

CITY OF BELLEVUE, WASHINGTON

ORDINANCE NO. 1859

AN ORDINANCE amending Ordinance No. 31 (Chapter 10.32 of the Bellevue City Code) in regard to the granting of franchises, by adding three new sections thereto relating to franchises for installation of community antenna television systems facilities in, over, upon and under streets, alleys, and public highways of the City of Bellevue, and amending Sections 11 and 16 of Ordinance No. 31 and Sections 10.32.110 and 10.32.160 of the Bellevue City Code.

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 31 of the City of Bellevue passed by the Council on the 11th day of August, 1953, is hereby amended by the addition thereto of a new section to be numbered Section 21.1 of Ordinance No. 31 and codified as Section 10.32.220 of the Bellevue City Code to provide as follows:

Section 21.1. The term "community antenna television system," hereinafter referred to as "CATV system" means a system of coaxial cables or other electrical conductors and equipment used or to be used primarily to receive television, radio, and/or audio-visual electrical signals directly or indirectly off-the-air and transmit them to subscribers for a fee.

Section 2. Ordinance No. 31 of the City of Bellevue passed by the Council on the 11th day of August, 1953, is hereby amended by the addition thereto of a new section to be numbered Section 21.2 of Ordinance No. 31 and codified as Section 10.32.230 of the Bellevue City Code to provide as follows:

Section 21.2. The following provisions shall apply to franchises granted to or for CATV systems:

A. There shall be imposed as a condition of the grant of a franchise to or for a CATV system the requirement that the franchisee comply with all applicable laws of the United States and the State of Washington, all ordinances of the City of Bellevue, and all applicable regulations and standards promulgated now or hereafter by the Federal Communications Commission, the latter to include, but not be limited to, FCC regulations or standards in regard to maintenance of signal quality, channel capacity, ability and functioning, requirements for CATV systems to make a channel or channels available for educational use, local governmental use, and for use in the event of any public emergency or disaster, and any requirements imposed by the FCC for the origination by CATV systems of local programs in the public interest.

B. There shall be imposed as a condition of the grant of a franchise to or for a CATV system the requirement that the CATV system services shall be made available to all areas within the City of Bellevue where provision of such services is reasonably practicable, rather than to limited areas only, except that such extension of services, if not existing or practicable at the time the franchise is granted, may be provided under a phased schedule over a period of not to exceed five years after the passage of this ordinance or the granting of the franchise, whichever is the later date.

C. Franchises granted to or for CATV systems shall be for a term of ten years, but may be renewable upon application for renewal in compliance with any procedures for, or conditions upon, renewal now or

hereafter enacted by ordinance or provided in the grant of franchise for which renewal is sought.

Section 3. Section 11 of Ordinance No. 31 and Section 10.32.110 of the Bellevue City Code are each hereby amended to provide as follows:

Section 11.

10.32.110, BCC

If, at any time, the City of Bellevue, deeming it advisable to improve any of its streets, avenues, alleys, county roads or public places, as hereinbefore designated, by grading or regrading, planking or paving same, or altering, changing, repairing or reimproving same, the grantee, upon written notice by the City, shall, at its or their own expense, immediately so raise, lower, or move its line of pipes or improvements to conform to such new grades as may be established, or place said property in such location or positions as shall cause the least interference with any such improvements or work thereon as contemplated by the City, and the said City shall in no wise be held liable for any damages to said grantee that may occur by reason of the City's improvements, repairs or maintenance or by the exercise of any rights so reserved in this section or grant. If the City shall improve such streets, avenues, alleys, county roads or public places, the grantee shall on written notice by City officials, at its own expense, replace such pipe or system as may be in or through the improved subgrade of such improvement, with pipe of such materials as shall conform to the specifications for the improvement of such streets, avenues, alleys, county roads or public places.

Exception: When, in connection with relocation of CATV system facilities by reason of street improvements as set forth above, the costs of relocation of public utility facilities are by statute of the State of Washington authorized to be included as costs of a local improvement, assessable against properties specially benefited, the costs of relocation of CATV system facilities shall be included as a cost of the local improvement which requires such relocation.

Section 4. Section 16 of Ordinance No. 31 and Section 10.32.160 of the Bellevue City Code are each hereby amended to provide as follows:

Section 16.

10.32.160, BCC, Assumption of liability and hold harmless agreement - insurance.

a) In consideration of the granting of such franchise by the grantor to the grantee, the grantee, for itself and its assigns, shall contract and agree to save the City of Bellevue harmless from any liability of whatsoever nature arising out of any damage and/or destruction done or suffered to be done to grantee's mains, valves, pipes, poles or other fittings of whatsoever nature placed upon, along, or under the City road right-of-way or to any other person or property injured or damages as the result of the use or occupation of any part of the city road right-of-way by grantee under the terms of such franchise. This paragraph shall be construed to mean that the grantee accepts such franchise and any rights conferred thereunder for the use and occupation of any portion of the right-of-way, at its own risk, and agrees to assume responsibility for any damage occasioned to grantee, or to any other person by grantor, in the maintenance and/or construction work performed by grantor upon the roadways described above and which would not have occurred but for

the presence on said roadways of the grantee's pipes, poles, etc., or other property mentioned above.

b) The grantee shall pay and by its acceptance of the franchise the grantee specifically agrees that it will pay all damages and penalties which the City may legally be required to pay as a result of granting this franchise. These damages or penalties shall include, but shall not be limited to, damages arising out of copyright infringements and all other damages arising out of the installation, operation or maintenance of the CATV system, whether or not any act or omission complained of is authorized, allowed or prohibited by the franchise.

The franchisee shall maintain, and by its acceptance of the franchise, shall specifically agree that it will pay all necessary and reasonable expenses incurred by the City in defending itself with regard to all damages and penalties mentioned in the preceding paragraph, including a reasonable attorneys' fee.

The franchisee shall maintain, and by its acceptance of the franchise specifically agrees that it will maintain throughout the term of the franchise liability insurance insuring the City and the franchisee with regard to all damages mentioned in subparagraph a) above in the minimum amounts of:

(i) \$100,000 for bodily injury or death to any one person, within the limit, however, of \$300,000 for bodily injury or death resulting from any one accident.

(ii) \$50,000 for property damage resulting from any one accident.

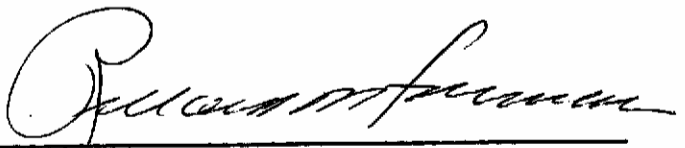
Section 5. There is added to Ordinance No. 31 a new section, Section 23, to be codified as Section 10.32.240 of the Bellevue City Code, to provide as follows:

Section 23. If any section of this ordinance, or any portion of any section of this ordinance, or its application to any person or circumstances, is held invalid, the remainder of the ordinance or the application of the provision to other persons and circumstances shall not be affected.

Section 6. This ordinance shall take effect and be in force five days after its passage, approval and legal publication.


PASSED by the City Council this 27 day of November, 1972, and signed in authentication of its passage this 27 day of November 1972.

(SEAL)



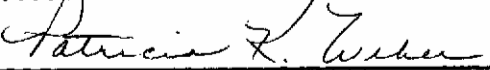
Mayor

Approved as to form:



City Attorney

Attest:



City Clerk

Published December 7, 1972