

Chapter 26 CABLE COMMUNICATIONS¹

ARTICLE I. IN GENERAL

Sec. 26-1. Columbus Cable Commission.

- (a) *Purpose.* The Columbus Cable Commission is hereby established for the purpose of providing public access programming and production and programming on public access channels as well as providing community residents with a resource for communicating with their peers and elected representatives through video programming.
- (b) *Section 26-1(b) How Constituted.* The Columbus Cable Commission shall consist of 5 members. One member shall be a member of the Common Council, one member shall be appointed by the Columbus School Board, and the remaining three members shall be residents of the City of Columbus. The Commission shall elect by majority vote of its members, a Chair, Vice Chair and Secretary at its meeting in June each year.
- (c) *Terms.* The Common Council representative shall be appointed annually by the Mayor subject to confirmation by the Common Council at its first meeting in May in each year. The Columbus School Board shall appoint its member on an annual basis at its first meeting of May in each year. The Mayor shall appoint the three resident members, subject to confirmation by the Common Council at its first meeting of May in each year. Of the initial resident members, one shall serve a one-year term, one shall serve a two-year term and one shall serve a three-year term. All appointees thereafter shall serve for three-year terms. Any member may be appointed for consecutive terms.
- (d) *Duties.* The cable commission shall prepare and maintain a budget based on franchise fees received by the city. The commission shall allocate all franchise fee revenues as it deems necessary to provide public access programming and to assist production and programming on the public access channels. In addition, the commission shall have the following duties:
 - (1) Review and develop a master plan for use of the public access channels in council chambers and review needed upgrades to the equipment in the council chambers and other facilities.
 - (2) Review and provide input to the city administrator on job descriptions for the lead cable coordinator and other cable employees, and participate in interviewing of potential cable employees and independent contractors, if requested by the city council or the city administrator.
 - (3) Review and develop a master plan for the use of public access channels. Develop policies regarding the use of public access channels and make recommendations to the city administrator and the city council regarding the same.
 - (4) Review and recommend programming to be funded by cable revenues.
 - (5) Solicit and receive public input regarding public access services.

¹Editor's note(s)—Ord. No. 716-15 , § 1, adopted April 10, 2015, repealed the former chapter 26, §§ 26-31—26-74, and § 2 of Ord. No. 716-15 enacted a new chapter 26 as set out herein. The former chapter 26 pertained to similar subject matter and derived from Ord. No. 523-99, adopted Jan. 19, 1999.

Cross reference(s)—Businesses, ch. 22; streets, sidewalks and other public places, ch. 86; utilities, ch. 102.

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- (6) Investigate any task delegated to it by the city administrator or the city council.
(Ord. No. 716-15 , § 2, 4-10-15; Ord. No. 735-17 , § 1, 7-31-17)

Secs. 26-2—26-30. Reserved.

ARTICLE II. FRANCHISING REGULATIONS

Sec. 26-31. Grant of franchise.

- (a) The City of Columbus Common Council does hereby adopt Wis. Stat. § 66.0420, as may be amended from time to time, regarding video service and the granting of video service franchises by the State of Wisconsin. If any provision of Wis. Stat. § 66.0420 conflicts with the terms and conditions of this chapter, the terms of the statute shall control. If the terms of the statute and this chapter can be read together without conflicting, then both provisions shall be followed to the maximum extent allowed by law. Should any word, phrase, clause, sentence, paragraph or portion of this Chapter be declared to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of the remaining portions of this chapter, but shall only affect the portion thereof declared to be invalid, and the city hereby expressly states and declares that it would nonetheless have passed this chapter.
- (b) In the event any valid law, rule or regulation of any other governing authority or agency having jurisdiction including, but not limited to, the Federal Communications Commission contravenes the provisions of this chapter, then the provisions hereof which are in conflict with any such law, rule or regulation shall be declared null and void, and the remaining portions of this chapter shall remain in full force and effect.
- (c) For purposes of this chapter, the term "grantee" shall refer to any holder of a video service franchise issued by the department of financial institutions to provide video services to the City of Columbus.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-32. Subscriber privacy.

- (a) The Grantee shall comply with provisions of Section 631 of the Cable Communications Policy Act of 1984, as amended, regarding "protection of subscriber privacy."
- (b) No monitoring of any terminal connected to the system shall take place without specific written authorization by the user of the terminal in question on each occasion and without written notice to the city.
- (c) Grantee shall not, except as required by governmental action, provide any data concerning specific subscribers or users or their use of its services without first securing written authorization for the provision of such data.
- (d) Wis. Stats. § 134.43, is hereby adopted by reference and made a part of this chapter.
- (e) The grantee shall not at any time require the removal or offer to remove any existing or potential subscriber's antenna.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-33. Line extension policy.

The City of Columbus recognizes that, in certain circumstances, for economic reasons, it may not be economically feasible for the cable television system to be extended to all residents of the city, in which case the following policies shall apply: The grantee shall provide its services to all areas within the corporate limits of the city subject to its extension policy for unusual or lengthy installations. In the event that the grantee is requested to extend its system beyond 300 feet to its then-existing trunk cable or is requested to make an installation 300 feet beyond its main cable, grantee shall be allowed to recover its costs from the subscriber in making the same. In the event said subscriber is not willing to pay the same, grantee shall not be required to either extend the system or make the installation.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-34. Technical standards.

Grantee shall maintain a cable television system in compliance with all technical standards of the Federal Communications Commission.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-35. Rates.

Pursuant to the Cable Communications Act of 1984, the City of Columbus shall not exercise ratemaking authority over any services or charges of grantee, including, but not limited to, the basic rates charged for basic services.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-36. Grantee's use of city rights.

Grantee is hereby granted the right to erect, maintain and operate a cable television distribution system in the streets, alleys and utility easements of the City of Columbus and other public places. The poles used for such distribution shall be those erected or used by the local utilities. The grantee may erect its own poles, where necessary, after first obtaining permission from the council.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-37. Method of installation.

- (a) All installations made by the grantee shall be made in good, substantial, safe condition and maintained in such condition at all times and shall be made in accordance with all applicable rules and regulations, included in the rules and regulations of the utility company owning any poles utilized by the grantee. The grantee shall make no excavations in the streets, alleys and public places without first procuring a written permit from an authorized representative of the city, and all work of such kind shall be done so as to meet the approval of the public works manager.
- (b) The grantee's transmission and distribution system poles, wires and appurtenances shall be located, erected and maintained so as not to interfere with the lives or safety of persons, or to interfere with improvements the City may deem proper to make, or to unnecessarily hinder or obstruct the free use of the streets, alleys, bridges or other public property.

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- (c) Grantee shall restore all areas of construction and/or excavation to the condition existing prior to the beginning of construction and/or excavation.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-38. Authority to trim trees.

The grantee shall have the authority to trim trees overhanging any streets, alleys, sidewalks and other public places of the city so as to prevent the branches of such trees from coming in contact with the wires and cables of the grantee.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-39. Indemnity.

- (a) The grantee shall indemnify, defend and save the city and its agents and employees harmless from all claims, damages, losses and expenses, including attorney's fees, sustained by the city on account of any suit, judgment, execution, claim or demand whatsoever arising out of the installation, operation, maintenance, repair, use or removal of the cable system, except for such claims, damages, losses and expenses, including attorney's fees, which are attributable, in part or in whole, to acts of the city or its agents.
- (b) The grantee shall maintain, throughout the term of the franchise, a general comprehensive liability insurance policy naming, as an additional insured, the City of Columbus, its officers, council, commissions, agents and employees, in a company approved by the city, which policy shall protect the city and its agencies and employees against liability for loss or damage for personal injury, death or property damage, occasioned by the operations of grantee under the franchise granted hereunder, in not less than the following amounts:
- (1) One million dollars for bodily injury or death to any one person within the limit.
 - (2) One million dollars for bodily injury or death resulting from any one accident.
 - (3) Five hundred thousand dollars for property damage resulting from any one accident.
- (c) The insurance policy shall contain an endorsement stating that the policy is extended to cover the liability assumed by the grantee under the terms of this chapter and shall further contain the following endorsement.
- (d) It is hereby understood and agreed that this policy may not be cancelled nor the amount of coverage thereof reduced until 30 days after receipt by the city clerk by registered mail of a written notice of such intent to cancel or reduce the coverage.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-40. Complaint and repair procedures.

- (a) The grantee shall maintain an office which shall be open during all usual business hours, having a publicly listed telephone, and be so operated that complaints or requests for repairs or adjustments may be received toll-free on a 24-hour basis.
- (b) The grantee shall maintain a repair and maintenance crew that shall respond to subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service.

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- (c) Upon failing to correct a service deficiency within 48 hours, the Grantee shall rebate one-thirtieth (1/30) of the monthly charge for basic service and additional service to each subscriber for each 24 hours or fraction thereof after the first 48 hours following report of loss of service to the grantee, except to the extent that restoration of service is prevented by strike, injunction or other cause beyond the control of the grantee.
 - (d) The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the city council. The grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-41. Preferential or discriminatory practices prohibited.

Grantee shall not, as to rates, charges, service, services facilities, rules, regulations, employment or in any other respect make or grant any undue preference or advantage to any party, nor subject any party to any prejudice or disadvantage.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-42. Unauthorized connections or modifications.

- (a) *Unauthorized connections prohibited.* It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency, without the expressed consent of the grantee, to make or possess any connection, extension or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the cable television system for any purpose whatever.
- (b) *Removal or destruction prohibited.* It shall be unlawful for any firm, person, group, company, corporation or governmental body or agency to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of the cable television system for any purpose whatsoever.
- (c) *Penalties.* Any firm, person, group, company, corporation or governmental body or agency convicted of a violation of this section shall, for each offense, forfeit a sum of not less than \$100.00 nor more than \$500.00, together with costs of such prosecution.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-43. Additional hookups.

The grantee shall require that only grantee's employees or subcontractors perform hookups to additional television sets and other equipment within an individual housing unit receiving the signal from the grantee's main distribution system.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-44. Channel allocation.

Except as provided for by federal and state law, specifically the Cable Communications Policy Act of 1984 and the rules and regulations of the Federal Communications Commission, the Grantee shall have the exclusive right to determine the programming to be carried on the cable television system and the channel assignments on which the programming is carried.

(Ord. No. 716-15, § 2, 4-10-15)

Sec. 26-45. Lead cable coordinator.

- (a) The cable commission shall contract with one person to be the lead cable coordinator for the City. The lead cable coordinator shall serve at the pleasure of the cable commission.
- (b) The cable commission shall be responsible for creating and maintaining the job description for the lead cable coordinator position. The commission shall file a copy of the most current job description with the city administrator.
- (c) The lead cable coordinator shall at all times be considered an independent contractor. Upon appointment, the lead cable coordinator shall enter into a written contract with the cable commission which outlines the terms, conditions and compensation of the position. A copy of the contract shall be filed with the city administrator.

(Ord. No. 716-15, § 2, 4-10-15)