

M A S O N   C O U N T Y  
O R D I N A N C E   N O .   1223

AN ORDINANCE SETTING FORTH PROCEDURES FOR PROCESSING OF APPLICATIONS FOR CABLE TELEVISION FRANCHISES.

WHEREAS, the Board of County Commissioners of Mason County, State of Washington, recognizes the desirability of cable television for the enjoyment and benefit of the residents of the County; and,

WHEREAS, the County is authorized to grant franchises for cable television by Chapter 36.55 RCW; and,

WHEREAS, certain statutory requirements in the granting of television cable franchises must and should be defined;

NOW THEREFORE IT IS ORDAINED BY THE BOARD OF MASON COUNTY COMMISSIONERS (hereinafter referred to as the Board) as follows:

Section 1.   APPLICATIONS FOR FRANCHISE

(A) An application to the Board for a franchise to use the right of way of county roads for the construction and maintenance of a cable television system in an unincorporated part or parts of the County:

(1) May be made by any person or private or municipal corporation, or

(2) The Board may, by advertisement or any other means, solicit and call for applications for cable television systems franchises, and may determine and fix any date upon or after which the same must be received, or the date after which the same shall not be received, and may make any other determinations and specify any other times, terms, conditions or limitations respecting the soliciting, calling for, making and receiving of such applications.

(3) Application by a person or private or municipal corporation as in (1) above shall not preclude advertisement by the Board as in (2) above for a franchise in the same area or areas.

(B) Each application for a franchise to construct, operate or maintain any cable television systems in this County shall be filed with the County Auditor and shall contain or be accompanied by the following:

(1) The name, address and telephone number of the applicant;

(2) A detailed statement of the corporate or other business entity organization of the applicant, including but not limited to the following:

(a) The names, residences and business addresses of all officers, directors and associates of the applicant.

(b) The names, residences and business addresses of all officers, persons and entities having, controlling or being entitled to have or control of 5% or more of the ownership of the applicant and the respective ownership share of each such person or entity.

(c) The names and addresses of any parent or subsidiary of the applicant, namely any other business entity owning or controlling the applicant in whole or in part or owned or controlled in whole or in part by the applicant and a statement describing the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby.

(d) A detailed description of all previous experience of the applicant in providing cable television system service and in related or similar fields.

(e) A detailed and complete financial statement of the applicant, prepared by a certified public accountant, for the fiscal year next preceding the date of the applicant hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Board, setting forth the basis for a study performed by such lending institution or funding source, and a clear statement of its intent as a lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the County, or a statement from a certified public accountant, certifying that the applicant has available sufficient free, net and uncommitted cash resources to construct and operate the

proposed system in this County.

(f) A statement identifying by place and date any other cable television franchise(s) awarded to the applicant, its parent or subsidiary; the status of said franchise(s) with respect to completion thereof; the total cost of completion of such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof.

(C) A detailed description of the proposed plan of operation of the applicant which shall include but not be limited to the following:

(1) A detailed map indicating all areas proposed to be served, and a proposed time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served.

(2) A statement or schedule setting forth all proposed classifications of rates and charges to be made against subscribers and all rates and charges as to each of said classifications, including installation charges and service charges.

(3) A statement of the particular channels (no less than five) to be provided for subscribers.

(4) A detailed, informative and referenced statement describing the actual equipment, operational standards, and channel capacity proposed by applicant.

(5) A copy of the form of the agreement, undertaking or other instrument proposed to be entered into between the applicant and any subscriber. Such proposed agreement shall be by completion, addition, or deletion of the County's cable television franchise form, available from the County Auditor.

(6) A detailed statement setting forth in its entirety any and all agreements and undertakings, whether formal or informal, written, oral or implied, existing or proposed to exist between the applicant and any person, firm or corporation which materially relate or pertain to or depend upon the application and the granting of the franchise.

(D) An application fee in the sum of \$250 to pay the costs of studying, investigating and otherwise processing such application, and which shall be in consideration thereof and not returnable or refundable in whole or in part, except to the extent that such fee exceeds the actual costs incurred by the County in studying, investigating and otherwise processing the application; provided, that the applicant who shall deliver to the County Auditor a written withdrawal or cancellation of any application hereunder not later than the seventh day next following the day such application is received by the County Auditor shall be entitled to have returned and refunded the sum of \$150 less any actual costs or expenses incurred by the County by reason of such application.

(E) Upon receipt of any application for franchise, the Board shall refer the same to the Community Development Coordinator; who shall prepare a report and make his recommendations respecting such application and cause the same to be completed and filed with the Board.

(F) In making any determination hereunder as to any application the Board may give due consideration to the quality of the service proposed, the number of channels to be provided, rates to subscribers, income to the County, experience, character, background and financial responsibility of any applicant and its management and owners, technical and performance quality of equipment, willingness and ability to meet construction and physical requirements and to abide by policy conditions, franchise limitations and requirements and any other considerations deemed pertinent by the Board for safeguarding the interests of the County and the public. The Board, in its discretion, shall determine the award of any franchise on the basis of such considerations and without competitive bidding.

(G) If the Board shall determine to further consider the application, the following shall be done:

(1) The Board shall decide and specify the terms and conditions of any franchise to be granted hereunder and as herein provided.

(2) The Board shall pass a resolution of intention to consider the granting of such franchise, giving notice of receipt of the application, and describing the character of the franchise

desired, stating the name of the proposed grantee, the character of the franchise, the terms and conditions upon which such franchise is proposed to be granted, that copies of the proposed franchise may be obtained at the office of the County Auditor, fixing and setting forth a day, hour and place certain when and where any persons having any interest therein or objections to the granting thereof may appear before the Board to be heard.

(3) The County Auditor shall give public notice by posting a notice in three public places in Shelton at least fifteen days before the day fixed for the hearing and also shall publish the notice no less than five days before the hearing date in a newspaper of general publication in the County. The notice shall state the name or names of the applicant(s), a description of county roads by reference to section, township, and range in which the county roads or portions thereof are physically located, the area(s) to be serviced by the franchised television cable and the time and place of the hearing.

Section 2. GRANTING/DENIAL

(A) In granting a cable television franchise, the Board is bound, in addition to the other requirements of this Ordinance, by the following:

(1) The grantee shall be liable to the county for all necessary expense incurred in restoring the county road or public right-of-way to its original or better condition for travel or other purposes.

(2) No franchise shall be granted for a period of longer than fifteen (15) years.

(3) No exclusive franchise or privilege shall be granted.

(4) The facilities of the grantee shall be removed at his expense to some other location on such county road in the event it is to be constructed, altered, or improved or becomes a primary state highway and such removal is reasonably necessary for the construction, alteration, or improvement thereof.

(B) At the hearing or at any adjournment thereof, the Board shall make one of the following determinations:

- (1) That such franchise be denied; or
- (2) That such franchise be granted upon the terms and conditions as specified in the resolution of intention to grant the same; or
- (3) That such franchise be granted, but upon the terms and conditions different from those specified in the resolution of intention to grant the same.

(C) If the Board shall determine that a franchise be denied, such determination shall be expressed by resolution and shall be final and conclusive.

If the Board shall determine that a franchise be granted upon the terms and conditions as specified in the resolution of intention to consider granting the same, such determination shall be expressed by resolution granting a franchise to the applicant.

If the Board shall determine upon granting a franchise upon terms and conditions different from those specified in the resolution of intention to consider granting the same, then such determination shall be expressed by resolution.

(D) The grantee shall pay to the County a sum of money sufficient to reimburse it for all publication expenses incurred by it in connection with the granting of a franchise pursuant to the provisions of this Ordinance. Such payment shall be made within 30 days after the County furnishes the grantee with a written statement of such expenses.

(E) The Board shall cause to be recorded with the County Auditor a complete record of all existing franchises upon the county roads of its county and the Auditor shall keep and maintain a currently correct record of all franchises existing or granted with the information describing the holder of the franchise, the purpose thereof, the portion of county road over or along which granted, the date of granting, term for which granted, and date of expiration, and any other information with reference to any special provisions of such franchises.

Section 3. PENALTIES.

(A) Any person or private or public corporation which installs, operates, or maintains a television cable system without obtaining a franchise from the Board according to this Ordinance or anyone who taps into or otherwise obtains the services of a properly franchised television cable system shall be guilty of a gross misdemeanor punishable by a maximum of one year in the County jail or by a fine of a maximum of \$1000, or by both.

Section 4. SEVERABILITY.

Each section, subsection, or other portion of this ordinance shall be severable and the invalidity of any section, subsection or other portion shall not invalidate the remainder.

Read first time and ordered published at an adjourned regular meeting of the Commission held on the 15th day of September, 1980 and to come up for second reading and final passage at a regular meeting of the Commission to be held on the 29th day of September, 1980, at the hour of 11:00 a.m.

PASSED, ADOPTED AND APPROVED THIS 29th day of September, 1980.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
MASON COUNTY, WASHINGTON

[Signature]  
Auditor & Clerk of the Board

[Signature]  
Chairman

APPROVED:

[Signature]  
County Engineer

[Signature]  
Member

APPROVED AS TO FORM:

[Signature]  
Member

[Signature] DPA  
Prosecuting Attorney

- cc: Cmrs
- Auditor
- Engineer
- Prosecutor