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EXECUTIVE OFFICE



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COUNTY COUNCIL
SNOHOMISH COUNTY
WASHINGTON

W.T. _____ T.C. _____
D.F. _____ S.W. _____
G.L. _____ D.I. _____

ORDINANCE NO. 82-049
RELATING TO CABLE TELEVISION FRANCHISES
ON COUNTY ROADS AND RIGHTS-OF-WAY
AND OTHER COUNTY PROPERTY

BE IT ORDAINED:

Section 1. The following sections are added to the
Snohomish County Code:

Chapter 13.25

Cable Television Franchises

Sections:

- 13.25.010 Franchises required.
- 13.25.020 Permittees and franchises excluded.
- 13.25.030 Application.
- 13.25.040 Notice of Hearing.
- 13.25.050 Hearing; ordinance.
- 13.25.060 Criteria for approval.
- 13.25.070 Conditions of television cable franchise.
- 13.25.080 Acceptance - recording.
- 13.25.090 Fees.
- 13.25.100 Non-interference with other facilities.
- 13.25.110 Inspections.
- 13.25.120 Hold Harmless.
- 13.25.130 Default.
- 13.25.140 Violations.
- 13.25.150 Penalty.
- 13.25.160 Severability.

13.25.010 Franchise Required. No person or persons,
private or public utilities, or private or municipal
corporations shall install, construct, operate, occupy, or
maintain any television cable over, under, along, across,
and upon county streets, roads, bridges, alleys, and other
county owned properties without first obtaining a county

franchise in accordance with the provisions of R.C.W. Chapter 36.55 and this chapter and the payment of fee or fees as may be specified and established by the County Council.

13.25.020 Permitees and franchises excluded. This chapter shall not affect rights and privileges to occupy or use rights-of-way or other county property under a permit or franchise granted pursuant to other provisions of the Snohomish County Code or state law.

13.25.030 Application for franchise. Applications for franchises under this chapter shall be in such form or forms and contain such information as is required by the Executive to effectuate the aims and purposes of this chapter. Any application shall be filed with the department or office having jurisdiction over rights-of-way or other property referred to in the application. The head of the involved department or office shall review such application and submit its report and recommendations thereon to the Executive and then to the Council, such recommendations to be made within thirty (30) days of the filing of the application.

13.25.040 Notice of hearing. Upon application for a cable television franchise being submitted to the Council, it shall fix a time and place for hearing the ordinance adopting the same and shall cause public notice to be posted in three public places in the county seat of the county at least fifteen (15) days before the day fixed for the hearing. The Council shall publish a like notice at the expense of the applicant two (2) times in a daily newspaper in the county, the last publication to be not less than five (5) days before the day fixed for the hearing. The notice shall state the name or names of the applicant or applicants, a description of the county roads, or other property by reference to section, township, and range in which the county roads or portions thereof or other property are physically located, to be included in the franchise for which the application is made, and the time and place fixed for hearing.

13.25.050 Hearing; ordinance. A hearing may be adjourned from time to time by order of the Council. If, after the hearing, the Council deems it to be for the public

interest to grant the cable television franchise in whole or in part, it may pass an ordinance to that effect and may require the applicant to place its cables in such location over, under, along, across, and upon the county land or rights-of-way as the Council finds will cause the least interference with other uses of the road or other county property involved. The ordinance shall provide that the term of the cable television franchise, which shall not be more than twenty-five (25) years, shall be subject to the right of the Council or the people acting for themselves through the initiative or referendum to appeal, amend, or modify the cable television franchise in the interest of the public, and that it shall be subject to the power of eminent domain and any other conditions contained in Section 13.24.550. In any proceeding in eminent domain, the franchise itself shall have no value.

13.25.060 Criteria for approval. In making any determination as to the application for a television cable franchise, the Council shall consider:

- 1) the service proposed, experience, character, and financial responsibility of the applicant and its management and owners, the technical and performance quality of the equipment to be used, the willingness and ability of the applicant to meet construction and physical requirements, policy conditions, franchise limitations and requirements imposed by this ordinance and any other considerations deemed pertinent by the Council;
- 2) whether the proposed action in the area under consideration is in compliance with the development program which is outlined in the County Comprehensive Plan and its supporting documents.

13.25.070 Conditions of television cable franchise. Any television cable franchises shall be subject to the conditions contained in R.C.W. 36.55.060 and amendments, Snohomish County Code Chapter 9.20 and 13.24, the other provisions of this chapter, and such other conditions as are contained in such franchises.

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13.25.080 Acceptance - recording. No cable television franchise shall be effective until accepted by the franchisee, acceptance to be evidenced by the franchisee so indicating on a copy of such franchise and returning such franchise to the Council. The Council shall cause such franchise to be recorded with the County Auditor who shall keep such records therefore as required by R.C.W. 36.55.080 and amendments.

13.25.090 Fees. Fees for a television cable franchise are as follows:

- 1) an applicant shall pay a filing fee of one hundred dollars (\$100) with the filing of the application;
- 2) a franchisee shall also pay a monthly fee based upon three percent (3%) of gross receipts the franchisee receives in the area covered by the franchise. Said fee shall be remitted by the tenth (10th) day of the following month and accompanied by a monthly report in form approved.

The franchisee shall provide available information to the county in determining this fee and allow agents of Snohomish County to inspect and reproduce any records of the franchisee with respect to such gross receipts.

13.25.100 Non-interference with other facilities. All construction or installation of poles, cables, or other improvements, or the service, repair, or relocation of the same, performed along, over and/or under the county roads, rights-of-way, or other county property subject to said franchise shall be done in such manner so as to not interfere with the construction and maintenance of other facilities, public or private, drains, drainage ditches and structures located therein, nor the maintenance or improvement of such county roads, rights-of-way, or other county properties.

13.25.110 Inspections. In order to insure that all franchisees restore and repair county rights-of-way or other property to their original state, the following types of examinations and inspections will be processed by the

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Snohomish County Department of Public Works or other involved county departments or offices.

- 1) Examinations, inspection and approval of plans and specifications submitted to the Department of Public Works or other head of county department or office;
- 2) Examination, inspection and approval of construction and restoration work consequent to breaking of soil of the county roads or rights-of-way for the purpose of laying, relaying, connecting, disconnecting and repairing transmission lines and conduits;

13.25.120 Hold Harmless. The franchisee agrees to protect and save harmless Snohomish County from all claims, actions or damages of every kind and description which may occur to or be suffered by any person or persons, corporation or property by reason of the construction, operation and maintenance of the franchisee's facilities. In case that suit or action is brought against Snohomish County for damages arising out of or by reason of the above mentioned causes, the franchisee will upon notice to him of the commencement of said action defend the same at its sole cost and expense, and in case judgment shall be rendered against Snohomish County in suit or action, the franchisee will fully satisfy said judgment within ninety (90) days after suit or action shall have finally been determined, if determined adversely to Snohomish County. Upon the franchisee's failure to satisfy said judgment within the ninety (90) day period, this franchise shall at once cease and terminate and Snohomish County shall have a lien upon all facilities used in the construction, operation and maintenance of the franchisee's system on any county property which may be enforced against the property for full amount of said judgment so taken against Snohomish County.

13.25.130 Default. Failure for any reason of any franchisee to comply with this chapter or with any requirement or term or condition of a franchise issued hereunder shall be sufficient cause for termination of any franchise by the county as follows:

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- 1) Upon the continuing of any such failure or neglect for a period of ten (10) days, next following written demand by the head of the interested department or office that they do comply with any such requirement, limitation, term or condition, the head of such department or office may request the Council that it terminate such franchise. The Council shall then cause to be served upon such franchisee at least five (5) days prior to the meeting of the Council, a written notice of their intention to consider termination at such meeting;
 - 2) At such meeting thereof, the Council shall consider the request of the department or office head, hear any person desiring to be heard and determine whether or not any such failure justifies termination of the franchise;
 - 3) If the Council determines that the failure of the franchisee to perform justifies termination, the Council may pass a resolution declaring that the franchise is terminated and forfeited unless there be compliance by the franchisee within ten (10) days. Such resolution shall operate to declare such franchise terminated and forfeited on the tenth (10th) day next following the passage thereof and without further notice unless the franchisee has complied within the ten (10) day period, such termination and forfeiture to become effective for all purposes one-hundred and eighty (180) days thereafter;
 - 4) Within one hundred and eighty (180) days after such declaration of termination and forfeiture, the franchisee may sell, remove or transfer its facilities, subject to the written consent of the Council, which consent may not be unreasonably refused; provided, however, the proposed assignee must show financial responsibility as determined by the Council and must agree to comply with all provisions of the franchise and of this ordinance; and upon such sale or transfer, in addition to any other

rights hereunder, or otherwise, the county shall have a lien (next in order of preference to any liens or encumbrances existing of record on the date of such termination and forfeiture) against any and all proceeds thereof, in the full amount of any loss, cost, expense or other financial detriment incurred by the county in exercise of any right hereunder, or by reason of such termination or forfeiture, or including any costs incurred in moving any facilities of the franchisee and rehabilitating any county property required as a result thereof;

- 5) If the franchisee fails or refuses to sell, remove or transfer the entire system of franchisee, has herein above provided, regardless of the exercise or any other right of county hereunder, the county may institute appropriate court action to enforce the requirements of this section.

13.25.140 Violations

- 1) It shall be unlawful for any person or persons, private or public utility, private or municipal corporation, to install, construct, operate, occupy or maintain the equipment and facilities over, under, along, across and upon the county roads, rights-of-way, or other county property, unless a franchise authorizing such use of such county roads, rights-of-way or other county property has first been obtained pursuant to the provisions of this ordinance and unless such franchise is in full force and effect;
- 2) It shall be unlawful for any person or persons, private or public utility, private or municipal corporation, to make, or use any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchise system within this county for the purpose of enabling such person, utility, or corporation or others to receive or use any service without payment to the owner of said system;

- 3) It shall be unlawful for any person or persons, private or public utility, private or municipal corporation, without the consent of the owner, to willfully tamper with, remove or injure any equipment or facilities used for the distribution of the franchisee's services.

13.25.150 Penalty. Any person, firm or corporation violating any provision of this ordinance shall be guilty of a misdemeanor and be fined not less than \$50 and not more than \$500; and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

13.25.160 Severability. If any portion of this chapter or any application of such sections to any person, party or circumstance is held invalid, the remainder of such sections or the application of provision thereof to other persons, parties or acts is not affected.

Section 3. This act shall be effective 7-2-82, 1982.

PASSED this 16th day of June, 1982.

SNOHOMISH COUNTY COUNCIL
Snohomish County, Washington

Cliff Bailey
Chairperson

Approved as to Form:

[Signature]
Deputy Prosecuting Attorney

ATTEST:

[Signature]
Clerk of Council

- () APPROVED
- () VETOED
- () EMERGENCY

DATE: 6.22.82

[Signature]
County Executive

PUBLISHED 6-6-82 and 7-3-82