

F R A N C H I S E O R D I N A N C E

No. 237

AN ORDINANCE GRANTING A FRANCHISE FOR THE INSTALLMENT, MAINTENANCE AND OPERATION OF TELEVISION AND RADIO SIGNAL CABLE RECEPTION SYSTEM WITHIN THE CITY LIMITS OF THE CITY OF DRAIN, DOUGLAS COUNTY, OREGON, TO ELDON LETSOM, HIS HEIRS AND ASSIGNS, AND PRESCRIBING THE TERMS AND CONDITIONS THEREOF AND THE REGULATIONS TO BE FOLLOWED IN CONNECTION WITH SAID FRANCHISE AND DECLARING AN EMERGENCY.

THE CITY OF DRAIN ORDAINS AS FOLLOWS:

Section 1. That the authority be and the same is hereby given, granted and vested by the Common Council of the City of Drain , Douglas County, Oregon, to DRAIN CABLE & APPLIANCE, INC. , its successors and assigns, hereinafter called "licensee", and the right, privilege and franchise hereby is granted to him to install, maintain and operate a television and radio signal cable reception system within the city limits of the City of Drain , Douglas County, Oregon, upon the terms and conditions hereinafter set out.

Section 2. That licensee shall, at his own expense, furnish, provide and use any and all equipment and supplies necessary for the installation, maintenance and operation of said television cable reception system.

Section 3. That said City of Drain does hereby declare that the issuance of one franchise for the installation, maintenance and operation of a television and radio signal cable reception system for each 5000 inhabitants of said city shall be sufficient for the proper installation, maintenance and operation of a television and radio signal cable reception system, that as a matter of public policy said city does declare that under existing conditions not more than one franchise of this nature shall be granted to any person or persons whomsoever for each 5000 inhabitants of said city upon conditions hereinafter set out. The franchise is not an exclusive one except as above limited.

Section 4. That prior to commencing his operations for the installation, maintenance and operation of the television and radio signal cable reception system, the licensee shall file with the Common Council of the City of Drain a schedule of rates to be charged the inhabitants of said city for both installment and monthly maintenance and operation. The aforesaid rates shall be filed and in effect before the licensee shall have any right or authority to make any charges for said installations, maintenance or operation. Said rates shall be approved by said Common Council. The Common Council shall from time to time and in the interest of the general welfare of the inhabitants of said city, and to meet the varying economic changes and conditions have the right to change or modify said rates to be charged by the licensee, and it shall be unlawful, and the licensee shall have no authority to make any charges for said collection service whatsoever excepting that the same shall be approved by the Common Council. However, the minimum rates shall be as follows: \$19.95 for installment, and \$6.50 per month per outlet to cover maintenance and operation.

(a) The franchise fee shall be 1% of annual gross income, hook-up fees excluded, payable annually within 60 days after end of each calendar year commencing for year 1979.

Section 5. Any and all residents and inhabitants of the City of Drain shall, without discrimination, have the right and privilege of having his television connected to said television and radio signal cable reception system upon condition that such resident or inhabitant pay to said licensee the charges therefor according to the rates approved by the Common Council and any duly authorized changes to such rates as may be hereafter made, provided, however, that in the event the distance between the planned television cables (main lines) as per map attached hereto and the home or residence exceeds 100 feet, then and in that event, licensee shall be entitled to charge an additional 20 cents per foot for any footage in excess of aforesaid 100 feet and less than 200 feet of connecting cable, and in the event the distance exceeds 200 feet, then and in that event, licensee shall be entitled to charge the actual cost of labor and materials used in constructing that portion of line over 200 feet, and may charge the users and each of them their proportionate share of any pole rent fees which licensee must pay on line over 200 feet along with their usual monthly rate. Except any underground trenching and covering expense shall be borne by suscriber.

Section 6. Said City hereby grants to the licensee during the term of this franchise the right and privilege to dig trenches and install the cable equipment within the street right of way in such locations and places authorized and approved by the City, County, or State official having jurisdiction of said right of way. Said City further hereby grants to the licensee during the term of this franchise the right to install the cable equipment across streets which it is necessary for cable to cross by either boring or trenching at the discretion of the City, County or State official having jurisdiction thereof, and in no event shall a street be crossed by trenching without the express written consent of the proper official having jurisdiction of said street. Said City further hereby grants to the licensee during the term of this franchise the right and privilege to maintain booster poles at reasonable intervals along said cable line so long as same are between street curb and sidewalk or in an alley. Whenever licensee shall disturb any of the streets for the aforesaid purposes, licensee shall restore the same to good order and condition as soon as it is practicable and reasonable and fair so to do; the City of Drain shall have the right to fix a reasonable time within which any repairs or restoration as are necessary to said street shall be completed, and upon failure of licensee to make such repairs or restoration within the time allowed, then and in that event, said City of Drain shall be entitled to cause such repairs or restoration to be made and the expense thereof shall be borne by licensee. Licensee covenants and agrees with the City of Drain, that licensee will pay the same promptly upon demand therefor. In the event that licensee's operations interfere with city utility operations, licensee or a duly authorized representative will be present to assist in resolving said interference. Said city further grants licensee in lieu of boring or trenching the right to hang lines on and between all poles within the City and consents to placement of poles between sidewalk and street, subject to P. P. & L., Douglas Electric Coop, and Pacific Tel & Tel. prior franchise and rights. Licensee shall contract with them for use of their poles at licensee's expense.

The licensee shall have the right to go underground or to run the lines in the air as the case may merit, except that no installment or crossing shall be made within the street right of way without the

prior written approval of the party or parties having jurisdiction of and in charge of such right of way. If the party having jurisdiction shall be city, it shall not arbitrarily refuse consent, but must exercise reasonable judgment.

Section 7. It is hereby considered that licensee shall carry liability insurance in the sum of \$100,000-300,000 to protect City from any possibility of liability which might arise out of installation, maintenance and operation of television and radio signal cable reception system.

Section 8. It is hereby considered that the installment, maintenance and operation of said television cable reception system is for the direct benefit of said City and its inhabitants. The annual franchise fee to be paid by licensee and the benefits to be derived by said City and its inhabitants are hereby considered to be the consideration for the granting of this franchise.

Section 9. Licensee's television cable reception system shall provide reception for not less, than five separate television stations including at least one NBC, CBS and ABC stations.

Section 10. This franchise shall not become effective until the licensee shall have in writing filed with the City Recorder, licensee's acceptance of the same and his consent to live up to and comply with all the terms and conditions hereof within a period of 30 days from the effective date of this ordinance.

Section 11. This franchise and rights and privileges hereby granted shall continue and be in force for the period of 15 years expiring January 12, 1991.

Section 12. The licensee shall make monthly collections of fees for maintenance and operation, and shall make collections in manner selected for him for installment of each individual household. The licensee shall have privilege of disconnecting any person's hookup who shall not pay rates prescribed by Common Council in the manner and time provided for. The licensee shall not discriminate against any person, except he may charge lesser fee for indigent, senior or handicapped citizens at its discretion.

Section 13. Nothing in this ordinance shall be construed to limit the right of City to require licensee to pay reasonable costs incurred by City in connection with the issuance of a permit, making an inspection, or performing any other service for or in connection with licensee or its facilities, whether pursuant to this ordinance or any other ordinance or regulation now in effect or hereafter adopted by the city if reasonable.

Section 14. At reasonable intervals, upon reasonable request by City, licensee shall supply a qualified CATV electronic technician who is satisfactory to City to test the performance of licensee's technical facilities.

Section 15. If said licensee shall fail to pay the franchise fee as heretofore provided, or if said licensee shall materially breach provisions of this franchise, and shall fail to correct same after it has received 30 days notice from City to correct same, City at its option may terminate franchise. If the franchise is so terminated, licensee shall have 90 days to remove its equipment and facilities. Material breach means the substantial failure on the part of the licensee to serve the community. The City also reserves

the right to report the licensee to the F.C.C. in the event of an alleged violation of franchise or of federal law governing such an operation.

Section 16. The City approves the rate schedule fee submitted and attached to this ordinance.

Section 17. Present franchise to Eldon Letsom terminates at his request upon the taking effect of this franchise.

Section 18. Emergency. WHEREAS it is in the public interest of the people of the City of Drain that they have the increased benefits of a cable TV system as soon as possible, it is hereby deemed the passage of this ordinance is necessary for the immediate preservation of the peace, health and safety of the City and an emergency is hereby declared to exist and this ordinance shall become immediately operative upon its passage by the Common Council.

PASSED by the Common Council this 8TH day of FEBRUARY, 1977.

APPROVED by the Mayor this 23RD day of FEBRUARY, 1977.

Lucy J. Farley
Mayor

ATTEST: Douglas P. Chvart
City Recorder
CLERK PRO-TEM