

ORDINANCE NO. 2174

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, AMENDING THE MUNICIPAL CODE BY ADDING A NEW CHAPTER 5.60 PERTAINING TO THE FRANCHISING AND REGULATION OF CABLE AND OPEN VIDEO SYSTEMS, AND THEIR USE AND OCCUPANCY OF RIGHTS OF WAY TO PROVIDE CABLE AND OPEN VIDEO SERVICES, AND SUPERSEDING EXISTING CHAPTER 5.60.

THE CITY COUNCIL OF THE CITY OF REDMOND, WASHINGTON, DO
ORDAIN AS FOLLOWS:

Section 1. Chapter 5.60 of the Redmond Municipal Code and Ordinance No. 1356 are hereby superseded, replaced and amended to read as follows:

**CHAPTER 5.60
CABLE COMMUNICATIONS SYSTEMS**

Section 5.60.010 Purpose and Intent.

A. The City Council finds and determines as follows:

- (1) The development of Cable communications systems may provide significant benefits for, and have substantial impacts upon, the residents and businesses of the City.
- (2) The public streets, alleys, utility easements dedicated for compatible uses, and other Rights-of-way within the City used by Cable communications systems: 1) are critical to travel and commerce; 2) are a unique and physically limited resource so that proper management by the City is necessary to maximize the efficiency and to minimize the costs to the taxpayers, and to prevent harm to the community; and 3) are intended for public uses and must be managed and controlled consistent with that intent.
- (3) Cable communications systems occupy and make use of scarce and valuable public Rights-of-way, in a manner different from the way in which the general public uses them.
- (4) Because of the complex and rapidly changing technology associated with Cable communications systems, the public convenience,

safety and general welfare is best served by the City's exercise of its regulatory powers to establish procedures through which cable systems may use and occupy public Rights-of-way, and to establish general conditions to govern the construction, operation, maintenance and reconstruction of such systems.

(5) This Chapter is intended to establish provisions for the franchising and regulation of Cable communications systems. This Chapter is further intended to ensure that all regulations are consistent with the Federal Cable Communications Policy Act of 1984 (47 U.S.C. Sec 521, et seq.), as amended by the Federal Cable Television Consumer Protection and Competition Act of 1992 and the Federal Telecommunications Act of 1996, applicable regulations of the Federal Communications Commission, and applicable Washington statutes and regulations.

B. The purpose and intent of the ordinance codified in this Chapter is to provide for the attainment of the following objectives:

(1) To enable the City to discharge its public trust in a manner consistent with rapidly evolving federal and state regulatory policies, industry competition, and technology development.

(2) To obtain fair and reasonable compensation for the use and occupancy of valuable public assets by Cable communications systems to provide cable service.

(3) To foster and to promote competition in Cable communications services, and to encourage the delivery of advanced and competitive cable communications services on the broadest possible basis to businesses, residents, institutions and local government of the City.

(4) To establish clear local guidelines, standards, and time frames for the exercise of local authority with respect to the regulation of Cable communications systems, including the establishment and enforcement of customer service standards.

(5) To provide opportunities to the public to obtain access to cable communications facilities for the purpose of disseminating and receiving information; to promote competitive cable rates and services; to take advantage of opportunities presented by cable and open video systems to provide for more open government; to enhance educational opportunities throughout the community and provide opportunities for building a stronger community; and to allow flexibility to respond to changes in technology, Subscriber interests, and competitive factors that will affect the health, welfare, and well-being of the community.

(6) To encourage the deployment of advanced Cable communications systems that satisfy local cable-related needs and interests, and which

enable the schools and the government to take advantage of cable technology to deliver enhanced services.

Section 5.60.020 Defined Terms and Phrases.

For the purposes 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 include the singular, and words in the singular include the plural. Words not defined shall be given their common and ordinary meaning. The word "shall" is always mandatory and not merely directory.

A. "Access" includes Educational Access, Governmental Access and Public Access, collectively, and means the availability for noncommercial use by various government and educational agencies, institutions, organizations, groups and individuals in the community, including the City and its designees, of particular channels on a Cable communications system to receive and distribute video programming to Subscribers, as permitted under applicable law, including, but not limited to:

(1) "Educational Access" means Access where Schools are the primary users having editorial control over programming and services.

(2) "Governmental Access" means Access where governmental institutions or their designees are the primary users having editorial control over programming and services; and

(3) "Public Access" means Access where the public is the primary user.

B. "Affiliated Entity" or "Affiliate" when used in connection with Grantee means any corporation or Person who owns or controls, is owned or controlled by, or is under common ownership or control with Grantee.

C. "Applicant" means any person who applies for an initial cable or Open Video System ("OVS") franchise.

D. "Basic Service" means any Cable Service tier, which includes, at a minimum, the retransmission of local television Broadcast Signals and Access programming.

E. "Broadcast Signal" means a television or radio signal that is transmitted over-the-air to a wide geographic audience and received by a Cable communications system.

F. "Bundled Services" refers to two or more different services or service tiers, including cable services and non-cable services, included in a single price structure.

G. "Cable Acts" refers to the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and the

Telecommunications Act of 1996, and any amendments thereto.

H. "Cable communications system" refers to OVS systems and Cable systems.

I. "Cable service" means the one-way transmission to Subscribers of video Programming, or other programming service and Subscriber interaction, if any, which is required for the selection or use of such video Programming or other programming service.

J. "Cable system" or "cable television system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide Cable Service that includes video Programming and that is provided to multiple Subscribers within a community. The term "Cable system" does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations; or
- (2) A facility that serves Subscribers without using any Rights-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, as amended (47 U.S.C. Section 201 et seq.), except that such facility will be considered a Cable system (other than for purposes of Section 621(c) of the Cable Act) to the extent such facility is used in the transmission of video programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services; or
- (4) An open video system that complies with Section 653 of the Cable Act; or
- (5) Any facilities of an electric utility that are used solely for operating its electric utility system.

K. "Cable Operator" means any Person or group of Persons, including Grantee, who provides Cable Service over a Cable communications system and directly or through one or more Affiliates, owns a significant interest in such Cable communications system, or who otherwise control(s) or is(are) responsible for, through any arrangement, the management and operation of such a Cable communications system.

L. "Change of control" refers to a change in actual working control, in whatever manner exercised, over the affairs of a Grantee or its direct or indirect parent. Without limiting the foregoing, a change of control of a franchise, Grantee, or Cable communications system will be deemed to have occurred whenever there is a change, acquisition or transfer of control of more than a ten percent (10%) ownership in the Grantee or its direct or indirect parent to any person, or a group of persons acting in concert; or whenever there is any change in the general partners of a Grantee, or a transfer of the Grantee to any other entity.

M. "Channel" means a portion of the frequency band capable of carrying a video programming service or combination of video programming services, whether by analog or digital signal, on a twenty-four (24) hour per day basis or a portion thereof.

N. "City" or "Grantor" means the City of Redmond, Washington, a municipal corporation, of the State of Washington.

O. "CFR" means the Code of Federal Regulations.

P. "FCC" means the Federal Communications Commission or any lawful successor.

Q. "Finance Director" shall be the person who is the Chief Financial Officer for the City or his or her designee.

R. "Franchise" means the document or agreement that is executed between Grantor and Grantee, containing the specific provisions of the authorization granted and the contractual and regulatory agreement created thereby.

S. "Franchise Area" or "Service Area" means the area within the jurisdictional boundaries of the Grantor including any areas annexed by Grantor during the term of the Franchise.

T. "Franchise Manager" means the chief administrative official for the City or his/her designee.

U. "Grantee" means any person that is awarded a franchise in accordance with this Chapter, and that person's lawful and permitted successor, transferee, or assignee; or any person holding a cable or OVS franchise as of the effective date of this ordinance.

V. "Operator" or "Cable Operator" refers to a person:

- (1) Who directly or through one (1) or more affiliates provides cable service over a Cable communications system and who directly or through one (1) or more affiliates owns a significant interest in such system; or
- (2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a system.

W. "Person" means any natural person, sole proprietorship, partnership, joint venture, association, or limited liability entity or corporation, or any other form of entity or organization.

X. "Programming" means signals containing information intended for use by recipients, whether in the form of video signals or audio signals.

Y. "Public, educational or government access facilities" or "PEG access facilities" means the total of the following:

- (1) Channel capacity designated for public, educational, or government use; and
- (2) Facilities and equipment for the use of that channel capacity.

Z. "Public property" means any property owned or under the control of the City, other than a Rights-of-way.

AA. "Rights-of-way," means land acquired or dedicated to the public or that is hereafter dedicated to the public and maintained under public authority or by others, including but not limited to public streets or roads, highways, avenues, lanes, alleys, bridges, sidewalks, easements and similar public property located within the Franchise Area.

BB. "School" means any accredited educational institution including, for example, primary and secondary schools (K-12), and excluding home schools.

CC. "Subscriber" or "customer" or "consumer" means any Person who lawfully receives Cable Services via a Cable communications system with Grantee's express permission.

DD. "U.S.C." means the United States Code.

Section 5.60.030. Franchise Required.

No person may construct or operate a Cable communications system within the Rights-of-way of the City without a properly granted Franchise awarded pursuant to this Chapter, which Franchise must be in full force and effect. To the extent permitted by law, all requirements herein with respect to or connected directly or indirectly a Cable system shall also apply to an OVS Franchise and OVS system and any process related thereto.

Section 5.60.040. Franchise Application Required.

A. An application must be filed for an initial Cable system or OVS Franchise. All applications required hereunder, except as provided for in Section 5.60.400, shall be in writing and shall be filed in the Office of the City Clerk.

B. The Franchise Manager shall specify the information that must be provided in connection with an application, and the form in which the information shall be provided.

C. At a minimum, but without limitation, each application must identify the Applicant, show that the Applicant is financially, technically and legally qualified to construct,

maintain and operate the Cable communications system, and show that the Applicant is willing to comply unconditionally with this Chapter and its Franchise obligations. A complete description of the Applicant's corporate structure must be provided, including but not limited to a complete chain of the Applicant's ownership. In addition, any application for an initial Franchise must include the following information: a detailed description of the Cable system that the Applicant proposes to build, a detailed description of where the Cable system will be located, a system construction or rebuild schedule, and a demonstration that the Applicant will provide adequate channels, facilities and other support for public, educational and government use (including institutional network use to the extent permitted by law) of the Cable communications system. To be accepted for filing, an original and ten (10) copies of a complete application must be submitted. To the extent reasonably practicable, the application shall be filed in electronic format as well. All applications shall include the names and addresses of persons authorized to act on behalf of the Applicant.

D. The City may request, and Applicant shall provide, such supplementary, additional or other information, as reasonably necessary to determine whether the requested Franchise should be granted.

E. An application may be rejected if it is incomplete, or if the response to requests for information is not timely and complete.

Section 5.60.050. Initial Franchise Grants - Request for Proposals.

This Section establishes additional provisions that apply to an application for an initial Franchise.

Any person may apply for an initial Franchise by submitting an application therefore on that person's own initiative, or in response to a request for proposals issued by City. If City receives an unsolicited application, it may choose to issue a request for additional proposals, and require the Applicant to amend its proposal to respond thereto. The City may conduct such investigations as are necessary to act on an application.

Section 5.60.060. Franchise Processing Costs.

To the extent permitted by applicable law, any application for a new Franchise shall include an application fee, based on amounts established by City Council resolution, to cover the cost of all direct and indirect administrative expenses and staff efforts, including consultants and attorneys necessary to adequately analyze the application. In addition, the Applicant shall reimburse the City for all out-of-pocket processing costs, which shall include, but not be limited to, costs of publications of notices, development and publication of relevant Franchise agreements and other agreements. The City may require a deposit to be paid by the Applicant in an amount determined by the Franchise Manager to cover estimated costs of the application.

No payment of said processing fees shall be offset against any Franchise or other fees payable to City during the term of the Franchise.

Section 5.60.070. Grant of Franchise.

A. The City may grant non-exclusive Cable communications system Franchises pursuant to this Chapter.

B. Before taking final action on an application for a Cable communications system Franchise, the City Council shall conduct public hearings in accordance with applicable state, federal or local law. In determining whether to grant a Franchise, City may consider:

(1) Whether the Applicant's record in other communities indicates that it can be relied upon to provide high-quality service throughout a Franchise term;

(2) Whether the Applicant has the financial, legal, and technical ability to provide the services, facilities, and equipment set forth in the application, and to satisfy any minimum requirements established by City;

(3) Whether the Applicant's franchise proposal is reasonable to meet the future cable-related needs and interests of City, taking into account the cost of meeting such needs and interests;

(4) Whether issuance of a Franchise is in the public interest considering the immediate and future effect on Rights-of-way, public property, and private property that will be used by the Applicant's Cable communications system;

(5) Whether the Applicant has proposed to provide adequate facilities, equipment, channels and other support for PEG use of the Cable system;

(6) Such other matters as the City is authorized or required to consider.

C. If the City determines that issuance of a Franchise would be in the public interest considering the factors described in this Section, and the Applicant is willing to enter into an appropriate Franchise agreement, the City shall award a Franchise to the Applicant.

D. The grant of a Franchise shall not be effective unless and until the Franchise is unconditionally accepted by a Grantee, and Grantee enters into a Franchise agreement setting forth the terms and conditions under which the Franchise may be exercised, and the Franchise has been approved by the City Council.

E. A Franchise granted pursuant to this Chapter shall authorize and permit a Grantee to construct, operate, maintain and repair a Cable communications system for the purpose of providing cable service in the Grantee's Franchise Area.

F. A Franchise shall not convey rights other than as expressly specified in

this Chapter or in the Franchise; no rights shall pass by implication.

G. A Franchise shall not preclude or be a substitute for:

- (1) Complying with requirements of general applicability for the privilege of transacting and carrying on a business within the City;
- (2) Complying with lawfully enacted requirements for the privilege of using or occupying the Rights-of-way to construct, operate or repair facilities in connection with the provision of non-cable services;
- (3) Any permits or other authorizations lawfully required under the City code in connection with activities on or in Rights-of-way or other property;
- (4) Any permits or agreements for occupying any other property of the City or private entities to which access is not specifically granted by the Franchise.

H. The Franchise agreement does not relieve a Grantee of its duty to comply with all lawfully enacted and applicable City ordinances, resolutions, written policies, and regulations, and every Grantee must comply with the same. The Grantee's exercise of the rights under the same is subject to the exercise of police and other powers the City now has or may later obtain, including but not limited to the power of eminent domain. In the event of a conflict between a Franchise and this Ordinance, the Franchise shall control.

I. A Franchise does not convey title, equitable or legal, in the Rights-of-way or public property.

J. Every Franchise shall be nonexclusive.

Section 5.60.080. Term of Franchise.

A Franchise granted pursuant to this Chapter shall be for the term specified in the Franchise agreement, commencing upon the effective date, as set forth in the ordinance or resolution adopted by the City Council that authorizes the Franchise.

Section 5.60.090. Franchise Nontransferable.

A. A Grantee may not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, by forced or involuntary sale, or by ordinary sale, contract, consolidation, or otherwise, the Cable communications system, the Franchise or any of the rights or privileges therein granted; nor may a change of control occur without the prior consent of the City Council by resolution which consent may not be unreasonably denied or delayed.

B. Prior consent is not required for grants of a security interest or mortgage

of any assets of the Grantee to secure the construction, operation or repair of the Cable communications system, provided that such pledge of assets will not impair or mitigate Grantee's responsibilities and capabilities to meet all of its obligations under the Franchise.

C. Grantee must notify the City in writing of any foreclosure or judicial sale of all or a substantial part of the Grantee's Franchise property, or upon the termination of any lease or other interest covering all or a substantial part of that Franchise property. That notification will be considered by the City as a notice that a change in control of ownership of the Franchise has taken place, and the provisions of this paragraph that required the prior consent of the City Council to that change in control of ownership will apply.

D. A sale of a portion of the Cable communications system in the ordinary course of business where the portion sold is removed (such as the sale of old electronics) will not be deemed a transfer for the purposes of this subsection.

E. Any financial institution holding a pledge of the Grantee's assets to secure the advance of money for the construction or operation of the Franchise property has the right to notify the City that it, or a designee satisfactory to the City, will take control of and operate the cable television system upon Grantee's default in its financial obligations. Further, that financial institution must also submit a plan for such operation within ninety (90) days after assuming control. The plan must insure continued service and compliance with all Franchise requirements during the period that the financial institution will exercise control over the system. The financial institution may not exercise control over the system for a period exceeding eighteen (18) months unless specifically authorized by the City, in its sole discretion and during that period of time it will have the right to petition the City to transfer the Franchise to another Grantee.

Any change of control or other transfer of ownership by the Grantee without prior written City approval shall constitute a material breach of the Franchise.

G. Approval by the City of a transfer or change in control of a Franchise does not constitute a waiver or release of any of the rights of the City or the Cable Operator, whether arising before or after the date of the transfer or change in control.

Section 5.60.100. Franchise Area - Annexations.

Territory annexed to the City that is already served by a Franchise or license issued by another public entity, may continue to be served by the Grantee, however, within 30 days after such annexation, to the extent permitted by law, the Grantee's existing franchise with the City shall govern the terms and conditions of its operations.

Section 5.60.110. Contents of Franchise Agreements - Relation to Ordinance.

If there is any conflict or inconsistency between the provisions of a Franchise agreement authorized by the City Council and provisions of this Chapter as of the effective date

of the Franchise agreement, the provisions of the Franchise shall control.

Section 5.60.120. Rate Regulation.

A. The City may regulate a Cable Operator's rates and charges to the full extent permitted by law.

B. Rate Non-Discrimination. A Grantee may not discriminate in rates, charges or service conditions among Subscribers to cable services on the basis of race, color, religion, gender, disability, age, national origin, ancestry, marital status, medical condition, or sexual orientation.

Section 5.60.130. Franchise Fees and Fees in Lieu of Franchise Fees.

A. Each Cable communications system Grantee shall pay the City a Franchise fee in an amount equal to five percent (5%) of gross revenues derived by the Grantee from the operation of the Cable communications system to provide cable communications services, or such other percentage amount as authorized by law. Each bill remitted to Subscribers shall specifically indicate the amount of the Franchise fee charged pursuant to this Section.

B. Except as a Franchise may otherwise specifically provide, where a Grantee sells cable services and non-cable services as bundled services, for purposes of Franchise fee calculations the cable services will be presumed to generate the same revenues as would have been generated had the Subscriber purchased cable services only.

C. If a Grantee or any affiliated entity, during the term of the Franchise, bundles, ties or combines the sale of some or all of its services, whether authorized or not by the Franchise, and if it is necessary to separately determine Gross Revenues attributable to particular services in order to determine fees owed to the City, the following proportional methodology shall be applied: The combined, bundled revenues derived from a Subscriber shall be allocated to each of the bundled, tied or combined services in the proportions that the standard published rate for each of the services, as realistically offered by Grantee or an affiliated entity to, and paid by, Subscribers who receive only the individual service, bears to the sum of such rates for all of the bundled, tied or combined services; except that a Grantee may use an alternative methodology if the results of such alternative allocation are reasonably equivalent to the results which would be derived from the proportional methodology specified in this provision. Grantee shall bear any burden of proof regarding whether the actual methodology used is reasonably equivalent to the proportional methodology. For purposes of this paragraph, "reasonably equivalent" shall mean the revenue associated with any particular service resulting from the alternative allocation is within five percent (5%) of the amount resulting from the proportional methodology. If a particular services is not realistically offered on a stand alone basis, and, thus, it may be impracticable to apply the methodology for a particular service, the standard published rate of a competitor offering a comparable stand alone service may be used in the allocation subject to the approval of the City. Furthermore, for purposes of this paragraph, "realistically offered" shall mean at least five percent (5%) of Subscribers for a particular service receive only that service and pay the standard published rate for that service.

If a Grantee offers bundled Cable Services and non-Cable Services to Subscribers, a Grantee shall fairly and reasonably allocate revenue with regard to Cable Services. If a dispute arises between the parties regarding this matter, the City and a Grantee will meet and discuss such matters in good faith in an attempt to reach a reasonable compromise thereof.

In the event that the City believes that a Grantee has unlawfully or unfairly allocated revenues between Cable Services and non-Cable services for the purpose of calculating Franchise fee payments, the City and a Grantee shall meet upon 15 days advance notice from the City to discuss the allocation methodology. If the City and a Grantee cannot agree on the matter within a reasonable period of time, the City and Grantee shall submit the matter to a mutually agreeable third party for mediation. The cost of the mediation shall be shared equally between the City and a Grantee. If the mediation is unsuccessful or if the City and a Grantee are unable to mutually agree on a mediator, then either the City or a Grantee can bring the matter in King County Superior Court, or pursue any other remedies available to them at law or in equity.

D. Each person required by this Chapter to remit a City tax or other in lieu fee shall file a return with the Finance Director on forms approved by the Finance Director on or before the due date. The Finance Director is authorized to require such further information as she deems necessary to properly determine if the tax is being levied and collected in accordance with this Chapter.

E. To prevent evasion of Franchise fees, City tax, or in lieu fees, revenues of Affiliates derived from the operation of the Cable communications system to provide cable communications service will be treated as the revenue of the operator; but nothing herein shall be read to permit the City to charge a fee on Affiliate revenues where the revenues were also included in the calculation of the revenues of a Grantee.

F. Persons who provide cable services or other cable communications services to Subscribers for a fee via a Cable communications system and whose revenues are not included in the Franchise fees specified above may be charged a fee by the City equal to 5% of the gross revenues of such person derived from the provision of such other service over the Cable communications system, unless prohibited by state or federal law.

G. The fact that a fee is paid based on revenues derived from one type of service provided over a Cable communications system, does not excuse an operator from its duty to pay fees and taxes imposed by the City on other types of services provided over that facility. As an example, and not as a limitation of the foregoing, a cable communications operator who pays a Franchise fee on revenues derived from the provision of cable communications services must pay the fees imposed upon non-Cable service providers to the extent that it provides such services and consistent with applicable law.

H. General rules for payment of fees.

(1) Unless otherwise specified in a Franchise agreement, Franchise fees shall be paid to the City and delivered to the Finance Director

quarterly, and not later than thirty (30) calendar days after the end of each calendar quarter.

(2) Each payment shall be accompanied by an explanation of the method of computation showing (i) gross revenues by category (e.g., basic, pay, pay-per-view, advertising, installation, equipment, late charges, collections, miscellaneous and others, etc.) with specific listings of new revenue sources, etc.; and (ii) deductions; and (iii) revenues allocated to Cable communications systems cable offerings.

(3) No acceptance by the City of any fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall such acceptance of such payment be construed as a release of any claim the City may have for additional sums payable.

(4) The Franchise fee or in lieu fee payment is not a payment in lieu of any tax, fee or other assessment except as specifically provided in this Chapter, or as required by the Municipal Code or other applicable law.

(5) In the event any payment is not received within thirty (30) days from the end of the calendar quarter, Grantee shall pay, in addition to the payment or sum due, interest from the due date at the prime rate as listed in the Wall Street Journal on the date the payment was due, compounded daily, until the date the City receives the payment or as otherwise provided in the Franchise.

(6) Revenue records shall be maintained for at least six (6) years.

(7) Notwithstanding the foregoing, in the event a Person obligated to pay a fee ceases to provide service for any reason (including as a result of a transfer), such Person shall make a final payment of any amounts owed to the City within ninety (90) calendar days of the date its operations in the City cease, and shall provide a statement of gross revenues for the calendar year through the date operations ceased, which statement shall contain the information and certification required by Section 5.60.130.

Section 5.60.140. Bundled Services.

If the Grantee offers Subscribers cable video or OVS service in conjunction with other telecommunications or other services in bundled packages, then if it may be mandated by law, it shall also offer Subscribers the various individual services in an unbundled format.

Section 5.60.150 Technical Standards.

Except insofar as this requirement is preempted by federal law, any Cable system within the City will meet or exceed the technical standards set forth in 47 C.F.R. Section 76

Subpart K and prevailing applicable technical standards.

Section 5.60.160. Public, Education and Government Access Channels.

A. The Grantee shall provide separate channel capacity for public, educational and governmental (PEG) programming, which shall be exclusive to the City for local origination programming, as specified in the Franchise agreement. The channels shall be included in all basic Subscriber packages.

B. The Grantee shall not exercise any editorial control over the PEG channels provided pursuant to this Chapter.

C. The Grantee shall provide contributions to the cost of providing equipment for the Education-Government channels in a manner prescribed in the Franchise agreement.

Section 5.60.170. Public Access Channel.

The City may place requirements for public access as shall be negotiated with a Grantee and included in the Franchise agreement.

Section 5.60.180. General Financial Provisions.

A. Prior to exercising any of the rights granted under a Franchise or undertaking any of the work, installation, improvements, construction, repair, relocation or maintenance authorized by a Franchise, the Grantee shall furnish a performance bond reasonably acceptable to the City in an aggregate amount sufficient to assure the Grantee's performance of all covenants, terms, conditions and obligations under the Franchise. The performance bond shall be issued by a corporate surety authorized to do surety business in the State of Washington. The performance bond shall be maintained during the term of the Franchise (including any extension thereof) and for a one-year period thereafter. The amount of the performance bond shall be established based upon the legal, financial, and technical qualifications of the Grantee; provided, however, that the City may from time to time review the amount of surety and determine an appropriate level based upon the Grantee's performance of the covenants, terms, conditions and obligations under the Franchise. In the event that the City elects to raise the amount of surety required, written notice shall be provided to the Grantee setting forth the reasons for doing so.

B. The performance bond required by this Section shall be in addition to any other bonds, which may be required by specific provisions of the Redmond Municipal Code, including, but not limited to construction bonds for work or construction activities within Rights-of-way.

C. The City may, at its discretion, require in a Franchise that a Grantee obtain a letter of credit. When and if the City should so require, the Grantee shall deposit with the City a letter of credit from a financial institution chosen by the Grantee and approved by the City in the amount of \$50,000. The letter of credit may not be revoked or terminated during the term of

the Franchise plus an additional sixty days except with written approval of the City. The form and content of such letter of credit shall be approved by the City Attorney. The letter of credit shall be used to insure the faithful performance by the Grantee of all provisions of the Franchise and this Chapter, compliance with all orders, permits, and directions of any agency, commission, board, department, division, or office of the City having jurisdiction over its acts or defaults under the Franchise, and the payment by the Grantee of any costs, claims, liens, liquidated damages, and taxes due the City which arise by reason of the construction, operation, or maintenance of the Cable system, or breach or termination of the Franchise.

D. The letter of credit shall be maintained by the Grantee at \$50,000 even if funds are drawn against it pursuant to this Chapter or the Franchise.

E. At the City's option, it may draw against the letter of credit for any unpaid liquidated damages, Franchise fees or other amounts owing to it under the Franchise.

The rights reserved to the City with respect to the letter of credit are in addition to all other rights of the City, whether reserved by this Chapter or related documents or authorized by law, and no action, proceeding or exercise of a right with respect to such letter of credit shall affect any other right the City may have.

Section 5.60.190. Indemnification.

A. No Franchise shall be valid or effective until and unless the City obtains an adequate indemnity from the Grantee. To the extent permitted by law, the indemnity must:

(1) Release City from and against any and all liability and responsibility in or arising out of the construction, operation, repair, replacement, or maintenance of the Cable communications system; and

(2) Indemnify and hold harmless the City, its elected and appointed officials, agents, and employees from and against any and all claims, demands, or causes of action of any kind and the resulting losses, costs, expenses, reasonable attorneys' fees, damages, orders, judgments, or decrees sustained by the City or any indemnified party arising out of, or by reason of, or resulting from or arising out of the acts, errors, or omissions of the Cable communications system operator, or its agents, independent contractors or employees related to the construction, operation, repair, upgrade or maintenance of the Cable communications system.

B. To the extent allowed by law, the City shall indemnify, save and hold harmless the Grantee from and against any and all liability resulting from the City's use of the PEG Access Channels.

Section 5.60.200. Insurance.

Upon acceptance of a Franchise granted pursuant to this Chapter, and prior to

commencement of any work, construction, maintenance, or operations within the City, a Grantee shall furnish the City with certificates of insurance and an endorsement reflecting blanket additional insureds status or a certified copy or original of a comprehensive liability insurance policy naming the City as an additional insured. The amount of such policy shall be as deemed appropriate by the City. This insurance shall be maintained in full force at the Grantee's expense throughout the entire period of the Franchise. The City may delineate more specific details concerning such insurance prior to the award of any given Franchise.

Section 5.60.210. Required Approvals - Submission of Plans and Reports.

The Redmond Municipal Code shall govern all construction within the Rights-of-way.

Section 5.60.220. Access to Rights-of-way.

Grantee shall be subject to and shall comply with all provisions of the City's Municipal Code, regarding access to Rights-of-way.

Section 5.60.230. General Conditions Upon Construction, Operation and Repair.

A. Grantee, and other Persons engaged in the construction, operation, replacement, repair, upgrade or maintenance of a Cable communications system shall satisfy all lawfully enacted applicable laws, ordinances, resolutions, departmental rules and all lawfully enacted regulations that affect the use of private and public property by the Cable communications system, including by way of example and not limitation, the City's building and zoning codes, as well as satisfying the requirements of this Chapter and any additional requirements that may be included in a Franchise agreement.

B. A Franchise is required before a permit may be issued for work associated with the construction, operation or repair of a Cable communications system. Any permit issued for such work to a person who does not hold a Franchise shall vest no rights in the permittee and shall be void as if never issued, at the sole option of City. Any such putative permittee shall remove all facilities installed under the permit upon and in full compliance with City's demand.

C. Each Grantee shall locate and maintain the portions of its Cable communications system on Rights-of-way and other public property, in such manner as to cause no unreasonable interference with the use of said property by any Person and in accordance with the Redmond Municipal Code.

Each Grantee shall use existing poles and conduit where possible.

E. Any damage caused to the rights of way or public or private property by Grantee or those performing work on a Grantee's behalf shall be promptly repaired or replaced by Grantee to the satisfaction of the property owner or to the City. Each Grantee will restore public property and Rights-of-way by a time and in a manner directed by the City.

F. Grantee, at its sole expense, shall remove and/or relocate the Cable communications system in connection with public projects as identified by the City's Capital Improvement Program or approved City plans and constructed by the City or as directed by the City, under the direction of the City Engineer, including relocating to an underground location. The City shall provide written notice describing where the public work is to be performed and a deadline for completing the work at least thirty (30) days prior whenever possible, but not fewer than fifteen (15) days prior to the deadline by which a Cable communications system operator must protect, support, temporarily disconnect, relocate or remove its facilities. The Cable communications system operator may seek an extension of the time to perform the work and such request for an extension will not be unreasonably denied. If the City requires Grantee to relocate its facilities located within the Rights-of-way, the City shall make a reasonable effort to provide Grantee with an alternate location within the Rights-of-way. If funds are generally made available to users of the Rights-of-way for such relocation, Grantee shall be entitled to its pro rata share of such funds. In an emergency, or where a Cable communications system creates or is contributing to an imminent danger to health, safety, or property, the City may protect, support, temporarily disconnect, remove, or relocate any or all parts of the Cable communications system without prior notice, and charge the Cable communications system operator for reasonable costs incurred.

G. Installation of systems by others authorized to use Rights-of-way or public property.

(1) To accommodate the construction, operation, or repair of the facilities of another person authorized to use the Rights-of-way or public property, a Grantee shall, by a time specified by such person, protect, support, temporarily disconnect, relocate or remove its facilities. The Grantee shall be given written notice describing where the construction, operation or repair is to be performed at least thirty (30) days prior whenever possible, but not fewer than fifteen (15) days prior to the time by which its work must be completed. Unless the matter is governed by a valid contract or a state or federal law or regulation, or unless the Cable communications system that is being requested to move was not properly installed, the reasonable cost of the same shall be borne by the Person requesting the protection, support, temporary disconnection, removal, or relocation. In cases where the requesting Person is required under state law or this Section to bear the cost of relaying, relocation or temporary removal, a Grantee may require the Person to agree, before the work is performed, to pay the reasonable actual cost of the work, and Grantee may require a reasonable deposit of the estimated payment in advance.

H. At the request of any Person holding a valid permit issued by a governmental authority, a Cable communications system operator shall temporarily raise or lower its wires by a time specified to permit the moving of buildings or other objects. A Cable communications system Operator shall be given not less than thirty (30) days prior whenever possible, but not fewer than fifteen (15) days advance notice to arrange for such temporary wire

changes. The Cable communications system Operator, as a condition of complying with such request, may require the requesting Person to pay the reasonable materials and labor expense of such temporary removal or raising or lowering of wires, and the operator may require payment of the estimated expense in advance.

I. Abandonment

(1) A Cable communications system Operator may abandon any property in place in the Rights-of-way or upon public property upon written notice to City and separate notice to the City Engineer. However, if, within ninety (90) days of the receipt of written notice of abandonment, City determines, that the safety, appearance, functioning or use of the Rights-of-way or public property and facilities in the Rights-of-way or on public property will be adversely affected, the property must be removed by a date reasonably specified by City in light of the amount of work to be performed.

(2) A Cable communications system Operator that abandons its property must, upon request, transfer ownership of the property to City at no cost, and execute necessary quitclaim deeds; provided that nothing in the preceding sentence prevents a Cable communications system Operator from bringing an action in a court of competent jurisdiction if it believes that the Cable communications system was not abandoned.

J. If a Cable communications system Operator fails to perform work on public property or the Rights-of-way (including restoration work) required by this Chapter, a Franchise agreement or any other provision of law by the time it is required to be performed, the City may perform the work and bill the Cable communications Operator for the costs incurred by City.

K. Any amount billed to a Cable communications Operator pursuant to this Section must be paid within 30 days of the date of the bill.

Section 5.60.240. Maintenance of and Inspection of Records.

A. The City shall have the right to inspect and copy all books and records that are necessary for the enforcement of the Franchise. Each Cable communications system Operator is responsible for producing these records upon thirty (30) days' written request by the City. The records that Grantee may be required to produce shall include, but are not limited to financial records, and other records related to compliance with any provision of this Chapter or Franchise. If the requested books and records are too voluminous or for security reasons cannot be copied and moved, or if the requested books and records contain trade secrets, then Grantee may request that the City inspect the books and records at the Grantee's local offices. If any books and records are not kept locally by the Grantee and they cannot be made available to the City upon written request, then the Grantee shall pay all travel expenses necessary for the review of these records.

B. Any proprietary information received by City from a Grantee must be clearly marked as proprietary information that the Grantee asserts is not required to be disclosed pursuant to an applicable open records act. If a third party seeks release of a privileged document held by City, City will notify the Grantee so that the Grantee may seek court protection against the release of the document.

Section 5.60.250. Reports.

A. The Franchise Manager may from time to time direct a Grantee to prepare reports regarding its Cable communications system and its operations within or affecting the City, and to submit those reports by a date certain, in a format prescribed by the Franchise Manager as provided by this Chapter or a Franchise agreement.

B. Unless an exemption is granted by the Franchise Manager, no later than ninety (90) days after the end of its fiscal year, a Grantee shall submit the following information at a meeting with the City called on 10 days written notice, except that the information on Grantee's officers, members of its boards of directors, other principals, stockholders or equity investors holding 5% or more of the voting interest, need only be provided where there has been a change from the preceding year:

(1) 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.

(2) A fully audited report by an independent, certified public accountant, or certified by Grantee's Chief Financial Officer, of gross revenues from the previous calendar year for the Cable communications systems attributable to the Franchise area, and a certified statement setting forth the computation of gross revenues used to calculate the Franchise fee for the preceding year and a detailed explanation of the method of computation and deductions taken for the period showing (i) gross revenues by category (e.g., basic, premium, pay-per-view, advertising, installation, equipment, late charges, Franchise Fees, miscellaneous), with specific listings of new revenue sources added during the year; and (ii) what, if any, deductions were made from gross revenues in calculating the Franchise fee (e.g., bad debt, credits and refunds), and the amount of each deduction; and (iii) revenues allocated to the Cable communications system, the total revenues, the allocation methodology used, and the resulting revenues allocated to the Cable communications system.

C. Unless an exemption is granted by the Franchise Manager: within

thirty (30) days of the end of each year (or as otherwise provided in the Franchise), a Grantee shall submit a report to City containing the following information:

- (1) The number of service calls (calls requiring a truck roll) received by type, by quarter, and the percentage of service calls compared to the Subscriber base by type of complaint.
- (2) The number and type of outages which are known by the Grantee by quarter, identifying separately the following:
 - (a) each planned outage, the time it occurred, its duration, and the estimated area and number of Subscribers affected;
 - (b) each known unplanned outage, the time it occurred, its estimated duration and the estimated area and the number of Subscribers affected, and if known, the cause and the credits given to customers in connection therewith;
 - (c) the total estimated hours of known outages as a percentage of total hours of system operation by quarter. The term "outage" means any event lasting three (3) hours or more and affecting one or more Subscribers and resulting in a loss of sound or video or, or a substantial deterioration of the signal on any channel.

(3) A report showing, for each applicable customer service standard, the Grantee's performance with respect to that standard for each quarter of the preceding year. In each case where Grantee concludes it did not comply fully, the Grantee will describe the corrective actions it is taking to assure future compliance. In addition, the report should identify the number and nature of the customer service complaints received from all sources (including but not limited to any office of Grantee or communicated to any employee of Grantee or from the Grantor) and an explanation of their dispositions.

D. On an annual basis or upon request or as otherwise provided in the Franchise, annual proof of performance tests, in sufficient detail to enable the City to ascertain that the technical standards of the Franchise are achieved and maintained.

E. Within ten (10) days of their receipt or (in the case of documents created by the Cable communications system operator or a person acting on its behalf) filing, a Grantee shall provide City:

- (1) Notices of deficiency or forfeiture from a state or federal agency or court of competent jurisdiction related to the operation of the Cable communications system with respect to the Franchise

Area, other than notices of deficiency or forfeiture from the City;
and

(2) Any request for protection by a Grantee under bankruptcy laws, or any judgment related to a declaration of bankruptcy by the Grantee or by any partnership or corporation that owns or controls the Grantee directly or indirectly.

F. Grantees shall submit to the City such other information or reports in such forms and at such times as the City may reasonably request or require provided such information or reports are reasonably related to a Grantee's compliance with its obligations under the Franchise.

G. All reports and records required under this or any other Section shall be furnished at the sole expense of a Grantee.

Section 5.60.260. Inspection and Testing of Cable Communications Systems.

A. Except to the extent prohibited by law or as otherwise provided in the Franchise, every Cable communications system shall be subject to inspection and testing by City after thirty (30) days written notice to Grantee. Except in emergencies, the City will provide reasonable advance written notice to a Grantee when a City inspection will require the Grantee's Cable communications system to be moved or when a device is attached to any portion of the Grantee's Cable communications system located more than twelve (12) inches outside a Subscriber's premises. Inspections will be conducted to not unreasonably interfere with Cable communications system operations. Each operator must timely and fully respond to requests for information regarding its system and plans for the system as City may from time to time issue, including requests for information regarding its plans for construction, operation, repair, maintenance and upgrade and the purposes for which the plant is being constructed, operated, repaired, maintained or upgraded.

B. Except as provided in a Franchise, or insofar as federal law preempts this requirement, upon request of the City, a Grantee shall perform all tests necessary to demonstrate compliance with the requirements of the Franchise agreement and other technical and performance standards established by applicable law. Unless a Franchise agreement or applicable law provides otherwise, all tests shall be conducted in accordance with federal rules and in accordance with the most recent edition of National Cable Television Association's "Recommended Practices for Measurements on Cable Television Systems," or such other manual as may be directed under FCC regulations. Upon request of the City, a written report of any test results shall be filed with the City within seven (7) calendar days of completion of the tests. If a location fails to meet technical or performance specifications, the Grantee, without requirement of additional notice or request from City, shall promptly take corrective action, and retest the locations.

Section 5.60.270. Copies of Reports Filed with Other Regulatory Bodies.

In addition to other requirements herein, upon request and if so provided in the Franchise, a Grantee, as hereinafter provided, will file with the City any and all reports filed with the FCC or any other regulatory body having jurisdiction over any aspects of the operations of the Grantee or its direct and indirect parent related in any way to the enforcement of the Franchise with respect to the Cable communications system in the Franchise Area, or a group of systems of which the Cable communications system in the City is a part. Copies of all reports materially adversely affecting the Franchise that are submitted by the Grantee to the FCC or any other federal or state agency shall be submitted to the City simultaneously with the filing of such reports with said agencies. Grantee's routine public correspondence to said agencies need not be automatically submitted to City, but shall be made available to City upon request. This Section does not waive the City's right to service or filing under federal or state laws or regulations, and each Grantee must provide copies of documents as required under the same.

Section 5.60.280. Failure to Report.

A. The refusal, failure, or neglect of a Grantee to file any of the reports, perform the tests or to provide access to books and records or to its system as required under this Chapter where such refusal, failure or neglect is not remedied following due notice and an opportunity to cure; or the repeated refusal, failure or neglect to comply, even if individual failures are corrected after notice and opportunity to cure; or the inclusion of any materially false or misleading statement or representation in any report, shall be deemed a material breach of the Franchise.

B. For purposes of this Section, notice is sufficient if the Franchise Manager (or the Finance Director with respect to financial reports) notifies the Grantee in writing that Grantee has failed to provide a requested report, perform a test, or provide access to books and records or to its plant. A Grantee will be deemed to have failed to cure unless it provides the requested reports, performs the tests or provides the access to books and records and to its plant as provided in the Franchise.

Section 5.60.290. Other Records Required.

Unless the Franchise Manager specifically waives the requirement in writing, a Grantee shall at all times maintain:

A. Records of all written complaints including those electronically received within the prior four (4) years and records of all other complaints for one (1) year, their nature and resolution. The term "complaints" refers to complaints about any aspect of the Grantee's construction, operation (including but not limited to customer service), replacement, maintenance, upgrade or repair activities;

B. Records of outages known to the Grantee, their cause and duration;

C. Records of service calls for repair and maintenance indicating the nature of the call for service, the date and time service was requested and (if different) the date and time the problem was solved;

D. Records of installation/reconnection and requests for service extension, indicating date of request and the date and time service was extended.

Section 5.60.300. Exemptions.

At the sole discretion of the Franchise Manager, the Franchise Manager may temporarily exempt any Grantee from its obligations under Sections 5.60.260, 5.60.270 and 5.60.290 if the Franchise Manager determines that the requirement would be unduly burdensome or unnecessary, and that City and Subscriber interests may be adequately protected in some other manner.

Section 5.60.310. Production of Documents - Due Diligence.

A Grantee shall take all reasonable steps required so that it is able to provide reports, books and records to City. Each Grantee shall be responsible for redacting data that applicable law prevents it from providing to City. Nothing in this Section shall be read to require a Grantee to violate state or federal Subscriber privacy laws.

Section 5.60.320. Liquidated Damages for Noncompliance.

A. The purpose of this Section is to authorize the imposition of liquidated damages for the violation of a Franchise as provided in the Franchise.

B. The Franchise Manager is authorized to administer this Section. Decisions by the City to assess liquidated damages against the Grantee must be in writing and must contain findings supporting the decision. Decisions by the City are final, unless appealed to the City Council.

The fee established by the City Council for processing the appeal must accompany the appeal letter. The City Council may affirm, modify, or reverse the decisions of the Franchise Manager.

(1) If the Grantee or any interested person is aggrieved by a decision of the City, the aggrieved party may, within ten (10) business days of the written decision, appeal that decision in writing to the City Council through the City Clerk's Office.

(2) In the event that the City elects to impose liquidated damages upon a Grantee for failure to comply with the material provisions of the Franchise, said liquidated damages shall be

assessed as provided in the Franchise.

Section 5.60.330. Enforcement and Remedies: Revocation.

A. The City Council may revoke a Franchise, or if so provided in a Franchise, reduce the term of a Franchise if it finds, after a hearing, that a Cable communications system Operator has violated any material provision of this Chapter or applicable law, committed a substantial breach of material terms of its Franchise, or repeatedly failed to comply with material terms of its Franchise; has defrauded or attempted to defraud the City or its Subscribers or has attempted to evade the requirements of this Chapter or its Franchise. Such a breach includes, but is not be limited to (after failure to cure as provided in the Franchise):

- (1) If the Grantee becomes insolvent, unable or unwilling to pay its debts, or upon listing of an order for relief in favor of Grantee in a bankruptcy proceeding.
- (2) If the Grantee materially fails to meet the customer service standards established in the Franchise consistently over a calendar quarter.
- (3) If the Grantee fails to provide or maintain in full force and effect, the liability and indemnification coverage, letter of credit, cash security fund or bonds required by the Franchise.
- (4) If the Grantee willfully violates any orders or rulings of any regulatory body having jurisdiction over the Grantee relative to the Franchise, provided that the Grantee may contest any such orders or rulings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise shall be deemed to have occurred if the notice of violation is overturned.
- (5) If the Grantee ceases to provide all cable communications and terminates service over all or a substantial portion of its Cable system for a period of five (5) days or more, for any reason within the control of the Grantee.
- (6) If the Grantee willfully fails to make any payments required under the Franchise and/or refuses to provide City with required information, reports and/or test results in a timely manner as provided in the Franchise, or in the City Code.
- (7) If the Grantee fails to initiate scheduled Cable communications system construction or reconstruction as required under the Franchise more than one year after construction is to be begin for any reason within the control of the Grantee.

(8) Delays in completion of scheduled Cable communications system construction or reconstruction as required under the Franchise for any reason within the control of the Grantee.

(9) Any other act or omission by the Grantee which materially violates the terms, conditions or requirements of the Franchise which is not corrected or remedied within the time set forth in the written notice of the violation or, if the Grantee cannot reasonably correct or remedy the breach within the time set forth in such notice, if the Grantee should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter.

B. Before conducting a hearing to consider revocation of a Franchise: (1) the Franchise Manager must have given written notice of a claimed breach, default or failure; and (2) the Grantee must have been given thirty (30) days to cure the claimed default.

C. The Cable communications system or a part thereof, will be deemed abandoned if (i) the Cable communications system Operator notifies the City of its intent to abandon or; (ii) the Cable communications system Operator willfully ceases providing cable service in accordance with its Franchise; or (iii) the Cable communications system Operator does not provide cable service over the Cable communications system for six (6) months and is not restoring service with all due diligence.

D. A Franchise will terminate automatically by operation of law one hundred twenty (120) calendar days after an assignment for the benefit of creditors or the appointment of a receiver or trustee to take over the business of the Grantee, whether in a receivership, reorganization, bankruptcy assignment for the benefit of creditors, or other action or proceeding. However, the Franchise may be reinstated within that one hundred twenty (120) day period, if: (1) such assignment, receivership or trusteeship has been vacated; or (2) such assignee, receiver or trustee has fully complied with the terms and conditions of this Chapter and the Franchise, and has executed an agreement, approved by any court having jurisdiction, assuming and agreeing to be bound by the terms and conditions of the Franchise.

E. In the event of foreclosure or other judicial sale of any of the facilities, equipment or property of a Grantee, the City may revoke the Franchise by serving notice upon the Grantee and the successful bidder at the sale, in which event the Franchise and all rights and privileges thereunder will be revoked and will terminate thirty (30) calendar days after serving such notice, unless: (1) City has approved the transfer of the Franchise to the successful bidder; and (2) the successful bidder has covenanted and agreed with the City to assume and be bound by the terms and conditions of the Franchise.

Section 5.60.340. Effect of Termination or Forfeiture.

A. Upon termination or forfeiture of a Franchise, whether by action of City as provided above, or by passage of time, the City may, subject to applicable law:

(1) Allow Grantee to continue providing service pursuant to the terms of its Franchise agreement for such reasonable period as may be necessary to arrange for another Cable communications system to provide service.

(2) Require the former Grantee to remove all or a portion of its facilities and equipment at the former Grantee's expense, subject to Grantee's right to abandon property in place. In removing its Cable communications system, Grantee shall restore affected property to comply with all applicable codes, and to as good or better condition as existed prior to removal. If the former Grantee fails to do so within a reasonable period of time, the City may have the removal done at the former Grantee's and/or surety's expense.

(3) Submit a written offer to purchase all or a portion of the Cable communications system at an equitable price if termination or forfeiture is for cause, or if termination or forfeiture is not for cause, at fair market value, not including the value of the Franchise.

(4) Subsection A (3) of this Section does not apply to an abandonment. If a Cable communications system or any part thereof is abandoned by Grantee, the City may require the Grantee to transfer title to all or some of the abandoned portions to it, as City may direct, at no charge, free and clear of encumbrances, and the same will become City's property. The Cable communications system or a part thereof, will be deemed abandoned if:

(a) the Cable communications system Operator notifies the City of its intent to abandon; or

(b) the Cable communications system Operator willfully ceases providing cable service in accordance with its Franchise; or

(c) the Cable communications system Operator does not provide cable service over the Cable communications system for six (6) months, and is not restoring service with all due diligence.

B. Notwithstanding the foregoing, City may not, pursuant to this section, issue an order that violates 47 U.S.C. Section 541(b)(3)(c).

Section 5.60.350 Customer Service Standards - Generally.

Each Cable communications system Operator shall comply with lawfully enacted customer service standards that are adopted by the City by ordinance; FCC customer service standards; and any customer service standards that may be specified in a Franchise agreement. Each cable operator shall comply with state consumer protection laws and regulations. These are minimum standards, and the Cable Operator is able to exceed these standards. To the extent permitted by law, all consumer protection and customer service standards and requirements in this Chapter shall apply to Open Video System operators as well. In the event of a conflict among standards, the standards dictated by the Franchise shall govern. For good cause shown, the Franchise Manager may grant a temporary waiver of any City customer service standard where the Franchise Manager determines:

- (1) Because of particular circumstances involved, enforcement of the standard is not necessary to protect consumers; and
- (2) Granting the waiver is in the public interest, considering the potential benefits to the Grantee and consumers.

Section 5.60.360. Customer Service Standards - Operations.

A. The failure of the Grantee to hire sufficient staff or to properly train its staff will not justify a Grantee's failure to comply with any provision of this Section.

B. Office Availability.

- (1) Each Cable communications system Operator will maintain customer service location(s) as provided in the Franchise.
- (2) Each office must be accessible to all Persons, including the elderly and persons with disabilities. Parking must be provided in a manner consistent with Redmond Municipal Code.
- (3) The City may waive a Cable communications system Operator's obligation to allow drop-off and pick-up of equipment if the Cable communications system Operator offers free pick-up and delivery of equipment in a manner and at times convenient to customers.

C. Service Call Hours. Each Cable communications system Operator will perform service calls, installations, and disconnects in accordance with FCC regulations and the Franchise. In addition, a Cable communications system Operator must respond to outages affecting three (3) or more Subscribers served from the same

node or service interruptions to any Subscriber within twenty-four (24) hours, seven (7) days a week.

D. Telephones.

(1) Each Cable communications system Operator must have a local or toll-free telephone number which will be available to its Subscribers 24 hours a day, seven days a week under the name by which Cable communications system Operator is doing business in the City. Customer service representatives must answer the phone during normal business hours. After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine.

(2) Telephone answering time.

(a) under normal operating conditions, telephone answering time will not exceed thirty (30) seconds when the connection is made; and

(b) the time to transfer the call to a customer service employee (including hold time) will not exceed an additional thirty (30) seconds.

(c) under normal operating conditions, the standards set out in this Subsection D(2) must be met ninety (90) percent of the time, measured quarterly

(3) Under normal operating conditions, customers will receive a busy signal less than three percent (3%) of the time.

E. Scheduling Work.

(1) A Cable communications system Operator may schedule appointments for service, installation, or disconnection for either a specific time, or a time block during normal business hours. A Cable communications system Operator may also, upon request, schedule appointments outside normal business hours, for the express convenience of the customer. These options shall be clearly explained to the customer at the time of scheduling.

(2) If an installer or technician anticipates that he or she will be late for an appointment, an attempt to contact the customer will be made immediately and the appointment will be rescheduled at a time convenient to the customer, if rescheduling is necessary.

(3) A Cable communications system Operator may not reschedule or cancel a service or installation appointment with a customer after the close of business on the business day preceding

the scheduled appointment.

(4) Under normal operating conditions, an Operator must satisfy each of the standards set forth in this Subsection E (1) – (4) at least 95% of the time, measured quarterly. The phrase "of the time" refers to the number of appointments.

(5) If the Cable communications system Operator misses an appointment, it will provide the installation and service call free of charge if the appointment was for an installation or service call for which a fee was to be charged or; one (1) month of the service subscribed to free of charge.

F. Service Standards.

(1) Inquiries received after normal business hours must be responded to by a trained customer service representative before the end of the next business day.

(2) A Cable communications system Operator will respond to all other inquiries (including billing inquiries) within five (5) business days of the receipt of the inquiry or complaint.

(3) Repairs and maintenance for routine service interruptions and/or substandard reception quality must be completed within twenty-four (24) hours after the outage or interruption becomes known to a Cable communications system Operator where the Cable communications system Operator has adequate access to facilities to which it must have access in order to remedy the problem, and system outages shall be responded to within twenty-four (24) hours.

(4) Work to correct all other service problems must be begun by the next business day after notification of the service problem, and must be completed if due diligence permits within five (5) business days from the date of the initial request or later if at the customer's convenience.

(5) Except as a Franchise agreement may otherwise provide through density provisions, service must be extended upon request to any prospective Subscriber in a Cable communications system Operator's Franchise Area.

G. With regard to Subscribers with disabilities, upon Subscriber request, each Cable communications system Operator will arrange for pickup and/or

replacement of converters or other Cable communications system Operator equipment at the Subscriber's address or by a satisfactory equivalent (such as the provision of a postage-prepaid mailer), without a special charge.

H. Disconnection and Downgrades - Voluntary.

(1) A Subscriber may terminate or downgrade service at any time.

(2) A Cable communications system Operator will disconnect from the Cable communications system or downgrade any Subscriber who so requests within seven (7) business days. No period of notice before voluntary termination or downgrade of service may be required of Subscribers by any Cable communications system Operator and the customer shall not be required to pay for the time which elapses from notification to actual disconnection. There will be no charge for disconnection, and any downgrade charges will conform to applicable law. This Section does not apply to promotional contracts where a Subscriber received an actual discount from standard service rates for a multi-month contract.

(3) Any security deposit and/or other funds due a Subscriber that disconnects or downgrades service will be returned to the Subscriber within thirty (30) days from the date disconnection or downgrade was requested except in cases where the Subscriber does not permit the Cable communications system Operator to recover its equipment, in which case the amounts owed will be paid to Subscribers within thirty (30) days of the date the equipment was recovered or in the next billing cycle.

I. Involuntary Disconnection for Non-Payment.

(1) If a customer's service bill is not paid within forty-five (45) days of the beginning date of the applicable service period, a Cable communications system Operator may perform a "soft" disconnect of the customer's service. If a customer's service bill is not paid within fifty-two (52) days of the beginning date of the applicable service period, the Cable Operator may disconnect the customer's service, provided that two (2) week's written notice was provided.

(2) If payment in full, including late charges, is received by the Cable communications system Operator, Monday through Friday, at least twenty-four (24) hours before the time scheduled for disconnection, the Cable communications system Operator shall not disconnect service.

(3) After disconnection (except as noted below), upon payment by the Subscriber in full of all proper fees or charges, including the payment of the reconnection charge, if any, the Cable communications system Operator will promptly reinstate service.

J. Immediate Disconnection.

(1) A Cable communications system Operator may immediately disconnect a Subscriber if:

- (a) the Subscriber is damaging, destroying, or unlawfully tampering with or has damaged or destroyed or unlawfully tampered with the Cable communications system Operator's Cable system;
- (b) the Subscriber is not authorized to receive a service and is receiving it and/or is facilitating, aiding or abetting the unauthorized receipt of service by others; or
- (c) Subscriber-installed or attached equipment is resulting in signal leakage that is in violation of FCC rules.

(2) After disconnection, the Cable communications system Operator will restore service after the Subscriber provides adequate assurance that it has ceased the practices that led to disconnection, and paid all proper fees and charges, including any reconnect fees and fines, if any, and all amounts owed the Cable communications system Operator for damage to its Cable communications system.

K. Each Cable communications system Operator must have sufficient trucks, tools, testing equipment, monitoring devices and other equipment and facilities and the trained and skilled personnel required so that the Cable communications system Operator complies with each and every requirement of applicable law, including applicable customer service requirements, technical standards, maintenance standards and requirements for responding to system outages. This includes the facilities, equipment and staff required to:

- (1) Properly test the system and conduct an ongoing and active program of preventive maintenance and quality control;
- (2) Quickly respond to customer complaints and resolve system problems.

L. Each Cable communications system Operator must install and maintain equipment necessary to measure its performance with applicable customer services standards. A Cable communications system Operator may obtain relief temporarily from this requirement if it shows that (i) it has a high level of Subscriber

satisfaction; (ii) there are alternative, adequate ways to review its performance; or (iii) for other good cause shown.

M. Knowledgeable, qualified representatives shall be available to respond to customer telephone inquiries during the hours the office is required to be open. After hours, if the Cable communications system Operator uses persons to answer the phone, it will use reasonable efforts to provide multi-lingual alternatives. When service calls are scheduled by a non-English speaking customer, Cable communications system Operator will make a reasonable effort to have the service call made by a multi-lingual representative.

N. The term "normal operating conditions" means those service conditions that are within the control of Grantee. Those conditions that are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions that are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, and maintenance, regular peak or seasonal demand periods or upgrade of a Cable communications system; provided that, in the event that a Cable communications system operator provides customer service via a center that serves multiple communities, and a controllable event occurs in the other communities but not in Redmond, conditions will be deemed to be "normal operating conditions" for purposes of determining compliance with this ordinance, unless the Cable communications system Operator has used reasonable efforts to mitigate circumstances within its control and has been unable to correct such circumstances.

O. The term "service interruption" means the loss of picture or sound or any other significant part of a signal on one or more cable channels.

P. Changes in Service. Except as otherwise provided by federal law, Subscribers shall not be required to pay any additional fee or charge, other than the regular service fee, in order to receive the services selected (such as upgrade or downgrade charges). Charges may only be imposed for any service or product that the Subscriber has affirmatively selected.

Q. Deposits. The Grantee may require a reasonable, nondiscriminatory deposit on equipment provided to Subscribers. Unless otherwise provided in Subsection H (3), the deposit must be issued to the Subscriber, within thirty (30) days after the equipment is returned to the Grantee, or the Subscriber's next regular billing cycle, whichever is sooner.

R. Parental Control Option. The Grantee must provide parental control devices to all Subscribers who desire to block the video or audio portion of any programming that the Subscriber finds objectionable. Such devices will be provided at no charge to the Subscriber, unless otherwise provided by federal law or unless a converter box is required to be installed for the purpose of providing the parental control device.

S. Web Site. Subject to force majeure, Grantee is encouraged to maintain a web site so that Subscribers can request credits, service and changes thereto as well as receiving notification of planned outages and upgrades with respect to the Cable communications system.

Section 5.60.370. Customer Service Standards - Notices and Billing.

A. Identification of employees and work.

(1) Each Grantee shall require any person working on its behalf to wear a picture identification badge indicating that they are working on behalf of Grantee. This badge shall be clearly visible to the public. All company vehicles shall prominently display the name under which the Grantee is doing business, and logo, if any, in a manner clearly visible to the public. Contractor vehicles shall prominently display the contractor name, contractor license number, if applicable, and prominently display the Grantee's name. There must be a listed telephone number for the names displayed.

(2) The telephone number listed and posted must be a local or toll free number. The phone must connect to persons trained to receive, and respond to calls regarding employees; construction and problems (including repair problems) associated with construction.

B. General Subscriber notices. A Grantee will provide each Subscriber at the time service is installed, at least once annually thereafter, and at any time upon request, clear and accurate written information regarding:

- (1) How to use Cable communications system service;
- (2) How to place a service call, file a complaint, or check a website regarding Subscriber information;
- (3) The telephone number of the City office responsible for administering the cable Franchise;
- (4) A schedule of rates and charges, channel positions, services provided, a copy of the service contract, delinquent Subscriber disconnect and reconnect procedures; notifying Subscribers of the availability of parental control devices, and the conditions under which they will be provided and the cost (if any) charged;

(5) Any discounts offered (other than discounts offered under bulk contracts), and description of conditions that must be met to qualify for discounts;

(6) Where and how payments can be made, and description of late charge practices.

(7) Any other Grantee policies in connection with its Subscribers, including but not limited to its privacy policies; and

(8) A description of any services or specialized equipment available to Subscribers with disabilities; explaining how to obtain and use them.

C. Notices in bills.

(1) Each bill shall prominently display the telephone number to be called for billing and for other complaints, and for refunds and rebates, and must identify the address to which bills should be mailed and a reference to further information for locations where payments can be made in person.

(2) Each bill shall prominently display the name of the City office responsible for regulating cable on the bill. The information shall be placed and described so as to clearly distinguish it from information regarding the Grantee.

D. Each Grantee will provide the City and its Subscribers at least thirty (30) days written notice of any material changes in the information required to be provided under Subsection B. Notwithstanding any other provision to the contrary, a Cable Operator shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, franchise fee, or any other fee, tax, assessment, or charge of any kind imposed by any federal, state or local authority.

E. A Grantee shall notify the Franchise Manager if a planned service interruption is going to affect fifty or more Subscribers for a time period greater than three (3) hours. The Franchise Manager may establish appropriate methods for the notification required herein, including any procedures for notification after normal business hours.

F. Upon request, a Grantee shall provide the City with copies of all notices provided to its Subscribers. A Grantee must take appropriate steps to ensure that all written Grantee promotional materials, announcements, and advertising of cable communications service to Subscribers and the general public, where price information is listed in any manner, clearly and accurately discloses price terms. In the case of telephone orders, a Grantee will take appropriate steps to ensure that price terms are

clearly and accurately disclosed to potential customers in advance of taking the order.

G. Each Grantee will maintain a file in the local service region that is available for public inspection during normal business hours at its office containing all information required under FCC regulations.

H. Billing Credits.

(1) All first billing statements after a new installation or service change will be prorated as appropriate and will reflect any security deposit.

(2) All billing statements must be clear, concise, and understandable; must itemize each category of service and equipment provided to the Subscriber; and must state clearly the charges therefor.

I. A Grantee shall allow at least a commercially reasonable number of days from the beginning date of the applicable service period for payment of a customer's service bill for that period.

J. A late fee or administrative fee (collectively referred to below as a "late fee") may not be imposed for payments earlier than thirty (30) days after the due date specified in the bill unless directed by law.

K. A Grantee must provide Subscribers the ability to remit payment by mail or in person at the Grantee's customer service location(s) in the City. Subscribers may not be charged a late fee or otherwise penalized for any failure by a Grantee, including failure to timely or correctly bill the Subscriber, or failure to properly credit the Subscriber for a payment timely made.

L. Credit for Service Impairment.

(1) At a minimum, a Subscriber's account will be credited for one day of service credit upon request if a Subscriber is without service or if service is substantially impaired for any reason that is not the fault of the Subscriber or due to force majeure for a period equal to or exceeding three (3) hours during any twenty-four (24) hour period; or automatically if the loss of service or impairment is due to a planned outage for twelve (12) hours or longer.

(2) A Subscriber shall be deemed to be entitled to a credit where the Subscriber requests a credit or experienced the planned outage for twelve (12) hours or longer.

(3) A Grantee need not credit Subscriber where it establishes

that a Subscriber would obtain a credit for a loss of service or impairment caused by the Subscriber or by Subscriber-owned equipment (not including, for purposes of this Section, in-home wiring installed by the Grantee). The Grantee bears the burden of proving that the Subscriber caused the service loss or impairment.

(4) Refunds and/or credits for service will be issued no later than the next billing cycle of the customer following the determination that a credit is warranted.

Section 5.60.380 Further Remedies

Grantee must provide the following to Subscribers affected by the Grantee's failure to comply with the following customer service standards:

(1) One month service credit. The Grantee will provide one month of service credit to each Subscriber affected by the failure of the Grantee to timely and satisfactorily comply with any of the following requirements:

(a) Failure to respond to a request from a Subscriber for service on or replacement of a malfunctioning converter within fourteen (14) days.

(b) Initiate resolution of Cable communications system-related problems within three (3) business days and resolve such problems within ten (10) business days after receipt of all necessary governmental permits and authorizations, provided that Grantee applies for and expeditiously pursues same until completion.

(c) Planned disruption in service that is not the fault of the Subscriber or due to force majeure (12 hours or more without any notice being given to the Subscriber).

(2) Definition of service credit. The service credit required by this Section relates to the service tier subscribed to by the affected Subscriber at the time of the failure to comply.

Section 5.60.390. Protection of City and Residents.

A. Privacy Rights of Subscribers.

(1) As used in this Section, "valid authorization" means written approval from the Subscriber.

(2) Each Grantee shall strictly observe and protect the rights of privacy and of property of Subscribers and users at all times in

accordance with applicable law.

(3) A Grantee may obtain and/or maintain only such information relating to Subscribers as is necessary to conduct legitimate business activity.

(4) A Subscriber may, at any time, revoke any valid authorization previously made, by delivering to the Grantee in writing, by mail or otherwise, his/her decision to so revoke. Any such revocation shall be effective upon receipt by Grantee.

(5) Notwithstanding anything to the contrary and subject to applicable law, nothing herein shall prohibit a Grantee from using its Cable communications system to collect and disclose such information necessary to render, or conduct a legitimate business activity related to cable service provided by the operator to the Subscriber.

(6) A Grantee shall not tabulate any test results, nor permit the use of the Cable communications system for such tabulation, in a manner that would reveal the commercial product preferences or opinions of individual Subscribers without valid authorization.

B. No Exclusivity; Tenant Rights.

(1) A Grantee may not require a Subscriber or a building owner or manager to enter into an exclusive contract as a condition of providing or continuing service.

(2) It is the City's intent that tenants not be discriminated against in the ability to subscribe to cable communications services. Each Grantee shall be required to provide service to tenants in individual units of a multiple housing facility with all services offered to other dwelling units within the Franchise area, subject to an executed right of entry and service agreement.

C. Discrimination Prohibited.

A Cable communications system Operator shall comply with all federal, state, and local laws and regulations governing equal employment opportunities, and hiring practices, as the same may be amended from time to time.

Section 5.60.400. Cable Franchise Renewals - Procedure.

A. If the provisions of 47 U.S.C. Section 546(a)-(g) are properly invoked, the City may:

- (1) Conduct to its conclusion a proceeding to review past performance and identify future cable-related community needs and interests;
- (2) Issue a Request for Proposal ("RFP");
- (3) Provide public notice and opportunity to comment on the franchise proposal;
- (4) Seek additional information related to the City's evaluation of the proposal given the standards for review of that proposal under applicable law;
- (5) After receiving the application responding to the RFP, and any additional information required, the City Council may determine, by resolution, that the cable franchise should be renewed, or make a preliminary assessment that the cable franchise should not be renewed.

B. If the City Council preliminarily decides that the cable Franchise should not be renewed, and the Grantee notifies the City within thirty (30) business days of the preliminary decision, that it wishes to pursue any rights to an administrative proceeding it has under the Cable Act, then the City will commence an administrative proceeding after providing prompt public notice thereof, in accordance with the Cable Act.

C. If the City Council preliminarily decides to grant renewal:

- (1) The City will prepare a proposed cable franchise agreement that incorporates, as appropriate, the commitments made in the application.
- (2) If there is concurrence in the proposed agreement, it will be scheduled for additional City Council action. If adopted by the City Council, the cable franchise will be renewed and approved by Council Resolution.
- (3) If the cable franchise grant is not accepted and ratified within the time limits established by 47 U.S.C. Section 546(c)(1), then renewal is deemed preliminarily denied, and an administrative proceeding will be commenced if requested within thirty (30) business days of the expiration of the time limit established by 47 U.S.C. Section 546(c)(1), unless the time limit is extended by mutual agreement.

D. If an administrative hearing is commenced pursuant to 47 U.S.C. Section 546(c), the application will be evaluated in a manner consistent with applicable law.

E. A Grantee is not prohibited from submitting an informal renewal Proposal pursuant to 47 U.S.C. Section 546(h), which proposal may be granted or denied in accordance with the provisions of 47 U.S.C. Section 546(h).

Section 5.60.410. Franchise Transfers, Assignments or Change in Control - Applications.

A. Grantee will promptly notify the City of any proposed transfer, assignment or change in control.

B. At least 120 calendar days before the contemplated effective date of a transfer, assignment or change in control, the Grantee will submit to the City an application for approving the transaction. Such application will include all information required by FCC Form 394.

Section 5.60.420. Franchise Transfers, Assignments or Change in Control - Contents of Application.

The proposed transferee, assignee or new controlling entity shall include the following information in the application:

- (1) All information required by FCC Form 394;
- (2) Any information regarding previous convictions involving deceit or violation of federal, state or local law, or information regarding pending indictments, investigations, or complaints of such acts;
- (3) A detailed statement of the corporate or other business entity organization and management structure of the proposed transferee, assignee or new controlling entity;
- (4) Any contracts or other documents that relate to the proposed transaction, including all documents, schedules, exhibits, or the like referred to therein which are not confidential or proprietary;
- (5) Information regarding its financial solvency;
- (6) Information related to pending material legal claims, lawsuits or administrative proceedings involving a Cable communications system;

To the extent permitted by law, the Grantee, transferee, assignee or new controlling entity shall pay all reasonable costs incurred by the City in reviewing and evaluating the application.

Section 5.60.430. Franchise Transfers, Assignments or Change in Control - City's Determination.

A. A Cable communications system shall not be sold, assigned, transferred, leased or disposed of, either in whole or in part, either by involuntary sale or by voluntary sale, merger or consolidation; nor shall title thereto, either legal or equitable, or any right, interest or property therein pass to or vest to any Person, nor may there be any actual or proposed change in, or transfer of, or acquisition of control of a Grantee by any other Person without the prior written consent of the City. Notwithstanding anything to the contrary in the foregoing sentence or this Chapter, the prior approval of the City shall not be required for any sale, assignment or transfer or change in control of the Franchise or the Cable communications system to an Affiliate of Grantee; provided that the proposed assignee or transferee or new controlling entity must show financial responsibility as may be determined necessary by the City and must agree in writing to comply with all of the provisions of the Franchise. To the extent that a sale, transfer, assignment or change in control involves an entity, which was not an Affiliate prior to the contemplated transaction, the City's consent shall be required for such sale, transfer, assignment or change in control. . In determining whether to grant, deny, or grant subject to conditions an application for a transfer, assignment or change in control of a Franchise, the City may consider:

- (1) The legal, financial, and technical qualifications of the transferee, assignee or new controlling entity to operate the Cable communications system;
- (2) Whether the incumbent Grantee is in compliance with its Franchise (regarding a transfer or assignment) and applicable law and, if not, the proposed transferee's or assignee's or existing Grantee's commitment to cure such noncompliance; and
- (3) To the extent permitted by law, whether the transferee, assignee or new controlling entity owns or controls any other Cable communications system in the City, and whether operation by the transferee, assignee or new controlling entity may eliminate or reduce competition in the delivery of Cable communications system service in the City.

B. Requests for approval of a transfer, assignment or change in control will not be unreasonably denied.

C. No application shall be granted unless the transferee, or assignee

agrees in writing that the transferee or assignee will abide by and accept all terms of this Chapter and the Franchise agreement, and that the transferee or assignee will assume the obligations, liabilities, and responsibility for all acts and omissions, known and unknown, of the previous Grantee for all purposes.

Section 5.60.440. Legal Qualifications.

A. The City shall review, as part of its consideration of a transfer, assignment or change in control, the legal qualifications of the transferee, assignee or new controlling entity. In order to be legally qualified, transferee, assignee or new controlling entity:

(1) Shall not be issued a Franchise if, at any time during the ten (10) years preceding the submission of the application, it was convicted of fraud, racketeering, anti-competitive actions, unfair trade practices or other conduct of such character that the it cannot be relied upon to deal truthfully with City and the Subscribers, or to substantially comply with its obligations.

(2) Must have any requisite authority under Washington and federal law to operate a Cable communications system, or show that it is in a position to obtain that authority.

(3) Shall not be issued a Franchise if it files materially misleading information in its application or intentionally withholds information that it is lawfully is required to provide.

B. Notwithstanding Subsection A above, a transferee, assignee or new controlling entity shall be provided a reasonable opportunity to show that a Franchise should be issued even if the requirements of Subsection A are not satisfied, by virtue of the circumstances surrounding the matter and the steps taken by it to cure all harms flowing therefrom and prevent their recurrence, the lack of involvement of its principals, or the remoteness of the matter from the operation of a Cable communications system.

Section 5.60.450. Continuity of Service.

Each cable communications Franchise grant, during the term of the cable communications Franchise, will ensure that Subscribers are able to receive continuous service contingent upon their fulfillment of financial obligations, if any, and that, in the event the cable communications Franchise is revoked or terminated, the Grantee may be obligated to continue to provide service for a reasonable period to assure an orderly transition of service from the Grantee to another entity.

Section 5.60.460. Compliance with State and Federal Laws.

Each Grantee shall comply with all applicable laws and regulations of the

state and federal government or any administrative agencies thereof.

Section 5.60.470. Notices.

Grantee shall maintain an address for service of notices by mail through the term of the Franchise, and as shall be more specifically indicated in the Franchise agreement.

Section 5.60.480. Remedies Cumulative.

Subject to applicable law, all remedies provided for under this Chapter, or under a Franchise, shall be cumulative and are in addition to all other remedies that may be available at law or equity, provided however, that City is not entitled to recover damages for the same act or omission under multiple remedies where doing so would result in a double recovery of damages by City for the same harm. Recovery by City of any amounts under insurance, the performance bond, the security fund or letter of credit, or otherwise does not limit in any way a Grantee's duty to indemnify City nor shall such recovery relieve a Grantee of its Franchise obligations, limit the amounts owed to City, or in any respect prevent City from exercising any other right or remedy it may have.

Section 5.60.490. Severability.

If any provision of this Chapter is determined by any court of competent jurisdiction, or by any federal or state agency having jurisdiction over its subject matter, to be invalid and in conflict with any federal or state law or regulation now or hereafter in effect, or is determined by that court or agency to require modification in order to conform to the requirements of that law or regulation, then that part of this Chapter will be ineffective, and such determination will not affect the validity and enforceability of any other provisions. If that federal or state law or regulation is subsequently repealed or amended so that the provision of this Chapter determined to be invalid or subject to modification is no longer in conflict with that law or regulation, that provision will again become effective and will thereafter be binding on any affected Grantee.

Section 2. This Ordinance shall take effect five (5) days from the date of its adoption and as required by the City Code. The City Clerk shall cause this Ordinance, or a summary thereof, to be published.

CITY OF REDMOND:




MAYOR PRO TEMPORE,
RICHARD COLE

ATTEST:



CITY CLERK, BONNIE MATTSON

APPROVED AS TO FORM



CITY ATTORNEY

FILED WITH THE CITY CLERK:	August 14, 2003
PASSED BY THE CITY COUNCIL:	September 2, 2003
SIGNED BY THE MAYOR PRO TEMPORE:	September 2, 2003
PUBLISHED:	September 8, 2003
EFFECTIVE DATE:	September 13, 2003
ORDINANCE NO: <u>2174</u>	