

TIGARD MUNICIPAL CODE

Chapter 5.12 CABLE SYSTEM

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5.12.010 Short Title.

This chapter shall be known and referred to as the Tigard cable system ordinance. (Ord. 01-20, Ord. 79-84 §1, 1979).

5.12.020 Definitions.

1. Cable System. As used in this chapter, "cable system" or "system" means a system of antennas, cables, amplifiers, closed transmission paths and associated signal generation, reception, and control equipment, microwave links, cablecasting studios, and any other conductor, converters, equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, storing, processing, or distributing audio, video, digital or other forms of electronic or electrical signals. It does not include a facility that does not use public right of way or public land or facilities to serve subscribers.

2. Franchise. As used in this chapter, the term "franchise" means the non-exclusive revocable privilege conferred upon a person, firm or corporation by the City to construct or operate a cable system under the terms and provisions of this chapter, whether in the form of a franchise, license, or similar agreement. (Ord. 79-84 §2, 1979).

3. Franchisee. Any individual, natural person, sole proprietorship, partnership, association, or corporation or any other form of entity or organization granted a franchise. (Ord. 01-20).

4. PEG Access. Noncommercial use of the system for use by agencies, institutions, organizations, groups, and individuals in the community to acquire, create, receive, and distribute services and signals including but not limited to public, education, and government use. (Ord. 01-20).

5.12.030 Declaration Of Powers.

The City, by and through its Council, recognizes, declares and establishes its authority to regulate the development and operation of a cable system (hereinafter "system") for the City and to exercise all powers necessary for that purpose, including, but not limited to, the following:

1. To grant by resolution nonexclusive, revocable franchises, licenses, contracts or similar agreements for the development and operation of a system or systems;

2. To contract, jointly agree or otherwise provide with other local and regional governments, counties or special districts for the development, construction, operation, and regulation of a system or systems or franchises therefore, notwithstanding the fact that the system extends beyond the boundaries of the City;

3. To create local improvement districts for the development or extension of a system, and to provide for the undergrounding of the system as a local improvement, as that term is now or hereafter defined by Oregon Revised Statutes, Chapter 223, or City ordinances;

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4. To purchase, hire, construct, own, maintain, and operate or lease a system and to acquire property necessary for any such purpose;

5. To administer and regulate a system, including but not limited to:

(a) Consumer complaints,

(b) Disputes among the City, franchisees, and consumers,

(c) Fair employment practices,

(d) Development, management and control of government access channels as well as development of other access channels, or contracting for this service,

(e) Rates regulation and review of finances for rate adjustments, as allowed by federal and state laws and rules,

(f) Construction timetables and standards,

(g) Modernization of technical aspects,

(h) Ensuring adherence to federal and state regulations,

(i) Franchise transfer and transfer or change of control of ownership,

(j) Franchise renewal or revocation,

(k) Enforcement of buy-back, lease back sale or other options to purchase, and

(l) Receivership and foreclosure procedures. (Ord. 01-20, Ord. 79-84 §3, 1979).

5.12.040 Selection Of Franchise.

1. In the event that the Council finds it in

the best interests of the City to grant a franchise for a system, the City Manager or designate shall be directed to prepare a request for proposal (hereafter referred to as an "RFP").

2. The City Manager or designate shall prepare an evaluation of the proposals received, and shall submit the evaluation to the Council together with any recommendations. The evaluation shall be made available to the public for inspection.

3. The Council may award a franchise to an applicant only after a public hearing on the application and proposal, notice of which shall be published in a local newspaper of general circulation in the City at least ten days prior to the date of the hearing. All applicants shall be notified by mail of the public hearing; provided, however, that no defect in the notice or failure to notify shall invalidate the franchise awarded.

4. No franchise or award thereof shall be deemed final until passage of a resolution containing the terms and conditions thereof. The franchisee shall bear the costs of all publications and notices given in connection with the award of the franchise. (Ord, 01-20, Ord. 79-84 §4, 1979).

5.12.050 Administration Of Cable System Ordinance And Franchise.

The City Council shall have the power(s) to carry out any or all of the following functions:

1. Review all franchisee records required by the franchise and, at the City Council's discretion, require the preparation and filing of additional information;

2. Conduct evaluations of the system at least every three years with the franchisee, and pursuant thereto, this chapter or the franchise agreement;

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3. Pass regulations and procedures necessary to enforce franchises and to clarify terms thereof.

4. Take any other actions it deems necessary to ensure provision of quality cable services to the citizens of Tigard. (Ord. 01-20, Ord. 79-84 §5, 1979)

5.12.060 Violation, Penalties And Remedies.

1. Operation Without Franchise. Any person or corporation, whether as principal, agent, employee or otherwise, violating or causing the violation of any provision of this chapter or performing any of the acts and/or functions itemized under subsection (2) of Section 5.12.020, which defines a cable system, without having been awarded a franchise to perform said acts or functions pursuant to the terms of this chapter shall be deemed to have committed a class A misdemeanor. Each violation occurring on a separate day is considered a separate violation of this chapter.

2. Injunctive Relief. Upon authorization by the City Council, the City Attorney may institute a suit in equity in the Circuit Court of the state or other appropriate court to enjoin the continued violation of any provision of this chapter.

3. Cumulative Remedies. The rights, remedies and penalties provided in this section are cumulative and not mutually exclusive and are in addition to any other rights, remedies and penalties available to the City under any other ordinance or law. (Ord. 01-20, Ord. 79-84 §7, 1979).■