

ORDINANCE No. 116718

COUNCIL BILL No. 109629

Logic

The City of

AN ORDINANCE relating to cable television; authorizing the Mayor to execute a one year franchise extension agreement with TCI Cable, and repealing SMC 21.60.610 and Ordinance 105427 § 18(b).

Law Department

Honorable President:

Your Committee on _____

to which was referred the within Council report that we have considered the same

COMPTROLLER FILE No. _____

Introduced: <u>APR 5 1993</u>	By: DONALDSON
Referred: <u>APR 5 1993</u>	To: FULL COUNCIL
Referred: <u>APR 13 1993</u>	To: UTILITIES & ENVIRONMENTAL
Referred: <u>5/25/93</u>	To: MANAGEMENT COMMITTEE
Reported: <u>JUN 1 1993</u>	Second Reading: <u>JUN 1 1993</u>
Third Reading: <u>JUN 1 1993</u>	Signed: <u>JUN 1 1993</u>
Presented to Mayor: <u>JUN 2 1993</u>	Approved: <u>JUN 2 1993</u>
Returned to City Clerk: <u>JUN 1993</u>	Published:
Vetoed by Mayor:	Veto Published:
Passed over Veto:	Veto Sustained:

Full Council

OK

The City of Seattle--Legislative Department

Date Reported
and Adopted

REPORT OF COMMITTEE

Council
The President:

Committee on _____

was referred the within Council Bill No. _____

that we have considered the same and respectfully recommend that the same:

Full Council vote 9-0

Committee Chair

ORDINANCE 116718

1
2 AN ORDINANCE relating to cable television; authorizing the
3 Mayor to execute a one year franchise extension agreement
4 with TCI Cable, and repealing SMC 21.60.610 and Ordinance
105427 § 18(b).

5 WHEREAS, the renewal of certain cable television franchises is
6 governed by 47 U.S.C. § 521 et. seq., the federal Cable
Act; and

7 WHEREAS, the City of Seattle has been engaged in the informal
8 process for cable franchise renewals with TCI Cable as
authorized by 47 U.S.C. § 546(h); and

9 WHEREAS, the current cable franchise will expire in August,
10 1993; and

11 WHEREAS, the City believes that it is in its best interest to
12 extend the existing franchise for a period of one (1) year
13 to allow a full opportunity to reach an agreement on the
14 terms and conditions of a renewed franchise; Now,
therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

15 Section 1. The Mayor of the City of Seattle is authorized
16 to execute a cable television franchise extension agreement in
17 substantially the form set forth in Exhibit A with TCI Cable.

18 Section 2. SMC 21.60.610 and Ordinance 105427 § 18(b) are
19 hereby repealed.

20 Section 3. Any acts made consistent with the authority
21 and prior to the effective date of this ordinance are hereby
22 ratified and confirmed.

23 Section 4. This ordinance shall take effect and be in
24 force thirty days from and after its passage and approval, if
25 approved by the Mayor; otherwise it shall take effect at the
26 time it shall become a law under the provisions of the City
27 Charter.

28 Passed by the City Council the 1st day of June,
29 1993, and signed by me in open session in authentication of its
30 passage this 1st day of June, 1993.

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President of the City Council

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Approved by me this 8th day of June, 1993.

Norman B. Rice
Norman B. Rice, Mayor

Filed by me this 8th day of June, 1993.

(SEAL)

Published _____

By Margaret Carter
Deputy Clerk

AGREEMENT FOR ONE YEAR EXTENSION OF CABLE FRANCHISE

WHEREAS, The City of Seattle ("City") and TCI of Seattle, Inc. ("TCI") have been engaged in the informal process for cable franchise renewals as authorized by 47 U.S.C. § 546(h); and

WHEREAS, the current cable franchises will expire in August 1993; and

WHEREAS, the parties believe that it is in their best interests to extend the existing franchises for a period of one (1) year to allow the parties a full opportunity to reach an agreement on the terms and conditions of a renewed franchise; Now, therefore,

THE PARTIES AGREE AS FOLLOWS:

1. The existing cable TV franchises granted by the City to TCI pursuant to Ordinances 107434 and 109769 and the date for renewal/denial of said franchises shall be extended to August 1, 1994. The parties specifically agree that August 1, 1994 (or such earlier date as mutually agreed by the parties) shall be the franchise expiration date for all purposes including application of the formal renewal process set forth in 47 U.S.C. § 546(a)-(g); provided that TCI's prior request for proceeding under 47 U.S.C. § 546(a) is hereby acknowledged and need not be asserted again, and is not affected by the extension. All other terms and conditions of the franchise shall remain unchanged.
2. The parties specifically agree that this extension shall not be deemed a new franchise. The extension shall not be deemed a determination by the City of the future cable-related needs and interests of the community. The determination whether TCI has satisfied the criteria for renewal set forth in 47 U.S.C. § 546(c)(1), shall be based on the entire franchise period and not limited to the extension period.
3. For example, and by way of illustration and not limitation, the extension will not be read to require the City to reconduct hearings or other actions properly taken in conjunction with any renewal process under the franchise. Claims the City or TCI may have against each other under the any provision of the franchise or applicable law are not affected by this agreement.
4. For example, and by way of illustration and not limitation, neither this agreement nor the extension of the franchise constitutes an agreement or concession by the City that any planned upgrade or rebuild of TCI's cable system will be or is adequate to meet future cable-related community needs and interests; the City reserves any and all rights it has under

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WHEREAS, the parties believe that it is in their best interests to extend the existing franchises for a period of one (1) year to allow the parties a full opportunity to reach an agreement on the terms and conditions of a renewed franchise; Now, therefore,

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City of Seattle
Department of Administrative Services



Kenneth J. Nakatsu, Director
Norman B. Rice, Mayor

April 1, 1993

Honorable George Benson, President
City Council
City of Seattle

VIA: Diana Gale, Budget Director

Dear Councilmember Benson:

SUBJECT: Cable Franchise Extension Ordinances

Enclosed for the Council's consideration are two proposed ordinances concerning cable television. The City has been engaged in discussions with TCI and Viacom concerning renewal of each firm's cable television franchise. These franchises currently expire in August 1993. We believe that it is in the City's best interest to extend the existing franchises for one year to allow a full opportunity to reach a satisfactory agreement on the terms and conditions of a renewed franchise for each firm. The proposed ordinances would authorize the Mayor to execute such an extension with TCI and Viacom respectively.

In addition, the ordinances repeal SMC 21.60.610 which was adopted as part of the City's Cable Television Ordinance in 1976. In the opinion of the Law Department, SMC 21.60.610 is no longer appropriate because the renewal process for existing cable television franchises has been preempted by federal law.

If the Council has questions about these proposed ordinances, please call Jan Vazzano of DAS at 684-0504 or Rodney Eng of the Law Department at 684-8241.

Sincerely,

A handwritten signature in black ink, appearing to read 'Ken Nakatsu', written over the typed name.

Kenneth J. Nakatsu
Director

KJN:lp:ldt

Enclosures

AGREEMENT FOR ONE YEAR EXTENSION OF CABLE FRANCHISE

WHEREAS, The City of Seattle ("City") and TCI Cablevision ("TCI") have been engaged in the informal process for cable franchise renewals as authorized by 47 U.S.C. § 546(h); and

WHEREAS, the current cable franchises will expire in August 1993; and

WHEREAS, the parties believe that it is in their best interests to extend the existing franchises for a period of one (1) year to allow the parties a full opportunity to reach an agreement on the terms and conditions of a renewed franchise; Now, therefore,

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1. The existing cable TV franchises granted by the City to TCI pursuant to Ordinances 107434 and 109769 and the date for renewal/denial of said franchises shall be extended to August 1, 1994. The parties specifically agree that August 1, 1994 (or such earlier date as mutually agreed by the parties) shall be the franchise expiration date for all purposes including application of the formal renewal process set forth in 47 U.S.C. § 546(a)-(g); provided that TCI's prior request for proceeding under 47 U.S.C. § 546(a) is hereby acknowledged and need not be asserted again, and is not affected by the extension. All other terms and conditions of the franchise shall remain unchanged.
2. The parties specifically agree that this extension shall not be deemed a new franchise. The extension shall not be deemed a determination by the City of the future cable-related needs and interests of the community. The determination whether TCI has satisfied the criteria for renewal set forth in 47 U.S.C. § 546(c)(1), shall be based on the entire franchise period and not limited to the extension period.
3. For example, and by way of illustration and not limitation, the extension will not be read to require the City to reconduct hearings or other actions properly taken in conjunction with any renewal process under the franchise. Claims the City or TCI may have against each other under the any provision of the franchise or applicable law are not affected by this agreement.
4. For example, and by way of illustration and not limitation, neither this agreement nor the extension of the franchise constitutes an agreement or concession by the City that any planned upgrade or rebuild of TCI's cable system will be or is adequate to meet future cable-related community needs and interests; the City reserves any and all rights it has under

City of Seattle

Executive Department—Office of Management and Budget

Diana Gaie, Director
Norman B. Rice, Mayor



April 2, 1993

The Honorable Mark Sidran
City Attorney
City of Seattle

Dear Mr. Sidran:

The Mayor is proposing to the City Council that the enclosed legislation be adopted.

**REQUESTING
DEPARTMENT**

Department of Administrative Services

SUBJECT:

AN ORDINANCE relating to cable television; authorizing the Mayor to execute a one year franchise extension agreement with TCI Cable, and repealing SMC 21.60.610 and Ordinance 105427 section 18 (b).

Pursuant to the City Council's S.O.P. 100-014, the Executive Department is forwarding this request for legislation to your office for review and drafting.

After reviewing this request and any necessary redrafting of the enclosed legislation, return the legislation to OMB. Any specific questions regarding the legislation can be directed to Mona Goode at 684-8080.

Sincerely,

Norman B. Rice
Mayor

by

Mary Insfolts
for
DIANA GALE
Budget Director

DG\mg\mpk

Enclosure

cc: Director, Department of Administrative Services

STATE OF WASHINGTON - KING COUNTY

31608
City of Seattle

—SS.

No.

City of Seattle

ORDINANCE 116718

AN ORDINANCE relating to cable television; authorizing the Mayor to execute a one year franchise extension agreement with TCI Cable, and repealing SMC 21.60.610 and Ordinance 105427 § 18(b).

WHEREAS, the renewal of certain cable television franchises is governed by 47 U.S.C. § 521 et. seq., the federal Cable Act; and

WHEREAS, the City of Seattle has been engaged in the informal process for cable franchise renewals with TCI Cable as authorized by 47 U.S.C. § 546(h); and

WHEREAS, the current cable franchise will expire in August, 1993; and

WHEREAS, the City believes that it is in its best interest to extend the existing franchise for a period of one (1) year to allow a full opportunity to reach an agreement on the terms and conditions of a renewed franchise; Now, therefore,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The Mayor of the City of Seattle is authorized to execute a cable television franchise extension agreement in substantially the form set forth in Exhibit A with TCI Cable.

Section 2. SMC 21.60.610 and Ordinance 105427 § 18(b) are hereby repealed.

Section 3. Any acts made consistent with the authority and prior to the effective date of this ordinance are hereby ratified and confirmed.

Section 4. This ordinance shall take effect and be in force thirty days from and after its passage and approval, if approved by the Mayor; otherwise it shall take effect at the time it shall become a law under the provisions of the City Charter.

Passed by the City Council the 1st day of June, 1993, and signed by me in open session in authentication of its passage this 1st day of June, 1993.

GEORGE E. BENSON,
President of the City Council.
Approved by me this 8th day of June, 1993.
NORMAN B. RICE,
Mayor.

Filed by me this 8th day of June, 1993.
(Seal) By: MARGARET CARTER,
Deputy Clerk.
Publication ordered by JUDITH PIPPIN, City Clerk.

Date of official publication in Daily Journal of Commerce, Seattle, June 17, 1993. 6/17(31608)

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular form of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The attached notice, a

ORD:116718

published on

06/17/93

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

(Signature)

Subscribed and sworn to before me on

06/17/93

(Signature)

Notary Public for the State of Washington,
residing in Seattle