

DESCRIPTION OF LEGAL ADVERTISING

ORD. NO. 711
 3349008

TERMS: Please pay from this invoice. It is due upon presentation and is past due after 15 days.

Legal Ad. Cost 16.80

Extra Proofs _____

Notary Fee 2.00

Total Amt due 18.80

- Washoe County Clerk
- Charlotte Hartley
- P. O. Box 11130
- Reno, NV 89520

MONTH

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31				
December																						X												X	

PROOF OF PUBLICATION

STATE OF NEVADA,
 COUNTY OF WASHOE

SS.

Doris Mertz

being first duly sworn, deposes and says: That as the legal clerk of the RENO GAZETTE-JOURNAL, a daily newspaper published in Reno, Washoe County, State of Nevada, that the notice _____ of _____ County Ordinance

_____ of which a copy is hereto attached, was first published in said newspaper in its issue dated the 22nd day of Dec, 1986 and, Dec 29, the full period of 2 days, the last publication thereof being in the issue of December 29 1986.

Signed *Doris Mertz*
 Subscribed and sworn to before me this

29th day of December, 1986
Joan G. Dunphy
 Notary Public

NOTICE OF COUNTY ORDINANCE
 NOTICE IS HEREBY GIVEN that Bill No. 886, Ordinance No. 711, entitled "An ordinance amending the Washoe County Code by revising provisions pertaining to the granting and renewal of cable television franchises to conform with changes to state and federal law," was adopted on December 16, 1986, by Commissioners King, Lillard, McDowell, Ritter and Williams.
 Typewritten copies of the ordinance are available for inspection by all interested persons at the office of the County Clerk.
 Judi Bailey, County Clerk
 3349008
 Dec 22, 29-1133

JOAN G. DUNPHY
 Notary Public - State of Nevada
 Appointment Recorded in Washoe County
 MY APPOINTMENT EXPIRES DEC. 22, 1987

SUMMARY: Amends Washoe County Code by revising provisions relating to cable television franchises.

BILL NO. 886

ORDINANCE NO. 711

AN ORDINANCE AMENDING THE WASHOE COUNTY CODE BY REVISING PROVISIONS PERTAINING TO THE GRANTING AND RENEWAL OF CABLE TELEVISION FRANCHISES TO CONFORM WITH CHANGES TO STATE AND FEDERAL LAW.

THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF WASHOE DO ORDAIN:

SECTION 1. Chapter 90 of the Washoe County Code is hereby amended by adding thereto the provisions set forth as sections 2 to 6, inclusive, of this ordinance.

SECTION 2.

90.165 Definitions. As used in sections 90.170 to 90.265, inclusive, of this ordinance, the following words and terms shall have the meanings ascribed to them in this section.

1. "Board" means the board of county commissioners of Washoe County.

2. "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 which includes video programming and which is provided to multiple subscribers within the unincorporated areas of Washoe County. Such term does not include:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;

(c) A facility of a common carrier which is subject, in whole or in part, to the provisions of title II of Federal Cable Communications Policy Act of 1984, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or

(d) Any facilities of any electric utility used solely for operating its electric utility systems.

3. "Franchise" means a combination of the authorization to operate a cable television system issued by the State of Nevada and authorization to use public rights-of-way issued by the county prior to January 1, 1987. Subsequent to January 1, 1987, "Franchise" shall mean the authorization issued by the county to install and operate a cable television system within the unincorporated areas of Washoe County.

SECTION 3.90.175 Granting of franchise; procedure.

1. After an application is received, the county manager or his designee shall conduct an investigation of the applicant and the feasibility of its proposal.

2. After the investigation is completed the county manager shall schedule a public hearing on the application at the next convenient regularly-held meeting of the board of county commissioners or at a special meeting. The hearing must be noticed in accordance with Nevada's Open Meeting Law, and, additionally, by publication of one notice in a newspaper of general circulation which serves the area of the county to be included in the proposed franchise.

3. At the time of the hearing, the board of county commissioners shall consider all relevant evidence and hear comments from the public. The board may refuse to grant a franchise if it finds that the applicant has not ensured that:

(a) The safety, functioning and appearance of the property and the convenience and safety of other persons will not be adversely affected by the installation or construction of facilities necessary for the system.

(b) The cost of the installation, construction, operation or removal of the facilities will be borne by the applicant or subscribers, or a combination of both.

(c) The owners of any property affected by the installation, operation, maintenance or removal of the system will be justly compensated for any damages caused by the installation, operation, maintenance or removal of the system.

(d) Access to cable service will not be denied to any group of potential residential cable subscribers based upon the income level of the residents of the local area in which such group resides.

(e) The applicant will be able to provide adequate service to the potential subscribers.

4. The terms of the franchise must be set forth in a written franchise agreement which shall contain such provisions and conditions which are deemed reasonable and necessary to insure quality service and compliance with all applicable laws, rules and regulations.

SECTION 4.

90.185 Expansion of franchise area. Due to the development of new areas within the county, expansion of franchise areas will be necessary to provide service to such newly developed areas. Application for expansion of existing franchise areas will be made as follows:

1. Any company desiring to provide service to an area not previously covered by a franchise agreement shall submit an application to the county manager. The application shall

contain all relevant details required by section 90.170 of this code.

2. The county manager shall inform all existing franchisee within the county and any other company which has previously made a written request for notice of such application of the fact that application has been made and that the county manager will receive other proposals within 30 days of sending of the notice.

3. At the end of the 30 day period described in section 2, the manager shall direct all applicants to inform each potential subscriber that applications have been made and that copies of such applications are available for inspection and copying at its business office during regular business hours.

4. The board will schedule a public hearing to be held within 60 days at which public comment on the various proposals will be received and considered.

5. Within a reasonable time after the hearing the board shall grant one or more franchises for the previously unfranchised area. If the franchise is granted to an existing franchisee, the boundaries of the existing franchise will be automatically expanded and the newly franchised area shall become part of the existing franchise.

SECTION 5.

90.205 Franchise fees.

1. For the privilege of the franchise, the franchisee shall pay to the county an annual fee in an amount to be set by the board on an annual basis not to exceed 5 percent, or the maximum amount allowed by federal or state law, of its monthly recurring programming service charges subject to applicable deductions under NRS 711.200.

2. The franchisee may pay in quarterly installments or may elect to pay in advance, in which case the initial payment must be based on a good-faith estimate with necessary adjustments to be made at the end of each quarter. All payments, whether made quarterly or paid in advance and adjusted at the end of a quarter, are due 30 days after the end of a quarter.

3. The fee requirements under this section shall apply to new franchises granted or existing franchises which are renewed after the effective date of this ordinance.

SECTION 6.

90.265 Complaints; reports and procedures for hearing, billings, adjustments. Each franchise shall contain a procedure for hearing and resolution of subscriber complaints. Every monthly billing statement will contain a statement that the subscriber has a right to submit unresolved complains to the county manager or his designee.

1. The franchisee shall submit a monthly report to the county manager describing in general categories the types and

numbers of complaints received from subscribers. If requested by the county manager or his designee, the franchisee will supply names and addresses of the complainants.

2. The complaints will be listed in two categories:

- (a) Those involving reception or service; and
- (b) Others such as billing disputes.

3. The report shall state which complaints were resolved and how and when they were resolved.

4. Complaints involving reception or service will be resolved within 24 hours of receipt. Complaints involving other matters will be resolved within 30 days or before the next billing cycle.

5. Complaints which were not resolved will be submitted to the county manager or his designee in the following basic format:

(a) The complainant will submit a written statement to the county manager or his designee with a copy to the franchisee containing pertinent details and supporting documents.

(b) The franchisee will submit a response thereto to the county manager or his designee with a copy to the complainant within 10 days of receipt of the complaint.

(c) The county manager will review the statements and, if deemed necessary, schedule a hearing with the parties.

(d) After hearing the matter, the manager or his designee may impose a penalty upon the franchisee of not more than \$200 for each complaint. The manager or his designee may apply the penalty in whole or in part to satisfy damages suffered by the complainant.

6. The fact that a penalty was or was not imposed does not affect any claim for damages which may be asserted in a legal action between the franchisee and the complainant.

7. Each franchise agreement will contain provisions allowing reduction of bills for periods of service failure.

SECTION 7. Section 90.160 of the Washoe County Code is hereby amended to read as follows:

90.160 Purpose and authority. Pursuant to the power granted the board of county commissioners by Chapter 711 of NRS, as restricted by the 98th Congress of the United States in Public Law 98-549, nonexclusive franchises are hereby created for the purpose of operating a cable television system and the right and privilege to use county property or that portion of the county dedicated for public use for the purpose of installing and maintaining cables, wires, poles or any other underground or overhead devices for the transmission of television signals in any area of Washoe County which may be designated for such cable television systems by the board of county commissioners.

No person shall operate a cable television system which requires the use of county property or that portion of the county dedicated for public use within the unincorporated

areas of Washoe County without having first secured a franchise.

SECTION 8. Section 90.170 of the Washoe County Code is hereby amended to read as follows:

90.170 Application for franchises: Contents.

1. Any person desiring to apply for a franchise shall submit an application in writing to the county manager. The application must state generally:

- (a) The applicant's background, business references and financial statement for the last two years;
- (b) The proposed rates to be charged subscribers;
- (c) Estimates of costs for installation service;
- (d) The number and description of television channels the applicant will distribute in the county immediately after the service is in operation and the channels contemplated for future distribution; and
- (e) All other pertinent information concerning the physical location of cables, wires, poles and other equipment, including without limitation their relationship to public property or rights-of-way.

2. The application must set forth the geographical area in Washoe County for which the franchise is sought and must have attached thereto a map or plat which clearly depicts that geographical area. It shall also include a timetable for provision of service.

3. After an application is received, the board of county commissioners or the county manager or his designee may demand that the applicant submit any additional relevant information.

SECTION 9. Section 90.180 of the Washoe County Code is hereby amended to read as follows:

90.180 Terms and conditions of franchise: Period of franchise; renewal.

1. A franchise granted pursuant to section 90.175 is a franchise for the maintenance and operation of a cable television system within the county, on property of the county or that portion of the county dedicated to public use, for a period of up to 15 years after the date the franchise becomes effective.

2. During the 6 month period which begins with the 36th month before any franchise expiration, the board may on its own initiative, and shall at the request of the franchisee, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of:

- (a) Identifying the future cable-related community needs and interests; and
- (b) Reviewing the performance of the franchisee under the franchise during the then current franchise term.

3. Upon completion of a proceeding under subsection 3, a

franchisee seeking renewal of a franchise may, on its own initiative or at the request of the board, submit a proposal for renewal. Subject to federal law, any such proposal shall contain such material as the board may require, including proposals for an upgrade of the cable system. The board may establish a date by which such proposal shall be submitted.

4. Upon submittal by a franchisee of a proposal to the board for the renewal of a franchise, the board shall provide prompt public notice of such proposal and, during the 4 month period which begins on the completion of any proceedings under subsection 3 renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the franchisee or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with subsection 6 to consider whether:

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

(b) The quality of the franchisee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

(c) The franchisee has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the franchisee's proposal; and

(d) The franchisee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

5. In any proceeding under subsection 5, the franchisee shall be afforded adequate notice and the franchisee and the board, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection 3, to require the production of evidence, and to question witnesses). A transcript shall be made of any such proceeding.

6. At the completion of a proceeding under subsection 6, the board shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the franchisee. Such decision shall state the reasons therefor.

7. Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subsection 5, pursuant to the record of the proceeding thereunder. The board may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection 5(a) or on events considered under subsection 5(b) in any case in which a violation of the franchise or the events considered under subsection 5(b) occur after December 29, 1984 unless the board has provided the franchisee with notice and the oppor-

tunity to cure, or in any case in which it is documented that the board has waived its right to object, or has effectively acquiesced.

8. Any franchisee whose proposal for renewal has been denied by a final decision of the board made pursuant to this section, or has been adversely affected by a failure of the board to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635 of the Cable Communications Policy Act of 1984.

9. For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of a franchise granted by the county subsequent to July 1, 1985.

10. Notwithstanding the provisions of subsections 3 through 10 of this section, a franchisee may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and the board may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsection 3 through 10 of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections 3 through 10.

SECTION 10. Section 90.220 of the Washoe County Code is hereby amended to read as follows:

90.220 Terms and conditions of franchise: Compliance with laws, regulations; payment of cost of repairs; insurance.

1. Every person securing a franchise shall:

(a) Construct, install and maintain or cause to be constructed and maintained all lines, wires, cables and appurtenances in accordance with and in conformity with all of the ordinances, rules and regulations heretofore or hereafter adopted by the board of county commissioners in the exercise of its police powers and in accordance with the general laws of the State of Nevada relating to the location and maintenance of such facilities.

(b) Pay to Washoe County, on demand, the reasonable cost of all repairs to public property made necessary by any operations under the franchise.

(c) At its sole expense, defend any claims and indemnify and hold harmless Washoe County, the board of county commissioners and the employees of Washoe County from any and all liability for damages proximately resulting from any operations under the franchise.

(d) Maintain in full force and effect throughout the term of the franchise the following insurance in a form and with insurer(s) satisfactory to the county:

(1) Workmen's compensation insurance in compliance with the laws of the State of Nevada;

- (2) Bodily injury liability insurance with limits of \$500,000 each person, and \$1,000,000 each occurrence; and
- (3) Property damage liability insurance with limits of \$100,000 each occurrence.
- (e) The county must be named as an additional insured on each policy of insurance set forth in subparagraphs (2) and (3) of paragraph (d).

SECTION 11. Section 90.270 of the Washoe County Code is hereby amended to read as follows:

90.270 Applicability, compliance with applicable laws and requirements.

1. Prior to July 1, 1985, the county issued franchises in the form of rights of way. The regulatory power and the authorization to operate cable television systems was vested in the Nevada public service commission.

2. In Public Law 98-549, known as the Cable Communications Policy Act of 1984, the United States Congress began the process of deregulation of cable television systems by states and local governments. By amendment to chapter 711 of NRS effective July 1, 1985, the Nevada public service commission was removed from the field of cable television regulation and the regulatory responsibility was shifted to counties and cities. The effect of such legislation was not immediate, and a number of existing laws and regulations were left in effect for varying periods of time. To the extent that such laws and regulations allow, the state laws and public service commission rules and regulations in effect on July 1, 1985 shall be applicable to any franchise granted under the provisions of sections 90.160 to 90.265, inclusive, unless otherwise made inapplicable by express reference or reasonable inference from the provisions of sections 90.160 to 90.265, inclusive.

3. A franchise issued by the county prior to July 1, 1985 and any extensions thereof allowing the use of public property for the installation of cable television facilities will remain effective for the term of such franchise to the extent of the authority granted by such franchise. Provided, however, that in order to continue operation of an existing system such franchisees shall be required to secure a new or supplemental franchise subject to the provisions of sections 90.160 to 90.265, inclusive.

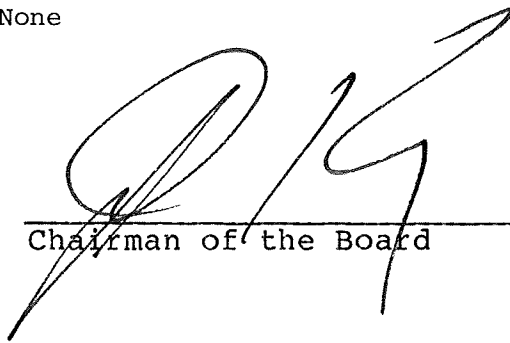
Proposed on the 25th day of November, 1986.
 Proposed by Commissioners Lillard.
 Passed on the 16th day of December, 1986.

Vote:

Ayes: Commissioners: Lillard, McDowell, King, Ritter & Williams


Nays: Commissioners: None

Absent: Commissioners: None



Chairman of the Board

ATTEST:
JUDY BAILLY, CLERK



Chief Deputy
County Clerk

This ordinance shall be in force and effect from and after
the 29th day of December, 1986.