

CITY OF MANOR CREEK, KENTUCKY

ORDINANCE NO. 4

SERIES 1996

An Ordinance Relating To:

A FRANCHISE ORDINANCE APPROVING THE RENEWAL AND AMENDMENT OF THE FRANCHISE AGREEMENT FOR COMMUNITY ANTENNA TELEVISION (CATV) SERVICES OF TCI TKR OF JEFFERSON COUNTY, INC., D/B/A TKR CABLE OF GREATER LOUISVILLE, AND INCLUDING PROVISIONS FOR INSURANCE, REPORTS AND RECORDS, CONSUMER PRACTICES, CONSUMER PROTECTION MEASURES, CONSTRUCTION, AND CONSTRUCTION-RELATED PRACTICES, FRANCHISE FEES, AND OPERATION PROCEDURES, AND HEALTH, SAFETY, AND WELFARE MEASURES, PROVIDING AN EFFECTIVE DATE.

INTRODUCED September 24, 1996
FIRST READING September 24, 1996
SECOND READING October 22, 1996
ADOPTED October 22, 1996

TABLE OF CONTENTS

<u>Section 1.</u>	<u>Construction.</u>	1
<u>Section 2.</u>	<u>Scope.</u>	1
<u>Section 3.</u>	<u>Severability.</u>	1
<u>Section 4.</u>	<u>Definitions.</u>	2
<u>Section 5.</u>	<u>Failure of the City to Enforce this Ordinance.</u>	3
<u>Section 6.</u>	<u>Repeal of Inconsistent Resolutions and Ordinances.</u>	4
<u>Section 7.</u>	<u>Resolution of Inconsistencies with Federal or State Rules, Regulations or Laws.</u>	4
<u>Section 8.</u>	<u>Notices.</u>	4
<u>Section 9.</u>	<u>Indemnity.</u>	4
<u>Section 10.</u>	<u>Liability Insurance.</u>	5
<u>Section 11.</u>	<u>Furnishing of Reports.</u>	6
<u>Section 12.</u>	<u>Books and Records.</u>	6
<u>Section 13.</u>	<u>Notification of Customers' and Operator's Rights and Responsibilities; General Policy.</u>	7
<u>Section 14.</u>	<u>Notification of Customers' and Operator's Rights and Responsibilities; Minimum Contents.</u>	7
<u>Section 15.</u>	<u>Billing Practices.</u>	8
<u>Section 16.</u>	<u>Billing Credit or Refunds for Service Outages, Interruptions; Substandard Signal or Picture Quality or Unsolicited Service.</u>	8
<u>Section 17.</u>	<u>Customer Service Performance.</u>	9
<u>Section 18.</u>	<u>Preferential or Discriminatory Practices Prohibited.</u>	12
<u>Section 19.</u>	<u>Use of Equipment, Return of Equipment, Security Deposits, and their Return.</u>	13
<u>Section 20.</u>	<u>Service Logs.</u>	14

<u>Section 21.</u>	<u>Restoration of a Subscriber's Property.</u>	14
<u>Section 22.</u>	<u>Service Requests, Complaints, and Response Times.</u>	15
<u>Section 23.</u>	<u>Operator Required to Maintain Sufficient Repair Parts and Sufficient Repair Personnel.</u>	15
<u>Section 24.</u>	<u>New Installations; Connections- -Regular, Promotional, Seasonal, Short-Term, and Pay-Per-View; Re-Connections.</u>	16
<u>Section 25.</u>	<u>Disconnection for Non-Payment.</u>	16
<u>Section 26.</u>	<u>Voluntary Disconnections and Downgrades.</u>	17
<u>Section 27.</u>	<u>Resolution of Complaints.</u>	18
<u>Section 28.</u>	<u>Continued Use of Individual Antennas Protected.</u>	18
<u>Section 29.</u>	<u>Construction of Good Quality.</u>	19
<u>Section 30.</u>	<u>Conditions on Use of Streets and Public Ways.</u>	19
<u>Section 31.</u>	<u>Construction Standards.</u>	20
<u>Section 32.</u>	<u>Line Extension Policy.</u>	20
<u>Section 33.</u>	<u>Permits and Licenses.</u>	21
<u>Section 34.</u>	<u>Stand-By Power.</u>	21
<u>Section 35.</u>	<u>Emergency Alert/Emergency Override.</u>	21
<u>Section 36.</u>	<u>Preventive Maintenance Program.</u>	21
<u>Section 37.</u>	<u>Extent of Grant of Franchise.</u>	22
<u>Section 38.</u>	<u>Term of Franchise.</u>	22
<u>Section 39.</u>	<u>Franchise Fees.</u>	23
<u>Section 40.</u>	<u>Relief from this Ordinance.</u>	23
<u>Section 41.</u>	<u>Assignment or Transfer of Franchise.</u>	24

<u>Section 42.</u>	<u>Default of Franchise; Revocation, Termination or Cancellation of Franchise.</u>	24
<u>Section 43.</u>	<u>Capacity of System.</u>	25
<u>Section 44.</u>	<u>Time Table for Upgrade of Cable Television Distribution System</u>	25
<u>Section 45.</u>	<u>Upgrade of Cable Television Distribution System</u>	26
<u>Section 46.</u>	<u>Public, Educational, Governmental, and Leased Access (PEG).</u>	26
<u>Section 47.</u>	<u>Miscellaneous Provisions--Tampering and Unauthorized Reception of Certain Services.</u>	27
<u>Section 48.</u>	<u>Equal Employment Opportunity</u>	27
<u>Section 49.</u>	<u>Nature of Ordinance.</u>	28
<u>Section 50.</u>	<u>Effective Date.</u>	29

ORDINANCE NO.

A FRANCHISE ORDINANCE APPROVING THE RENEWAL AND AMENDMENT OF THE FRANCHISE AGREEMENT FOR COMMUNITY ANTENNA TELEVISION (CATV) SERVICES OF TCI TKR OF JEFFERSON COUNTY, INC., d/b/a TKR CABLE OF GREATER LOUISVILLE, AND INCLUDING PROVISIONS FOR INSURANCE, REPORTS AND RECORDS, CONSUMER PRACTICES, CONSUMER PROTECTION MEASURES, CONSTRUCTION, AND CONSTRUCTION-RELATED PRACTICES, FRANCHISE FEES, AND OPERATION PROCEDURES, AND HEALTH, SAFETY, AND WELFARE MEASURES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, TCI TKR of Jefferson County, Inc., d/b/a TKR CABLE OF GREATER LOUISVILLE, ("TKR") the present holder of the Community Antenna Television (hereinafter "CATV" or "Cable Television") franchise rights throughout the City of Manor Creek has notified the City of Manor Creek (hereinafter "City") of its desire to renew its franchise;

WHEREAS, TKR performance under its franchise has been satisfactory, has substantially complied with the material terms of the existing franchise and with applicable law;

WHEREAS, the City has determined that TKR's service has been reasonable in light of community needs;

WHEREAS, the City has determined that TKR has the ability to effectuate its franchise renewal proposal;

WHEREAS, the City has determined that TKR's cable television franchise renewal proposal meets the cable television related community needs and interest of the City;

WHEREAS, the public has had adequate notice and opportunity for comment;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF MANOR CREEK, KENTUCKY.

Section 1. Construction.

This ordinance shall be construed in light of applicable Federal and State laws and regulations governing cable television.

Section 2. Scope.

This ordinance shall be effective within the geographical limits of the City, including any areas subsequently annexed by the City.

Section 3. Severability.

If any word phrase, sentence, part, section, subsection, or other portion of this ordinance, or any application thereof to any person or circumstance is declared void, unconstitutional, or

invalid for any reason, such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this ordinance, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect. The City declares that no invalid or proscribed provision or application was an inducement to this ordinance, and that it would have enacted this ordinance regardless of the invalid or proscribed provision or application.

Section 4. Definitions.

- (1) "Access channel" or "non-broadcast channel" means a government, education, or public channel which is carried on the cable system, but which is not part of any institutional network.
- (2) "Annual gross revenues" means Franchisee's Gross Revenues.
- (3) "Basic cable television service" means any service tier which includes the retransmission of local television broadcast signals.
- (4) "City" means the City of Manor Creek, Kentucky or its lawful successor.
- (5) "FCC" or "Federal Communications Commission" means the Federal administrative agency, or lawful successor, authorized to oversee cable television and other multi-channel regulation on a national level.
- (6) "Franchise fee" means a fee or charge that the City requires as payment for the privilege of using the streets, rights-of-way, public ways, and easements of the City in order to construct, maintain, and operate a cable television system.
- (7) "Operator" means TKR, its assignee or transferee.
- (8) "Pay Per View Event or Pay Per Movie(s)" means the delivery over the cable system of audio and video signals in an unintelligible form for a set fee or charge cover and above the charge for standard or basic service and in addition to any premium channel on a per event or per movie basis where said unintelligible or unusable form is made intelligible for viewing only to subscribers paying a separate fee or charge for the viewing of the event or events.
- (9) "Premium channel" means the delivery over the cable system of audio and video signals in an unintelligible form to subscribers for a monthly fee or charge (over and above the

charge for standard or basic service) on a per channel basis where said unintelligible or unusable form for viewing is made intelligible only to subscribers paying a separate fee or charge for the viewing or use of the signals.

- (10) "Educational or governmental access facilities" means:
- (a) Channel capacity designated exclusively for public, educational or governmental use; and
 - (b) facilities and equipment for the use of such channel capacity.
- (11) "Rate" means the monthly price paid by a subscriber in order to receive cable service.
- (12) "Service day" means those days the United States Post Office delivers regular mail (typically, Monday through Saturday, excluding federal holidays).
- (13) "Service outage" means the loss of picture or sound on all basic subscriber channels, or one (1) or more auxiliary programming channels (including tiers and pay programming), and which is not caused by the failure or malfunction of a subscriber's television receiver or by the error of the subscriber.

Section 5. Failure of the City to Enforce this Ordinance.

- (1) Operator shall not be excused from complying with any of the requirements of this ordinance, or any subsequently adopted amendments to this ordinance, by any failure of the City on any one (1) or more occasions to seek, or insist upon, compliance with such requirements or provisions.
- (2) This Ordinance and the rights and responsibilities it imposes on Operator may not be unilaterally amended without the prior written consent of Operator.
- (3) This Franchise Agreement is subject to and shall be governed by all terms, conditions and provisions of the Cable Act and any other applicable provision of federal, state, and local law.
- (4) All rights and privileges granted herein are subject to the police powers of the City and its rights under applicable laws and regulations to regulate the Franchisee and the construction, operation and maintenance of the Franchisee's Cable System, including, but not limited to, the right to adopt and enforce additional ordinances and regulations as the

City shall find necessary in the exercise of its police powers, the right to adopt and enforce applicable zoning, building, permitting and safety ordinances and regulations, the right to adopt and enforce ordinances and regulations relating to equal employment opportunities, and the right to adopt and enforce ordinances and regulations containing right-of-way, telecommunications, utility and cable television consumer protection and service standards and rate regulation provisions.

Section 6. Repeal of Inconsistent Resolutions and Ordinances.

To the extent that there is any resolution or ordinance which in part, or in whole, is directly inconsistent with this ordinance, such part, or such whole, of the prior resolution or ordinance shall be repealed to the extent of the inconsistency.

Section 7. Resolution of Inconsistencies with Federal or State Rules, Regulations or Laws.

In any case of an actual inconsistency between any provision or section of this ordinance, and any provision or section of a Federal or Kentucky rule, regulation, or law, then the Federal or Kentucky rule, regulation, or law shall not only supersede the effect of the ordinance, but also control in any local application.

Section 8. Notices.

Both the City and Operator shall provide the other party with the name and address of the contact person designated to receive notices, filings, reports, records, documents, and other correspondence. All notices shall be delivered to each party's contact person by certified mail, return receipt requested, personal service with a signed receipt of delivery, or overnight with receipt verification. All other filings, reports, records, documents, and other correspondence may be delivered by any permissible means including, but not limited to: facsimile transmission ("faxing"); personal service; overnight mail or package delivery; or delivery via cable. The delivery of all notices, reports, records, and other correspondence shall be deemed to have occurred at the time of receipt (unless otherwise designated by State law).

Section 9. Indemnity.

- (1) To the extent permitted by law, Operator shall at all times defend, indemnify, protect, save harmless, and exempt the City, the Mayor, the City Council, their officers, and

employees from any, and all, penalty, damage, or charges arising out of claims, suits, demands, causes of action, or award of damages whether compensatory or punitive, or expenses arising therefrom, either at law or in equity, which might be claimed now or in the future, which may arise out of, or be caused by, the construction, erection, location, products performance, operation, maintenance, repair, installation, replacement, removal or restoration of the system within the City by a negligent act or omission of Operator, its agents or employees, contractors, subcontractors, independent contractors, or implied or authorized representatives. With respect to the penalties, damages or charges referenced herein, attorneys' fees, consultants' fees, and expert witness fees are included as those costs which may be recovered by the Commission.

- (2) The Mayor and the City Council specifically reserve the right to retain counsel of their own choice, at their own expense.
- (3) If Operator obtains counsel for the City, the Mayor or the City Council then any one of them shall have the right to approve counsel, provided, however, that neither the City, the Mayor, nor the City Councilmen shall unreasonably withhold approval of counsel.
- (4) With respect to Operator's own defense of such actions, noted in this Section, it is understood, that such Operator reserves the right to select and retain, without the City's approval, counsel of the Operator's choice, at Operator's own expense.

Section 10. Liability Insurance.

- (1) Operator shall secure and maintain, for as long as it provides service to subscribers, public liability, property damage insurance, and umbrella coverage in at least the following amounts:
 - (a) Public liability: \$1,000,000.00 per person/per occurrence;
 - (b) Property damage: \$1,000,000.00 per any one (1) claim;
 - (c) Umbrella liability: \$4,000,000.00 with up to a \$50,000.00 deductible and/or base insurance.
- (2) Operator's public and personal liability and property damage insurance policy shall specifically include the City as additional insured.
- (3) The public and personal liability and property damage insurance policy shall be issued by an agent or representative of an insurance company licensed to do business in the State,

and which has a rating of A- or greater from the Alfred M. Best Company.

- (4) The public liability and property damage insurance policy shall contain an endorsement obligating the insurance company to furnish the City with at least thirty (30) days written notice in advance of the cancellation of the insurance.
- (5) If the State permits Operator to self-insure, then Operator may exercise its right to self-insure, so as long as the minimal amounts of insurance coverage outlined in this Section are met and maintained for the entire period that the Operator is self-insured.

Section 11. Furnishing of Reports.

- (1) Operator shall timely submit those reports, statements, and logs required by this franchise.
- (2) Copies of renewal or replacement insurance policies or certificates shall be delivered to the franchising authority at least fifteen (15) days before the expiration of the insurance which such policies are to renew or replace.

Section 12. Books and Records.

- (1) Operator shall keep complete and accurate books of accounts, and records of the business and operations under, and in connection with the system.
- (2) The City shall have the right to review at Operator's local office within Jefferson County all records, pertaining to the City's regulation of Operator's cable operations in the City, on seven (7) days written notice. Such review, unless mutually agreed upon, or judicially ordered, should occur within Operator's regular office hours.
- (3) The City shall have the right to hire, at its own expense, an independent certified public accountant, or other business or financial expert, to review the books and records of Operator. If, after a financial audit, it is determined that Operator has under paid amounts owed to the City (in excess of five percent (5%)), then the City may require Operator to reimburse the City for the actual cost of the audit. Provided, however, absent fraud, all audits shall be binding on the City.
- (4) An intentional falsification of an entry into the books and/or records of Operator, made by Operator, of a material and substantial fact shall constitute a material violation of this

ordinance. However, an erroneous entry, made in good faith, shall not constitute a violation of this ordinance.

- (5) Operator, at its local office within Jefferson County shall keep complete and accurate books and records of the key aspects of the system's operation in the City for at least the preceding three (3) years in such a manner that all matters pertaining to the City, can be easily produced and/or verified at the City's request. Also, Operator shall make available, on seven (7) days advance written notice, those records that pertain to its operation of the system that may be required by any other Federal or State agency having jurisdiction over cable operators. Provided, however, that with respect to the obligation to maintain financial records, Operator shall only be required to maintain the financial records required by Federal and State Law.

Section 13. Notification of Customers' and Operator's Rights and Responsibilities; General Policy.

- (1) In order to provide customers with the variety of information needed to make an informed decision, and to ensure that customers are notified of their, and the Operator's rights and responsibilities with respect to the system, Operator shall provide customers with a written "Notice of a Customer's and Operator's Rights and Responsibilities."
- (2) Unless expressly prohibited by the State, Operator may comply with the "Notice" requirements by providing said "Notice" through newspaper publication or over the cable system, on a channel clearly designated for the dissemination of such information -- (such a channel need not be solely designated for dissemination of such information, and may, in fact, be used at other times for any lawful purpose).

Section 14. Notification of Customers' and Operator's Rights and Responsibilities; Minimum Contents.

- (1) At the time Operator is required to furnish a "Notice", such "Notice" should contain the following:
 - a) an up-to-date listing of services provided;
 - b) notification of a subscriber's ability to purchase or lease, from the Operator, parental control mechanism, or other device which will prohibit the viewing of a particular program service during a period selected by the subscriber;

- c) a listing and explanation of rates and charges, credit refund policy, connection and involuntary disconnection policies;
 - d) the complaint resolution procedures;
 - e) a listing and explanation of billing options available (such as monthly or yearly, and/or discounts for pre-payments);
 - f) the customer service office hours and telephone number(s);
 - g) the method of securing a voluntary disconnection; and
 - h) the equipment use and return policy together with any required security deposits.
- (2) The "Notice" shall be written in plain, simple understandable English.
- (3) The "Notice" may be delivered to a subscriber via an insert in the subscriber's periodic invoice, through a special mailing, by newspaper or publication or over a channel clearly designated for the dissemination of such information.

Section 15. Billing Practices.

- (1) Whenever there is a change in Operator's billing practices or payment requirements, Operator shall notify subscribers within thirty (30) days of the effective date of such billing practices or payment requirements.
- (2) In any case where a subscriber requests a cancellation or reduction of service within thirty (30) days after the notification of a scheduled rate or charge adjustment, then the subscriber's liability for the newly implemented rate or charge shall cease from the moment that the rate or charge adjustment becomes effective.

Section 16. Billing Credit or Refunds for Service Outages, Interruptions; Substandard Signal or Picture Quality or Unsolicited Service.

Operator shall, upon request by a subscriber, provide that subscriber with a pro-rata credit for a service outage or interruption exceeding two service days in duration, provided that the outage is not caused or is not a result of matters beyond the immediate control of Operator.

Section 17. Customer Service Performance.

(1) **Definitions:**

(a) **Normal Business Hours**

This means those hours during which most similar businesses in the community are open to serve customers. This will include some evening hours (at least one night per week) and/or some weekend hours.

(b) **Normal Operating Conditions**

This means conditions that are within the control of the operator. Those conditions which are not within the control of the operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe weather. Those conditions which are ordinarily within the control of the operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the system.

(c) **Service Interruption**

This means the loss of picture or sound on one or more channels. This term affects the timing of when the operator must respond to a service problem.

(2) **Customer Service Standards**

Office hours and telephone availability:

(a) The operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

(1) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.

(2) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by trained company representatives on the next business day.

(b) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time

shall not exceed thirty (30) seconds. These standards shall be met no less than ninety percent (90%) of the time under normal operating conditions, measured on a quarterly basis.

- (c) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 - (d) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.
- (3) **Installations, outages, and service calls**

Under normal operating conditions, each of the following five (5) standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis.

- (a) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
- (b) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known.
- (c) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
- (d) The operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
- (e) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(4) **Communications between cable operator and cable subscribers**

(a) **Notifications to subscribers:**

- (1) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
 - (i) products and services offered;
 - (ii) prices and options for programming services and conditions of subscription to programming and other services;
 - (iii) installation and service maintenance policies;
 - (iv) instructions on how to use the cable service;
 - (v) channel positions of programming carried on the system; and
 - (vi) billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
- (2) Customers will be notified of any changes in rates, programming service or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) day in advance of any significant changes in the other information required by the preceding paragraph.

(b) **Billing:**

- (1) Bills will be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.
- (2) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within thirty (30) days.

(c) Refunds:

Refund checks will be issued promptly, but no later than either -

- (1) in the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or
- (2) within thirty (30) days after return of equipment supplied by the cable operator.

(d) Credits:

Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

Section 18. Preferential or Discriminatory Practices Prohibited.

- (1) Operator shall not, as to rules, regulations, rates, charges, provision of service, or use of facilities and equipment, make, allow, or grant any undue preference or advantage to any person, nor subject any person to prejudice or disadvantage on the basis of age, race, creed, color, sex, national origin, handicap, religious affiliation, or location of residence.
- (2) Operators shall not deny cable service, or the extension of cable service, to any group of potential residential cable subscribers because of the income of the residents or the local area in which such group resides.
- (3) This Section, however, does not prohibit Operator from offering a promotional or incentive discount rate or charge.
- (4) This Section does not prohibit Operator from denying service based on location of residence, if that residence is outside the parameters for line extension as detailed herein.
- (5) This Section does not prohibit Operator from denying service to a subscriber who is delinquent in the payment of any service bill for service over and above their current service level (i.e. ordering additional pay per view when the customer is delinquent).
- (6) This Section does not prohibit Operator from implementing a no-frills service tier for "lower income", and/or fixed income individuals.

- (7) This Section does not prohibit Operator from making agreements or entering into service agreements with multiple dwelling unit owners or commercial establishments (including hotel, motel, apartments, fraternities, sororities, and mobile park owners) to provide service under a bulk billing or other type of arrangement.
- (8) City acknowledges that Operator's current practices, as of the date of this renewal, under its existing franchise are in compliance with this Section and with Section 621 of the Cable Act.

Section 19. Use of Equipment, Return of Equipment, Security Deposits, and their Return.

- (1) Operator may charge an appropriate security deposit provided that it shall comply with any and all applicable State rules concerning the imposition, retention, and return of security deposits and does not exceed the cost of replacement plus recovery.
- (2) Operator may charge an appropriate security deposit in those instances where a customer is re-connected after an involuntary disconnection for non-payment or prior history of unsatisfactory payment.
- (3) Operator shall return a security deposit after the equipment is satisfactorily returned or the subscriber maintains a satisfactory payment history (which is determined as no payment delinquencies within the preceding twelve (12) month period).
- (4) A customer shall totally and fully reimburse Operator for any damage or loss to any of Operator's equipment that is due to the customer's failure to properly maintain and operate such equipment.
- (5) A customer shall be relieved from any responsibility for reimbursing Operator for the repair of equipment which malfunctions or does not operate due to a hidden or latent defect in the equipment, or for equipment which fails to operate, or improperly operates due to natural occurrences conditioned by the normal wear and tear of such equipment, however, customer shall still be obligated to return said equipment to Operator otherwise undamaged.

Section 20. Service Logs.

- (1) Operator shall be required to keep and maintain service logs, subject to any limitations imposed by State or Federal law, including any subscriber privacy limitations.
- (2) The purpose of the service logs is to assist the City in assessing (in the aggregate) the type, degree, and resolution of customer trouble calls and written complaints.
- (3) In addition to any other right of inspection that the City may possess, it shall have the right to review and inspect a compilation of such logs. Provided that Operator shall have no obligation to retain any log for more than three (3) years. However, the City shall not have the right of access, review, or inspection for any service logs or any information contained within service logs that are otherwise protected from access, review, or inspection by State or Federal law.
- (4) This Section does not require Operators to maintain service logs on scheduled installations, upgrades and changes of service.

Section 21. Restoration of a Subscriber's Property.

- (1) At any time Operator disturbs the yard, residence, or other real or personal property of a subscriber, Operator shall ensure that the subscriber's yard, residence, or other personal property is returned, replaced, and/or restored to a condition that is sufficiently comparable to the condition that existed prior to the commencement of the work.
- (2) The costs associated with both the disturbance and the return, replacement, and/or restoration shall be borne by Operator.
- (3) The requirements imposed upon Operator shall extend to any subcontractor or independent contractor that Operator might employ to perform the tasks outlined in this Section.
- (4) Provided, however, Operator has the authority to diligently trim trees of a private property owner (including a subscriber) which overhang or intrude into rights-of-way or easements, but only to the extent necessary to prevent the branches of the trees from coming in contact with Operator's cable television facilities.

Section 22. Service Requests, Complaints, and Response Times.

- (1) Except in times of a natural or man-made emergency, or an appointment scheduled with the mutual consent of a subscriber, or as provided for under "Service Interruptions," Operator shall respond to the service requests and complaints of subscribers within thirty-six (36) hours after the need for service becomes known. Moreover, except in emergency situations, Operator shall inform the customer whether the service call is scheduled for the morning, afternoon, or evening hours. If the service call has to be canceled or rearranged, unless the subscriber decides otherwise, Operator shall make every effort to notify the customer as soon as possible, and to re-schedule the service call. Routine service calls are made in four (4) hour time blocks.
- (2) Operator may rank order service calls in order of severity. Total outages will take precedence over area outages, area outages take precedence over a single home; and a multichannel problem takes precedence over a single channel problem.

Section 23. Operator Required to Maintain Sufficient Repair Parts and Sufficient Repair Personnel.

- (1) Except in times of a natural or man-made emergency, Operator shall at all times, have access to, and be able to secure sufficient maintenance and repair parts and equipment for the system, so that Operator can respond to, and correct, all subscriber service interruptions within the time periods specified in this ordinance.
- (2) Except in times of natural or man-made emergency, including severe weather conditions, or strike, Operator shall have sufficient maintenance and repair personnel, so that Operator can respond to, and correct, subscriber service interruptions within the time periods specified in this ordinance.
- (3) Notwithstanding the other requirements and provisions contained in this Section, Operator shall maintain at least one (1) service technician on call twenty-four (24) hours per day.

Section 24. New Installations; Connections-
-Regular, Promotional, Seasonal,
Short-Term, and Pay-Per-View; Re-Connections.

- (1) During non-rush periods, new standard installations, promotional, short-term, or seasonal connections, re-connections, and upgrades of service by Operator shall be performed and completed within seven (7) days of a customer requesting such. A standard installation is one that is located one hundred twenty-five (125) feet from the existing distribution system. During rush periods new installations, promotional, short-term, or seasonal connections, re-connections, and upgrades of service by Operator shall be performed and completed within fourteen (14) days of a customer requesting such, if cable is built to the home.
- (2) While Operator may charge a customer for installing, connecting, or re-connecting service, such charge must be explained to customers.
- (3) In the case of a promotional or seasonal connection, any limitations, or restrictions should be explained prior to the promotional or seasonal connection.
- (4) Operator may charge an appropriate re-connection charge or require a security deposit, in those instances where a customer is re-connected after an involuntary disconnection for non-payment or a prior history of unsatisfactory payment.

Section 25. Disconnection for Non-Payment.

- (1) Payment is due from a subscriber fifteen (15) days after receipt of the bill. Subscribers shall not be considered delinquent until an additional seven (7) days has elapsed. After twenty-second (22) day from receipt of the bill, the subscriber may be assessed a late fee and shall be considered delinquent.
- (2) Before disconnection of a subscriber's service (either physically or electronically) takes place, the following must occur:
 - a) the subscriber must in fact be delinquent in payment of service; and
 - b) at least five (5) days have elapsed after a separate written notice of impending disconnection has been personally served upon the subscriber; or

- c) at least eight (8) days have elapsed after mailing a separate written notice of impending disconnection to the subscriber; or
 - d) at least five (5) days have elapsed after the subscriber has either signed for, or refused to accept, a separate written notice of impending disconnection.
- (3) The written notice of disconnection must expressly and clearly state the amount that is owed by the subscriber to Operator, the minimum amount required to be paid to avoid disconnection, and the date and place where such payment must be made.
 - (4) Receipt of a dishonored check from a subscriber, in response to a written notice of disconnection, does not constitute payment, and the Operator need not give the subscriber further notice prior to disconnecting service.
 - (5) Operator may add a reasonable collection charge, subject to applicable state regulations to the subscriber's bill.
 - (6) Subscribers may pay their bill by use of credit card payments, automatic bank withdrawals, payment at designated banks, and a series of payment plans available with concurrence of TKR so a delinquent customer may avoid disconnection.

Section 26. Voluntary Disconnections and Downgrades.

- (1) At any time, a subscriber, who does not have a separate contract with the Operator, may request that a particular service tier, pay channel, premium channel, informational service, or the entire service be disconnected.
- (2) A subscriber may request a downgrade from a particular level of service to a less comprehensive level of service or a less expensive level of service.
- (3) From the date that such a subscriber makes such a request for either a disconnection or downgrade, the Operator shall have ten (10) days to disconnect or downgrade the service tier, pay channel, premium channel, informational service, or entire service. In the event that Operator does not disconnect or downgrade service within this period, a subscriber's obligation to pay for such service shall cease, or in the case of a downgrade, a subscriber's obligation to pay for the more comprehensive and/or higher priced service shall cease ten (10) days from the date of the customer request.
- (4) For a service tier, premium channel or informational service which is voluntarily disconnected, a subscriber shall pay a

pro rata share of the monthly rate for such service tier, premium channel or informational service.

- (5) Once a valid connection to a pay-per-view event occurs, then the Operator may collect the full advertised or quoted rate should the customer then attempt to disconnect the pay-per-view event.
- (6) Provided that Operator does not have to make a trip or add additional equipment to the subscriber's location to perform a change in service, no separate disconnect or downgrade charge may be passed onto a subscriber if it chooses to take advantage of a lower-priced or less comprehensive service tier. However, to prevent subscriber abuse of this voluntary disconnection or downgrade policy, a subscriber shall be charged a minimum one (1) month's full rate for any one (1) service tier which is connected and then subsequently disconnected.
- (7) If operator's equipment is, or has been damaged by a subscriber, prior to disconnection, then Operator may charge the subscriber with the entire cost for such damage, provided that Operator notify the subscriber within thirty (30) days of the disconnection. A subscriber shall not be required to pay for equipment failure if the circumstances fall within the normal wear and tear guidelines.
- (8) Any refund due a subscriber after disconnection (both for non-payment and voluntary) shall be made within thirty (30) days after such disconnection.

Section 27. Resolution of Complaints.

- (1) In the event of a subscriber complaint, the complaint will be handled as follows:
 - a) Operator shall have the initial response to a complaint occur no later than one (1) service day after receipt of the complaint;
 - b) every attempt will be made to resolve the complaint within seventy-two (72) hours or three (3) service days, which ever is longer, after receipt of the complaint.

Section 28. Continued Use of Individual Antennas Protected.

No person shall be required to receive cable service or to physically connect to the cable system.

Section 29. Construction of Good Quality.

During any phase of construction, installation, maintenance, and repair of the system, Operator shall use materials of good and durable quality and all such work shall be performed in a safe, thorough, and reliable manner.

Section 30. Conditions on Use of Streets and Public Ways.

- (1) All wires, conduits, cable (coaxial, fiber, or functional equivalent), and other property and facilities of Operator shall be so located, constructed, installed, and maintained so as not to endanger or unnecessarily interfere with usual and customary use, traffic and travel upon the streets, rights-of-way, easements, and public ways of the City.
- (2) In the event Operator's system creates a hazardous or unsafe condition or an unreasonable interference with property, then at its own expense, Operator shall voluntarily, or upon the request of the City, remove that part of the system that creates the hazardous condition from the subject property.
- (3) Operator, at either its own expense or that of a private contractor, shall protect rights-of-way, easements, and support or temporarily disconnect or relocate in the same street or other public way, any property of Operator when necessitated by reason of:
 - (a) traffic conditions;
 - (b) public safety;
 - (c) a street closing;
 - (d) street construction or re-surfacing;
 - (e) change or establishment of street grade; or
 - (f) installation of sewers, drains, water pipes, storm drains, lift stations, force mains, power or signal lines.
- (4) It shall be the responsibility of Operator, upon request, (acting alone or in conjunction with another person) to locate and mark or otherwise visibly indicate and alert others to the location of its underground cable (coaxial, fiber or functional equivalent) before employees, agents, or independent contractors of any entity with a valid permit installs cable in the marked-off area.
- (5) Operator shall, on the request of any person holding a building moving permit, temporarily remove, raise or lower the cable wires to allow the moving of the building. The expense of temporary removal shall be paid by the person requesting

it, and Operator may require payment in advance. Operator shall be given not less than twenty-one (21) days notice of a contemplated move to arrange for temporary wire changes.

Section 31. Construction Standards.

- (1) The methods of construction, installation, maintenance, and repair of the system shall comply and be consistent with good engineering practices for cable television systems of similar size and design.

Section 32. Line Extension Policy.

- (1) Operator shall extend service to any area within the City that has a density of twenty-five (25) home passings per aerial mile of cable, or thirty-five (35) home passings per underground mile of cable, or fractional equivalent thereof, as measured from the extremity of the trunk cable nearest the unserved area. Also, in such a case, a newly installed subscriber shall not be assessed or apportioned the cost for installation, except for the usual and normal connection fees paid by subscribers, so long as the system expansion is technically feasible.
- (2) In areas below twenty-five (25) passings per aerial or thirty-five (35) passings per underground mile, homes may receive residential service if arrangements are made for cost-sharing of construction costs for service to that area. Operator shall use the following cost-sharing formula: Operator shall bear its pro-rata share of the then current cost per mile of plant construction based on a multiple of the actual number of potential residential subscribers per mile, divided by thirty-five (35) dwellings per mile for underground areas or twenty-five (25) dwellings per mile for aerial areas. Mileage will be measured from the nearest point on the nearest trunk line.
- (3) Once the aforementioned density requirements are satisfied, the Operator shall be obligated to provide residential service to qualified areas within one hundred eighty (180) service days of a request. If construction is not completed within said one hundred eighty days (180) due to circumstances not under the control of Operator, Operator will not be in violation of this ordinance.

Section 33. Permits and Licenses.

Operator shall obtain, at its own expense, all permits and licenses required by law, rule, regulation, or ordinance, and maintain the same, in full force and effect, for as long as required.

Section 34. Stand-By Power.

Within three (3) years of the effective date of this Ordinance, Operator shall install automatic, activated stand-by power on its trunk-cable and at its headends, hubs and receive-sites associated with the distribution of cable service to and throughout the City.

Section 35. Emergency Alert/Emergency Override.

Operator shall incorporate into its facilities the capability for an emergency override alert whereby Jefferson County or its designated agents, in times of crisis, may be able to introduce a bulletin on all channels throughout the County.

Section 36. Preventive Maintenance Program.

The following shall be included as part of Operator's preventive maintenance program:

- (a) Periodic inspection, and repair if needed, of the headend;
- (b) Periodic inspection, and repair if needed, of the antenna tower;
- (c) Periodic weather-proofing and protection of the antenna lead connectors, and on any other exposed fittings if needed;
- (d) Periodic conducting of signal leakage tests that are in accord with FCC requirements;
- (e) Periodic servicing, testing, and calibration of equipment including service vehicles, and field test equipment;
- (f) Periodic testing of the Operator's emergency alert system if any; and
- (g) Periodic testing and recording of said test data for all signals (audio and video at the headend and system extremity points;
- (h) Periodic testing as required by Federal law and or regulations; and
- (i) Compliance with all operating parameters required by FCC rules and regulations, as such may be changed or amended from time to time.

Section 37. Extent of Grant of Franchise.

- (1) Operator may construct, erect, install, maintain, operate, repair, replace, remove, or restore a system within the geographical limits of the City.
- (2) The system may be located in, upon, along, across, over, and under the streets, rights-of-way, easements, and public ways of the City.
- (3) The system may be located on City owned poles at no charge.
- (4) Operator, through a separate pole or utility easement agreement with an affected utility, may locate the system on, or within, the property of such utility company.
- (5) By accepting the Franchise and executing this Franchise Agreement, the Franchisee (1) acknowledges and accepts the City's legal right to grant the Franchise, to enter this Franchise Agreement, and to enact and enforce ordinances and regulations related to the Franchise, (2) agrees that it will not oppose intervention by the City in any proceeding affecting the Franchisee's Cable System, (3) accepts and agrees to comply with each provision of this Agreement, and (4) agrees that the Franchise was granted pursuant to processes and procedures consistent with applicable law, and that it will not raise any claim to the contrary.
- (6) The City may liberally amend this Franchise Agreement (1) upon the application of the Franchisee whenever necessary to enable the Franchisee to take advantage of developments in the field of telecommunications which, in the City's opinion, will afford the Franchisee an opportunity to serve its subscribers more efficiently, effectively and economically; (2) as required to reflect any expansion of the scope of this Franchise by mutual agreement or by operation of law.

Section 38. Term of Franchise.

The term of this renewal franchise shall be 15 years from the effective date of this Ordinance. The rights and privileges granted by this Ordinance to Operator are not exclusive and nothing herein is intended to or shall be construed so as to prevent the City from granting other and similar rights, privileges and franchises to any other person, firm, association or corporation, provided, however, that such rights, privileges and franchises are no less favorable than those granted to Operators herein.

Section 39. Franchise Fees.

- (1) Operator shall pay to the City for the privilege and use of the streets, rights-of-way, easements, and public ways, and other facilities of the City in the operation of the system, and for the City's supervision thereof during the term of the franchise, a sum equal to three percent (3%) of the annual gross revenues as such term is defined in this Ordinance.
- (2) The franchise fee shall be paid quarterly on the 31st day of April, July, October, and January of the following calendar year.
- (3) In the event that payment is not made within one hundred eighty (180) days after the date specified in this Section, then Operator may be declared in default of the franchise, and the franchise may be revoked, terminated, or canceled in the manner prescribed by this ordinance.
- (4) The City reserves the right to audit Operator's books at City's expense, if the City deems it necessary. It is specifically understood, that the right of audit and re-computation of any, and all, amounts paid under a franchise fee, shall always be accorded to the City. Provided, however, that the City shall be bound by the results of any audit it performs or causes to be performed, except for instances involving fraud.
- (5) If an audit, or other research discovers that franchise fees have been either underpaid or not paid for a period exceeding six (6) months from the original due date, then the City may seek full recovery of the underpaid, or non-paid fees plus interest not to exceed ten percent (10%) or the maximum allowable under State law (whichever is lesser). The payment of such underpaid amount plus such interest by Operator shall be deemed satisfactory and timely payment by Operator and shall not be deemed a default.
- (6) All annual reports due and pertaining to the payment of franchise fees, will be certified by an officer of the Operator, and Operator shall maintain records used in the preparation of said report, to be produced in their originality and totality upon request or demand by the City.

Section 40. Relief from this Ordinance.

- (1) TKR may file a written petition, at any time, with the City seeking relief from one (1) or more provisions of this ordinance. The relief requested may specifically include the delay in implementation of one (1) or more provisions of this

ordinance. The City will promptly consider the petition and shall act within sixty (60) days of the receipt of the petition.

Section 41. Assignment or Transfer of Franchise.

Operator's franchise may be assigned or transferred in whole, or in part, upon sixty (60) days prior written notification to the city.

Section 42. Default of Franchise; Revocation, Termination or Cancellation of Franchise.

- (1) When any event, act or omission (on the part of the Operator) occurs which represents a substantial violation of an integral provision of this ordinance, or materially compromises the corporate character, or legal, financial or technical integrity and/or stability of the system or the Operator to such a degree that the interests of the subscribers are negatively affected, then such event, act or omission may be considered a major breach of this ordinance. Under such circumstances, the City shall notify the Operator in writing, of the specific breach, and direct Operator to comply with all such provisions of this ordinance.
- (2) Provided, however, where Operator satisfactorily corrects any of the enumerated conditions, within sixty (60) days, then in no event shall the enumerated condition be weighted against Operator in any subsequent review of franchise performance.
- (3) Provided, however, that if the enumerated conditions can not be corrected within sixty (60) days because of circumstances beyond Operator's control, then Operator shall not be deemed in violation of the franchise.
- (4) In all respects, any action for default, revocation, termination or cancellation shall be in accordance with Federal law and City ordinances.

Section 43. Capacity of System.

- (1) TKR commits to upgrade the system to 750 MHz which will provide up to 110 analog channels, or a combination of 380 analog and digital channels, or some other combination to best serve the public.
- (2) Any Cable System within the County shall meet or exceed the technical standards set forth in 47 C.F.C. §76.601.

Section 44. Time Table for Upgrade of Cable Television Distribution System

- (1) Within one (1) full calendar year from the effective date of the franchise renewal, TKR will commence an upgrade of the cable distribution system. The upgrade of the cable television distribution system will proceed from the start date and be substantially completed within four (4) years. The upgrade will be deemed completed when 750 MHz bandwidth capacity is present at a directional tap (or similar device) available to all homes currently served by TKR within the franchise area. The time for completion shall be extended for acts of God, fire, lockout, strike or labor dispute, riot or civil commotion, war, or shortage of adequate materials or labor.

Section 45. Upgrade of Cable Television Distribution System

- (1) The cable television distribution system will be upgraded utilizing fiber optic technology with advanced electronic and passive equipment to provide a downstream pass band of 750 MHz and an upstream pass band of at least 30 MHz.
- (2) The distribution system architecture will be a hybrid fiber optic/coaxial cable broadband network designed in a fiber-to-the-serving-area and modified super-distribution configuration. A master Head-End will provide the source of all signals for the franchise area. the master Head-End may be connected to serving areas directly or provide signal to local hubs which in turn would provide service to local serving areas. Fiber nodes will be deployed locally to increase reliability, improve signal quality, and divide the network into multiple serving areas.
- (3) The Master Head-End and each hub location will utilize utility power for normal operations. A backup generator will be available in case of loss of utility power. Each node will be utility powered and may use battery back-up stand-by power supplies. The node electronics may be powered from the super-distribution/feeder network.
- (4) The system will be designed with the ability to a pass a combination of standard NTSC analog television signals and digital signals on the forward passband. The system will be capable of bi-directional operation.

Section 46. Public, Educational, Governmental,
and Leased Access (PEG).

- (1) Operator shall make available sufficient channel capacity and the necessary electronics to provide:

At least one (1) non-commercial channel for public access for public, educational, religious, cultural, and governmental use for the City, other franchising entities, and other appropriate users of said channel in Jefferson County.

The above requirements do not require separate channels or a specific channel for the City--rather only, sufficient channel capacity to accommodate the minimal hourly requirements for access by the City and all other public, educational, governmental, and leased access users in the entire TKR system in Jefferson County.
- (2) The Operator may review PEG usage every six (6) months, to evaluate the response and actual use of such channel. If, after any six (6) month period, the percentage of use for the required access channel drops below twenty-five percent (25%) of the total time allocated, then the required number of hours shall be reduced to a number that most closely approximates the average hours of use per day. If it is determined that the average hours of use per day for the required access channel is less than four (4) hours, then the requirement for that channel's availability shall cease, and Operator may use such channel for any lawful purpose.
- (3) If, at any time, ninety percent (90%) of the total time allocated for any required access channel is consistently used five (5) days a week for a period of six (6) months, then Operator shall make available an additional access channel.
- (4) Provided, however, that the total number of channels reserved for access by the Operator shall not exceed one (1) channel on the effective date of the Ordinance and three (3) channels thirty-six (36) months after the effective date of this Ordinance. Moreover, the Operator shall not be required to delete any channel(s) carried on Basic cable.
- (5) Only the first showing of any program and only video programming should be counted for the purpose of determining the hours of channel usage.
- (6) Operator will comply with federal regulations requiring the provision of leased access channels.

Section 47. Miscellaneous Provisions--Tampering and Unauthorized Reception of Certain Services.

- (1) No person shall intercept or receive, or assist in intercepting or receiving, any communications service offered over a cable system, unless specifically authorized to do so by Operator, or as may otherwise be specifically authorized by law.
- (2) For the purpose of this Section, the term "assist in intercepting or receiving" shall include the manufacture or distribution of equipment intended by the manufacturer or distributor (as the case may be) for the unauthorized reception of service as noted in subsection (A) of this Section.
- (3) Without securing permission from Operator, or making payment to Operator, then no person shall be authorized to make any connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of the cable system for the purpose of receiving or intercepting, or assisting others to receive or intercept any cable service provided lawfully by Operator.
- (4) No person shall be authorized to willfully tamper with, remove, or damage any cable, wires, equipment, or facilities used for the distribution of cable services.
- (5) TKR shall maintain at least one (1) office in Jefferson County, Kentucky at all times during the term of this franchise.

Section 48. Equal Employment Opportunity.

TKR Cable of Greater Louisville shall comply in all respects with the Federal Communications Commission regulations governing equal employment opportunity. Furthermore, the company shall comply with all other applicable government regulations whether federal, state, or local.

Equal opportunity in employment shall be afforded to all qualified persons, and no person shall be discriminated against because of race, color, religion, national origin, handicap, sex, or age.

Section 49. Nature of Ordinance.

This "Ordinance" is a franchise to TKR and may not be unilaterally amended.

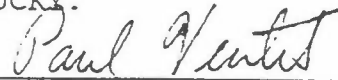
This Franchise Agreement shall be governed in all respects under the laws of the Commonwealth of Kentucky and by applicable Federal law.

Captions: Captions and headings of this Agreement are for convenience and reference purposes only, and shall not affect in anyway the meaning and interpretation of any provision of this Agreement.

Section 50. Effective Date.

This ordinance shall take effect and be in full force from and after October 22, 1996, and publication as provided by law.

PASSED AND APPROVED THIS THE 22nd DAY OF OCTOBER, 1996,
BY THE CITY OF MANOR CREEK, KENTUCKY.



Mayor
PAUL VEATCH

ATTEST:



City Clerk
JOHN M. MAYER, JR.

APPROVED AS TO FORM:



Legal Counsel