, but not less than
twenty-five thousand dollars ($25,000) either a cash security
deposit or an irrevocable letter of credit from a financial
institution in a form satisfactory to the manager and the King County office of financial management prior to the county's execution of the franchise agreement. The amount of the deposit shall be based on the scope of the applicant's existing and proposed cable operations in the county, the applicant's technical and financial qualifications, and the applicant's history of compliance with its franchise agreements in the county and elsewhere. A security deposit or letter of credit may also be required or the amount of the security deposit or letter of credit may be raised as a condition of a modification. The security deposit or letter of credit shall be used to ensure the faithful performance of the franchise agreement; compliance with this ordinance, the cable rules, applicable federal, state, and local law, all orders and permits; and the payment of any claims, liens, fees, or taxes due the county that arise by reason of the construction, operation, repair or maintenance of the cable system. The county may withdraw funds from the security deposit or make demand for payment upon the letter of credit for the monetary amount of any remedy imposed pursuant to this ordinance.

NEW SECTION. SECTION 13. Liquidated damages. All franchise agreements entered into after the effective date of this ordinance may provide for liquidated damages to compensate the county for harm caused by violation of this ordinance, the cable rules, a franchise agreement, or any applicable law in an amount which is a reasonable forecast of just compensation for the harm caused by the violation.


A. A franchisee and/or applicant for a franchise shall not deny cable service, or otherwise discriminate against any subscriber, access programmer, or resident on the basis of race, color, religion, national origin, physical or mental disability, age, political affiliation, marital status, sexual orientation, sex or income of the residents of the area in which the person resides. The franchisee shall comply at all
times with all other applicable federal, state and local laws, rules, and regulations relating to nondiscrimination.

B. A franchisee shall not refuse to employ, nor discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of race, color, religion, national origin, physical disability, age, political affiliation, marital status, sexual orientation, sex or income.

C. A franchisee shall comply with all applicable federal, state and local equal employment opportunity requirements.

D. The franchisee shall establish, maintain, and execute an equal employment opportunity plan and a minority/women's business procurement program which shall be consistent with the intent of the county's affirmative action and minority/women's business procurement policies. Upon request, the franchisee shall file with the cable office a copy of their equal employment opportunity report submitted annually to the FCC and shall file with King County office of civil rights and compliance an annual compliance report detailing its progress with its minority/women's business procurement program during the previous year. The franchisee must also provide the cable office, upon request, copies of all other reports and information filed with federal, state, or local agencies concerning equal employment opportunity or employment discrimination laws. This subsection shall apply only to franchise agreements entered into after the effective date of this ordinance.

PROVIDED THAT:

No provision of this section shall invalidate any other section of this ordinance.

NEW SECTION. SECTION 15. Privacy. A franchisee must protect the privacy of all subscribers pursuant to the Cable Act. A franchisee may not condition subscriber service on the subscriber's grant of permission to disclose information which, pursuant to federal law, cannot be disclosed.
NEW SECTION. SECTION 16. Rates.

A. A franchisee must charge uniform prices throughout its franchise area for basic cable service, except that different rates may be offered to commercial rate subscribers, and provided further that reduced rates may be offered to:

1. new subscribers,
2. subscribers adding a service that they have not previously received, or
3. disabled, senior citizen, low income or bulk rate subscribers.

A franchisee may change its rates and charges following a minimum of thirty (30) calendar days prior written notice to subscribers and the cable office.

B. The county expressly reserves the right, subject to the provisions of state and federal law, to regulate subscriber rates.

NEW SECTION. SECTION 17. Customer service standards.

A. Under normal operating conditions a franchisee shall comply with the customer service standards established under this ordinance, the cable rules and its franchise. Such standards shall include, but need not be limited to, the following:

1. The franchisee shall have a local or toll-free telephone number. The franchisee shall have a location and procedure approved by the cable office to ensure that subscribers can conveniently make payments, exchange or accept equipment, receive responses to inquiries and schedule appointments during normal business and evening hours and at least one-half a business day during the weekend.

2. Under normal operating conditions, telephone answer time by the franchisee shall not exceed thirty (30) seconds, average speed of answer, and busy signals shall not occur more than three percent of the time. This requirement shall be met at least ninety (90) percent of the time, measured over any consecutive ninety (90) day period. The franchisee shall use
an answering service or be capable of receiving service
complaints and system malfunction reports when the business
office is closed.

3. Installation work shall be performed in a timely
manner. The franchisee shall offer a choice of morning or
afternoon appointments within a four (4) hour time period and
may offer all day appointments for service, installation, or
disconnection if it is necessary to enter the subscriber's
residence. If the franchisee fails to keep two (2) or more
consecutive scheduled appointments with a subscriber, and fails
to give notice to the subscriber at least two (2) hours prior
to the scheduled appointment time, the franchisee shall give a
service credit to that subscriber.

4. A franchisee must have available twenty-four (24)
hours a day, seven (7) days a week, personnel and equipment
capable of locating and correcting major cable system outages.
A major cable system outage is an outage which results in the
loss of cable service to ten (10) or more subscribers on fifty
(50) percent or more of the subscribers' channels or picture
impairment visible to ten (10) or more subscribers on fifty
(50) percent or more of the subscribers' channels. Major cable
system outages must be corrected without delay. Corrective
action for other cable system outages must be initiated by the
franchisee not later than one (1) business day after the
customer service call is received and must be completed as
promptly as possible. Corrective action for all other service
problems must be initiated by the franchisee not later than two
(2) business days after the customer service call is received
and must be completed as promptly as possible. A franchisee
may intentionally interrupt service on the cable system only
for good cause and for the shortest time possible. Upon
request of a subscriber, the franchisee shall provide a rebate
to subscribers, pro-rated, for any service problem caused by
the franchisee that exceeds twenty-four (24) hours.
5. A franchisee shall provide each subscriber at the
time cable service is installed, and upon request, with written
subscriber information, which includes procedures for handling
complaints and a schedule of service rates and charges as well
as credits required by law.

6. All subscriber bills must clearly indicate charges,
broken down to indicate the charge for each service, or group
of services charged as a unit, equipment, and any other fees
included on the bill.

7. A franchisee is prohibited from offering any service
by a negative option.

8. A subscriber may voluntarily disconnect service at
any time; however, voluntary disconnection does not excuse a
subscriber from fulfilling its contract obligations. A
franchisee may disconnect service to a subscriber for cause or
if at least thirty (30) days have elapsed after the due date
for payment of a bill and the franchisee has provided written
notice that service will be disconnected if the bill is not
paid in full by a specific date.

9. A franchisee may not refer, or cause to be entered, a
negative report to any consumer credit reporting agency,
association or bureau unless thirty (30) days have elapsed
after sending notice to the customer at the last service
address or billing address of record after disconnection has
occurred.

B. The transmission of obscene programming is prohibited.
The county expressly reserves the right to restrict or
condition the provision of cable services that are otherwise
constitutionally unprotected.

NEW SECTION. SECTION 18. Technical standards. A
franchisee shall comply with all applicable technical standards
including, but not limited to, the National Electrical Safety
Code, the National Electric Code, and standards established by
the FCC, the National Television Systems Committee and the
county.
NEW SECTION. SECTION 19. Minimum facilities and services.

A. Consistent with the Cable Act every cable system constructed, reconstructed or upgraded after the effective date of this ordinance:

1. shall have a two-way capability;
2. shall provide PEG access facilities, equipment, and/or channels; and
3. may be required to provide an institutional network.

B. The county may require, in the franchise agreement, a franchisee to interconnect its system with any or all of the other cable systems in areas of King County so as to enable each such system to carry and cablecast the public, educational and governmental access programming carried on each system and on institutional networks with channel capacity designated for educational and governmental use. Interconnection may be done by direct cable connection, microwave link, satellite or other appropriate method.

C. A franchisee must make cable service available for the standard installation charge to all persons within its franchise area who request cable service and agree to subscribe for a minimum period of one year if, using the most direct route, the distance the distribution line would be extended to provide service divided by the number of people requesting service is not more than three hundred (300) feet from the cable system, and the drop distance is not more than one hundred fifty (150) feet from the cable system. Cable service shall be provided to all persons who are not within these distances if the person agrees to pay the full cost to provide cable service beyond these distances.

D. The franchisee shall provide, at a minimum, the mix quality and level of services listed in the franchise agreement. Those services within the franchisee's control shall not be changed without thirty (30) days prior written notice to subscribers and the cable office in a manner approved
by the cable office, which provides full and clear disclosure
of the following:

1. the franchisee's proposed change;

2. the franchise agreement requires certain services;

and

3. comments made by subscribers to King County will be
considered in evaluating any proposed change that require
county approval.

E. All franchisees shall provide for immediate access by
King County in emergency situations and must have the ability
to override programming with emergency programming provided by
King County during these emergency situations.

NEW SECTION. SECTION 20. Local origination.

A franchisee may be required in the franchise agreement to
produce up to two hours of local origination programming per
day, seven days per week, for viewing between 4:00 p.m. and
10:00 p.m. It is the policy of the county to encourage local
origination programming, including programming of interest and
applicability to children, senior citizen, minority and
disabled residents. This section shall not apply to franchises
granted prior to the effective date of this ordinance.

NEW SECTION. SECTION 21. Reports and records.

A. The county and its representatives shall have the
authority, upon reasonable notice, to inspect a franchisee's
books, records, facilities, and any other items and to require
a franchisee to keep, develop and produce books, records,
reports, summaries, tests, lists and other items regarding the
franchisee's operations in unincorporated King County that the
county deems necessary to monitor a franchisee's compliance,
its franchise, this ordinance, the cable rules, or applicable
law. Such authority shall include, but not be limited to, the
right to audit a franchisee's books and records and to inspect
and test a franchisee's technical facilities.

B. A franchisee shall pay all of the county's costs
associated with an audit, reaudit, inspection, reinspection,
test or retest if it is determined that the franchisee has not materially complied with its franchise, this ordinance, the cable rules, or applicable law. If the audit determines that the franchisee's franchise fee payment was less than the amount owed to the county, the franchisee shall pay to the county any deficiency plus interest on the deficiency equal to twelve percent per annum interest compounded daily from the date the franchise fee payment was due.

NEW SECTION. SECTION 22. Performance evaluation. The cable office may conduct such periodic performance evaluations of a franchisee to ensure compliance with the franchise agreement and all applicable laws and may conduct community needs assessments. A franchisee shall cooperate fully with these evaluations and assessments. If the cable office implements a survey of cable subscribers in connection with a performance evaluation, the franchisee may be required to distribute the cable office's survey to its subscribers at the county's expense.

NEW SECTION. SECTION 22. Revocation, expiration or abandonment.

A. The county executive may revoke the franchise and franchise agreement pursuant to the notice and order procedure contained in this ordinance if:

1. a franchisee has committed a material breach of the franchise agreement; or

2. there has occurred an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the franchisee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding, unless within that one hundred twenty day period such assignment, receivership or trusteeship has been vacated; or

3. any part of the franchise or cable system is foreclosed or sold at a judicial sale.
B. Upon the expiration or revocation of a franchise and
franchise agreement or abandonment of the cable system, the
county may:

1. require the former franchisee to remove all portions
of the cable system from all streets and public property within
the franchise area that are above ground or are below ground
and constitute a hazard to the health, welfare or safety of
county residents and restore county property to the county's
reasonable satisfaction. If the former franchisee fails to
comply within the time specified, the county may remove any
facilities and equipment, restore county property to the
county's satisfaction, and recover any costs incurred from the
franchisee or its assignees; or

2. require transfer to an owner acceptable to King
County or acquire ownership of the cable system for an
equitable price in the case of revocation, and at fair market
value in the case of any other franchise termination.

NEW SECTION. SECTION 24. Continuity of service
mandatory.

A. Subscriber contracts shall give to subscribers the
right to receive all available services from the franchisee as
long as their financial and other obligations to the franchisee
are satisfied.

B. The franchisee must ensure that all subscribers
receive continuous, uninterrupted service. In the event of a
revocation of the franchise, expiration which occurs without
the franchisee having given notice pursuant to this section or
abandonment of the cable system, the franchisee shall continue
to operate the cable system for a period determined by the
cable manager not to exceed eighteen (18) months from the date
of such revocation or expiration, in order to provide for an
orderly transition to another cable system operator without
interruption of service. During such period the cable system
must be operated under the same terms and conditions as
required by this ordinance, the cable rules, and the franchise
agreement, except to the extent the county waives any franchise condition.

C. If the franchisee elects not to renew a franchise, the franchisee shall notify the county of its intent not less than twelve (12) months prior to the expiration date of the franchise. Failure to provide this notification will subject the franchisee to the continuity of service provision in this section of the ordinance.

NEW SECTION. SECTION 25. Enforcement remedies.

A. The county may seek legal and/or equitable relief from any court of competent jurisdiction in the event a person violates this ordinance, the cable rules, a franchise agreement, or applicable federal, state or local law. In addition, the county has the right to impose any one or combination of the following remedies: collect liquidated damages as provided for in the franchise agreement, assess civil penalties in an amount up to one hundred (100) dollars per violation, require corrective action to remedy the violation, and/or revoke the franchise and franchise agreement. Each day a violation continues may be considered an additional violation. Any remedy or remedies set forth in this section may be:

1. recovered by legal action filed in King County superior court by the prosecuting attorney on behalf of King County; or

2. imposed by an administrative notice and order issued pursuant to this ordinance by the director of the King County department of executive administration, provided that only the county executive shall have the authority to revoke a franchise and franchise agreement.

B. In determining which remedy or remedies are appropriate, the county shall take into consideration the nature of the violation and the harm caused by it, the nature of the remedy required in order to remedy such harm and prevent
further violations, and such other matters as the cable office
determines are appropriate.

C. Failure of the county to enforce any requirements of
this ordinance, the cable rules, the franchise agreement or
applicable law shall not constitute a waiver of the right to
enforce that requirement, or subsequent violations of the
requirement, or to seek appropriate enforcement remedies, nor
shall it relieve a franchisee of the obligation to comply with
any requirement.

D. A person's payment of liquidated damages or penalties
or the county's imposition of any remedy shall not relieve the
person of the obligation to comply with the requirements of
this ordinance, the cable rules, a franchise agreement, an
order of the county or applicable law.

E. Any sum recovered by the county from the required
security fund or letter of credit under the terms of this
section shall not be a limitation upon the liability of the
franchisee to the county and shall not constitute an election
of remedies.

F. In the event of any dispute between the franchisee and
the county arising out of this ordinance, the cable rules or
the franchise agreement, the franchisee shall pursue and
exhaust all available administrative remedies pursuant to law
prior to pursuing any appropriate legal action.

G. The revocation or forfeiture of any franchise shall
not affect any of the county's rights under the franchise or
under any provision of law.

H. No enforcement remedy shall be imposed except in
accordance with due process of law.


A. Any remedy imposed by administrative notice and order
shall be imposed following the procedure outlined in this
section.

B. The notice and order shall contain:
1. a statement that the county has found the person to
be in violation of this ordinance, the cable rules, a franchise
agreement or any applicable law, with a brief and concise
description of the conditions found to be in violation;

2. a statement of any corrective action required to be
taken. If the county has determined that corrective action is
required, the order shall require that all corrective action
commence within such time and be completed within such time as
the county determines is reasonable under the circumstances;

3. a statement specifying the amount of the civil
penalty assessed, if any, on account of the violation and, if
applicable, the conditions on which assessment of such civil
penalty is contingent;

4. a statement advising that the order shall become
final unless, no later than ten days after the notice and order
are served, any person aggrieved by the order requests in
writing an appeal before the hearing examiner.

C. Service of the notice and order shall be made upon all
persons identified in the notice and order either personally or
by mailing a copy of such notice and order by certified mail,
postage prepaid, return receipt requested. If the address of
any such person cannot reasonably be ascertained, a copy of the
notice and order shall be mailed to such person at the address
of the location of the violation. The failure of any such
person to receive such notice shall not affect the validity of
any proceedings taken under this chapter. Service by certified
mail shall be effective on the date of postmark.

D. Any person aggrieved by the order of the county may
request in writing within ten days of the service of the notice
and order an appeal hearing before the King County hearing
examiner pursuant to K.C.C. 20.24.080.A.19. The request shall
cite the notice and order appealed from and contain a brief
statement of the reasons for seeking the appeal hearing.

1. The appeal hearing shall be conducted on the record
and the hearing examiner shall have such rule-making and other
powers necessary for conduct of the hearing as specified by
K.C.C. 20.24.150. Such appeal hearing shall be conducted
within a reasonable time after receipt of the request for
appeal. Written notice of the time and place of the hearing
shall be given at least ten days prior to the date of the
hearing to each appealing party, to the cable manager, and to
other interested persons who have requested in writing that
they be so notified. The county may submit a report and other
evidence indicating the basis for the enforcement order. Each
party shall have the following rights, among others:

a. to call and examine witnesses on any matter relevant
to the issues of the hearing;

b. to introduce documentary and physical evidence;

c. to cross-examine opposing witnesses on any matter
relevant to the issues of the hearing;

d. to impeach any witness regardless of which party
first called him to testify;

e. to rebut evidence against him;

f. to represent himself or to be represented by anyone
of his choice who is lawfully permitted to do so.

2. Following review of the evidence submitted, the
hearing examiner shall make written findings and conclusions,
and shall affirm or modify the order previously issued if he
finds that a violation has occurred. He shall reverse the
order if he finds that no violation occurred. The written
decision of the hearing examiner shall be mailed by certified
mail, postage prepaid, return receipt requested to all the
parties.

E. Any order duly issued by the county pursuant to the
procedures contained in this ordinance shall become final ten
days after service of the notice and order unless a written
request for hearing is received by the hearing examiner within
the ten-day period. Enforcement of any notice and order of the
county issued pursuant to this ordinance shall be stayed during
the pendency of any appeal under this ordinance.
F. An order which is subjected to the appeal procedure shall become final twenty days after mailing of the hearing examiner's decision unless within that time period an aggrieved person initiates review by writ of certiorari in King County Superior Court.

NEW SECTION. SECTION 27. Municipal cable system ownership authorized.

A. The county may construct, own, and/or operate a cable system.

B. Nothing in this ordinance, the cable rules or a franchise agreement shall be interpreted to affect the right of the county to acquire the property of the franchisee, either by purchase or through the exercise of its right of eminent domain, for an equitable price in the case of revocation, and at fair market value in the case of any other form of franchise termination. Further, nothing in this ordinance, the cable rules, or a franchise agreement shall be interpreted to contract away, modify, or abridge, whether for a term or in perpetuity, the county's right of eminent domain.

NEW SECTION. SECTION 28. Administration.

A. This ordinance shall be implemented by means of administrative rules adopted by the King County department of executive administration in accordance with the provisions of K.C.C. 2.98. These rules shall, at a minimum, contain requirements for applications for new franchises and franchise renewals, modifications and transfers, insurance coverage, security funds, letters of credit, restoration bonds, minimum facilities, service and line extensions, payment of franchise fees, reports and records, customer service, use of public rights-of-way, technical standards, and price arbitration. All rules shall comply with the intent of this ordinance and with applicable federal, state, and local law. All such rules shall have the force of law.
B. This ordinance, the cable rules, and all franchise agreements shall be administered and enforced by the cable office. The functions of the cable office shall be to:

1. implement cable policy, this ordinance, the cable rules, and franchise agreements;

2. facilitate the resolution of complaints received from any person;

3. supervise government programming with respect to PEG operations or coordinate with any PEG access management authority designated by the county;

4. provide public information;

5. monitor cable policy and related developments in other jurisdictions and make recommendations for changes to county cable television policy;

6. develop and maintain productive relationships with franchisees, other cable system operators, and interested community groups to assure responsiveness to the needs and interests of the community;

7. provide staff assistance to any cable-related advisory committee or regulatory agency hereafter established.

NEW SECTION. SECTION 29. Applicability to current franchise agreements. This ordinance and the cable rules shall be applicable to all existing cable franchises and all franchises issued in the county in the future.

NEW SECTION. SECTION 30. Severability. If any part, section, subsection, or other portion of this ordinance and the cable rules or any application thereof to any person or circumstance is declared void, unconstitutional or invalid for any reason, such part, section, subsection, or other portion, or the prescribed application thereof, shall be severable, and the remaining provisions of this ordinance and the cable rules, and all applications thereof not having been declared void, unconstitutional or invalid, shall remain in full force and effect. The county declares that no invalid or prescribed
provision or application was an inducement to the enactment of this ordinance, and that it would have enacted this ordinance regardless of the invalid or prescribed provision or application.

INTRODUCED AND READ for the first time this 1st day of July, 1971.

PASSED this 12th day of November, 1971.

KING COUNTY COUNCIL
KING COUNTY, WASHINGTON

Chair

ATTEST:

Clerk of the Council

APPROVED this 22nd day of November, 1971.

KING COUNTY EXECUTIVE