

CHAPTER 747

COMMUNITY ANTENNA TELEVISION

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CROSS REFERENCES

Barricades and warning lights - See GEN.OFF. 521.03

Street openings - See S&PS Ch. 901

Sidewalk protection during building operations - See S&PS Ch. 907

Electric utilities - See S&PS Ch. 923

747.01 GRANT OF FRANCHISE RENEWAL

In consideration of the faithful performance and observance of the provisions, conditions and reservations hereinafter specified, a non-exclusive right and franchise is hereby granted to Cox Communications Cleveland Area, Inc., a corporation authorized to conduct business in the State of Ohio under the laws of the State of Ohio, its successors or assigns, (hereinafter referred to as the "Company") to erect, maintain, and operate a communications system for any lawful communications business, and in furtherance thereof to utilize communications transmission and distribution facilities and additions thereto in, under, above, along, across and upon the streets, lanes, avenues, sidewalks, alleys,

easements and other public places in the City of Rocky River and subsequent additions thereto, for the purpose of transmission and distribution of all communications uses in accordance with the laws and regulations of the United States of America and the State of Ohio and the ordinances and regulations of the City of Rocky River for an additional period of ten (10) years throughout the City of Rocky River, said additional period to commence on the date of the expiration of the current franchise.

747.02 DEFINITION

For the purpose of this Agreement, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context words used in the present tense shall include the future, words in the plural number include the singular number and the words in the singular number include the plural number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning, unless defined in the FCC's rules and regulations or by federal law, in which case they shall be given such meaning as appears in such rules and regulations or law.

(a) Wherever used in this Ordinance, the word "cable television system" shall mean a system for transmission of audio signals and/or visual or any other type of closed circuit transmission and/or signal transmission by means of electrical impulses, as further defined in the Cable Communications Policy Act of 1984, 47 U.S.C.A. Sections 521-599 (the "Cable Act").

(b) "Company" or "Grantee" shall mean Cox Communications Cleveland Area, Inc., its permitted assigns and successors.

747.03 SYSTEM EXTENSION

The City acknowledges that the Company has by the date of this Ordinance made cable service available upon request to all present residential dwellings within the City, subject to applicable laws.

The Company agrees to make cable service available upon request to all present and future residential dwellings within the City subject to applicable laws.

747.04 UTILITIES AND SYSTEM CONSTRUCTION

(a) The Company shall make arrangements with the Ohio Bell Telephone Company, the Cleveland Electric Illuminating Company and any other holder of licenses or franchises from the City for the purposes of using the towers, poles and attachments thereto of said companies for the attachment of television transmission and distribution facilities, subject to all existing and future ordinances of the City.

(b) The Company will not erect a separate system of poles in the City or on any street therein, but may erect poles where shown to be necessary when the necessity, the location and the style of poles have been approved by the Service Director or his designee and the Mayor of the City, which approval will not be unreasonably withheld. The erection of the poles shall be subject to all existing and future ordinances and regulations of the City applicable thereto and under the supervision of the Service Director or his designee.

(c) In areas where all other public utilities are placed underground, the Company shall also place its cable underground and such underground installation shall not result in any additional charges to subscribers.

(d) The Company's transmission and distribution system, poles, wires, and appurtenances shall be located, erected, maintained and/or removed so as not to endanger or interfere with the lives or reasonable safety of persons, or to interfere with improvements the City may deem proper to make, or to hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property. Removal of poles or equipment when necessary to avoid such interference will be at the Company's expense.

(e) Construction and maintenance of the transmission and distribution system shall be in accordance with the provisions of the National Electrical Safety Code of the National Board of Fire Underwriters and such applicable ordinances and regulations of the City affecting electrical installations which may be presently in effect, or changed by future ordinance, such applicable City ordinances and regulations to be applied to the Company in a reasonable manner.

(f) All installations of equipment shall be of permanent nature, durable and installed in accordance with good engineering practice, and of sufficient height to comply with all existing City regulations, ordinances and state laws so as not to interfere in any manner with the right of the public or individual property owners, and shall not interfere unduly with the travel and use of public places during construction, repair or removal thereof and shall not unduly obstruct or impede traffic.

(g) In the event that at any time during the period of this franchise the City shall elect to alter or change the grade of any street or other public way or to make any other improvement which the City may deem proper to make, the Company upon reasonable notice by the City shall remove, relay and relocate its poles, wires, cables, conduits and other fixtures at its own expense. The Company shall, on the request of any person holding a building moving permit issued by the City and at that person's expense,

temporarily raise or lower its wires to permit the moving of buildings. In such event, prepayment or a payment bond shall be prerequisite to such work being performed by the Company. The Company shall be given not less than seven (7) days advance notice to arrange for such temporary wire changes.

(h) In the maintenance and operation of its television transmission and distribution system in the City of Rocky River and in the course of any new construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public; the Company at its expense, shall restore all damage to property, both public and private, caused by the construction, maintenance or repair of the cable system; any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be in accordance with the ordinances and regulations governing the making of openings in the streets, sidewalks, public ways or places of the City of Rocky River, Ohio, as established by the Council and Service Department or its designee of said City and which are in effect at that time.

747.05 INDEMNIFICATION AND INSURANCE.

(a) Indemnification. The Company hereby agrees to indemnify, defend and hold harmless the City and its officers, boards, commissions, agents and employees against and from any and all claims, demands, actions, suits, liabilities and judgments of every kind and nature and regardless of the merits of the same, arising out of, occasioned by or related to the exercise or enjoyment of the renewed franchise granted pursuant to this Agreement, including costs of investigations, attorneys' fees and court costs in the defense of any actions.

(b) Insurance. At all times during the term of the franchise, the Company shall obtain, pay all premiums for and file with the City Certificates of Insurance and receipts evidencing the payment of premiums for the following:

(1) A general comprehensive public liability insurance policy indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from any and all claims by any person or persons whatsoever on account of injury to or death of a person or persons occasioned by the operation of the Company under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of Five Hundred Thousand dollars (\$500,000) for personal injury or death of any one person and One Million dollars (\$1,000,000) for personal injury or death of any two or more persons in any one occurrence.

(2) Property damage insurance indemnifying, defending and saving harmless the City, its officers, boards, commissions, agents and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of the Company under the franchise herein granted or alleged to have been so caused or occurred with a minimum liability of Two Hundred Fifty Thousand dollars (\$250,000) for property damage to any one person and Five Hundred Thousand dollars (\$500,000) for property damage to two or more persons in any one occurrence.

(3) One Million Dollars (\$1,000,000) for all other types of liability. Such insurance shall be kept in full force and effect by the Company during the existence of and until after the removal of all poles, wires, cables, underground conduits, manholes and other conductors and fixtures incident to the maintenance and operation of the Company as defined in the Franchise.

(4) The Company shall also carry such insurance as it deems necessary to protect it from all claims under the Worker's Compensation Laws in effect that may be applicable to the Company.

All of the foregoing insurance contracts shall be in the form satisfactory to the City and shall be issued and maintained by companies authorized to do business in the State of Ohio and reasonably acceptable to the City and they shall require thirty (30) days written notice of any cancellation to both the City and the Company, and copies of said policies or certificates of insurance fully evidencing the policies, their provisions and limits of liability shall be filed with the City. In the event of such cancellation, Company agrees to have an alternate policy of insurance in effect at or prior to the termination of such cancelled policy in order that there shall be no lapse in the coverage required by this Section. Notice of such alternate policy shall be given to the City by the new insurance company at the earliest date possible pursuant to the rules of such insurance company.

747.06 PERFORMANCE BOND

At the time this franchise renewal becomes effective, the Company shall continue to furnish a bond to the City in the amount of Twenty-Five Thousand Dollars (\$25,000) in such form and with such sureties as shall be acceptable to the Director of Law of the City, guaranteeing the faithful performance of all the obligations of the Company under the terms of this franchise.

The Company's performance of its obligations under this franchise shall be conditioned upon the Company's receiving such license and/or grants as may be necessary to the performance of this ordinance, from duly constituted agencies of the Federal government or the State of Ohio, which licenses and/or grants the Company either presently holds or agrees to apply for immediately upon its acceptance of this ordinance.

747.07 NON INTERFERENCE

Installation, operation and maintenance shall be such that no interference is caused to existing communications systems and so as not to distort or interfere with direct off-the-air television signals. In the event Company is notified that its system is causing such interference, it shall take all reasonable steps to eliminate such interference.

747.08 FRANCHISE FEE

The Company shall pay to the City for the right, privilege and franchise in connection with the Grantee, an amount equal to three percent (3%) of the Company's gross monthly subscriber service revenues, less unpaid monthly subscriber service charges, but including any annual or periodic prepayment of monthly service charges, for the Company's previous fiscal year.

It shall be the obligation of the Grantee to make provisional quarterly payments to the City based on the quarterly earnings for the next prior quarter and such quarterly payments will be adjusted in accordance with the financial statement required to be made within ninety (90) days of the expiration of each calendar year.

The Company shall file within ninety (90) days following the conclusion of each fiscal year of the Company a certified annual report prepared by an independent Certified Public Accountant acceptable to the City showing the annual total of monthly gross subscriber revenues and payments to the City and further relevant financial information in regard to the Company as may be required by the City.

747.09 SERVICES AND PROGRAMMING

(a) Program Service. All cable television franchisees in the City of Rocky River shall have a minimum of sixty (60) non-text operating channels. The Company shall not reduce the number of video program services offered on the system below sixty (60). If the Company rearranges the tiers in which such services are offered, it shall provide the City with 30 days written notice. The City may during said 30 day period hold an informational public hearing to appraise the public of such rearrangement and the reasons therefor, and the Company shall participate in such a hearing by having a Company representative in attendance.

(b) Leased Channel Service. The Company shall offer leased channel service for commercial use by persons unaffiliated with the Company on reasonable terms and conditions in accordance with applicable federal and state law, including Section 612 of the Cable Communications Policy Act of 1984 (47 U.S.C. Sec. 532).

(c) Community Support. Continuation of the cable "Community Bulletin Board" service for the benefit and education of Rocky River residents.

(d) Availability of Public, Educational and Governmental Access. Upon the following terms and conditions, public, educational and governmental access shall be made available in addition to such access presently available.

(1) At any such time as the City provides one new hour of programming five out of every seven days for a period of six months, with no more than single duplication of any one program during such one hour, then additional access of one hour per day shall be made available to the City.

(2) Additional access shall be made available to the City, under the same terms and conditions stated in (d) (1) above, for each one hour increment of new programming provided by the City for five out of seven days for a six month period.

(3) In the event fewer than five hours per week are provided by the City, standard access procedures shall apply.

747.10 APPLICABILITY OF EXISTING TERMS

All of the terms, conditions and provisions of the Charter of the City of Rocky River as it now exists, relating to franchises and applicable hereto shall be considered a part of this ordinance the same as if such terms, conditions and provisions were fully written herein.

Furthermore, the Company shall at all times comply with all laws and regulations of the State and Federal governments or any administrative agency thereof, including, but not by way of limitation, the Cable Act; and if any state or Federal law or regulation shall require the Company to perform any service or shall prohibit the Company from performing any service in conflict with the terms of this franchise or of any law or regulation of the City, the Company shall promptly notify the City Council of the point of conflict believed to exist between the regulation or law and the laws or regulations of the City or the franchise. Pending issuance of any final order by a court of competent jurisdiction, the company shall be governed by the advice of City Council, so long as such shall not be in conflict with the Cable Act, or other applicable law.

747.11 TECHNICAL STANDARDS

The Company shall operate and maintain the cable system so as to meet, at a minimum, the technical standards and requirements set forth at subpart K of the FCC's rules and regulations as they existed on June 1, 1986 (47 C.F.R. Section 76.601 - 76.619), including, as a mandatory requirement of this Agreement, the standards and guidelines set forth at Section 76.605 of those rules.

747.12 COMPLIANCE WITH APPLICABLE LAWS.

The Company shall establish, construct, operate and maintain the cable system and system facilities in strict compliance with all applicable laws, ordinances, rules and regulations. The Company shall obtain all necessary federal and state government permits, licenses and other required authorizations in connection with such establishment, construction, operation and maintenance of the cable system and system facilities.

747.13 RECEIVERSHIP AND FORECLOSURE: TRANSFER

The rights and privileges herein granted shall not be assignable or transferable without the consent of the City in any bankruptcy proceedings, trusteeship, receivership, or by operation of any law, in any of which events this franchise shall, at the option of the City, terminate forthwith; nor shall said Company sell, lease, assign or otherwise alienate this franchise or any privilege hereunder to an entity not under common control with the Company without the prior approval of Council. Such approval shall not be unreasonably withheld.

747.14 SUBSCRIBER SERVICE

(a) The Company shall maintain a repair department comprised of qualified technicians, service vehicles and equipment to provide prompt and efficient repair of service. The Company shall have a local listed telephone number with a "call waiting" capability, so operated that requests for repairs can be efficiently transmitted and received without undue delay. An answering service shall be used when Cox employees are not available during non business hours. The Company shall respond to any such request on the same day to the extent reasonably possible, but in any event shall offer to respond not later than twenty four (24) hours after receipt of such request unless such response is made impossible by extraordinary and unforeseeable circumstances. The Company shall respond within twelve (12) hours to any area outage.

(b) The Company shall at least annually put a notice message on each subscriber's bill requesting subscriber comments on the manner in which Company is satisfying subscriber needs. Such notice shall include a phone number and address to which such comments may be directed.

747.15 SYSTEM FEATURES

(a) Channel capacity. The Company shall maintain a system channel capacity at least equal to that existing on the date of this ordinance.

(b) Standby Power. The Company shall provide standby power generating capacity at the cable system headend sufficient to operate the cable system headend for at least twelve (12) consecutive hours.

(c) Emergency Alert Capability. The Company shall provide an emergency audio override capability for use in the event of any emergency or vital public information situation, which can be operated through the County Disaster Services Agency and which shall be accessible by telephone. Activation of this emergency override capability shall give the authorized Agency control of all channels simultaneously for a limited period of time sufficient for the purpose of transmitting audio instructions to viewers to turn to the designated channel for detailed information as to the emergency.

(d) Parental Control Equipment. The Company shall provide subscribers, upon request and at nominal cost, with a parental control locking device that permits a subscriber to inhibit the video and, if feasible, the audio portions of a particular program service or services.

747.16 TERMINATION OF SUBSCRIBER SERVICE.

Upon termination of service to any subscriber, the Company shall have the right, pursuant to and consistent with federal law, to remove its equipment and facilities from the premises.

747.17 INSTITUTIONAL SERVICE

(a) Buildings Served. The Company shall provide free of any installation or monthly service charge, basic cable service to each of the municipal, educational and public safety facilities designated in writing by the Mayor, at a cable drop location mutually agreeable to the Mayor and the Company. The Company shall agree to relocate any such drop to another location in the same building provided that the building allows a reasonably accessible path if requested by the Mayor. If requested in writing by the Mayor, the Company shall provide additional drops or internal building cabling on a time and materials cost basis with the Company to submit invoices for proof of cost, but in no event will there be a monthly service charge for such service except for such service provided to a housing facility or, in the case of a hospital, to hospital rooms in which a rental fee is charged to a patient for television service.

747.18 CONSUMER INFORMATION.

The Company shall furnish each subscriber, at the time service is installed, with information regarding the address and phone number for making inquiries, requests for repairs or other service or assistance or complaints (as described below). In addition, the Company shall provide a privacy notice to each subscriber at the time of installation and at least once per year thereafter, as required by Section 551 of the Cable Act.

The Company shall also provide to each prospective subscriber who requests installation, information, including terms and conditions of eligibility, regarding the Guaranteed Installation Program, or any other similar program Cox may have in effect at that time.

747.19 SUBSCRIBER COMPLAINTS.

Upon receipt of a written complaint the Mayor or his designee shall promptly forward it to the Company. Within five (5) days of receipt of the complaint by the Company, the Company shall satisfy the complaint of the subscriber and so notify the Mayor or his designee of the action taken, or of its refusal or inability to do so. If the complaint is not satisfied, or if the Mayor or his designee is not satisfied with the action taken by the Company, he shall so notify the Company and proceed to negotiate a resolution of the complaint. If the Mayor or his designee and the Company are unable to resolve the complaint to the satisfaction of the subscriber within thirty (30) days, he shall notify the subscriber of their right to and the procedures for appeal to Council.

An appeal by the subscriber to Council must be filed in writing with the Clerk of Council within thirty (30) days from the date of receipt by the subscriber of the Mayor's notice of right of appeal. Upon such procedures and hearings as shall be determined by Council, the Council shall issue its determination of the complaint within sixty (60) days.

747.20 REVIEW OF PERFORMANCE.

Within ninety (90) days after the first anniversary date of the effective date of this Agreement, and each year thereafter throughout the term of this Agreement, the Mayor or his delegate may meet with the Company to review the performance and quality of service provided by the Company under this Agreement. Should the Mayor or his delegate wish to meet with the Company to review the performance and quality of service being provided by the Company, the Mayor or his delegate shall provide the Company thirty (30) days notice and an agenda of the topics to be discussed at such meeting. Within thirty (30) days after the conclusion of any such performance review, the Mayor or his delegate may issue

a report with respect to the adequacy of the system performance and the quality of service. If any inadequacy is found, the Mayor or his delegate may direct the Company to correct the inadequacy within a reasonable period of time, giving consideration to relevant legal, technical and economic factors.

747.21 CITY INQUIRY

Any inquiry, proceeding, investigation or other action to be taken or proposed to be taken by the City Council in regard to the operations of Grantee's cable television system other than one described in Section 20 or 23 hereto, shall be taken only after thirty (30) days public notice of such action or proposed action is served directly on the Grantee and the Grantee has been given an opportunity to respond in writing and/or at a hearing as may be specified by the City Council, and general members of the public have been given an opportunity to respond or comment in writing on the action or proposed action.

The public notice required by this Section shall state clearly the action or proposed action to be taken, the time provided for response and the person or persons in authority to whom such responses should be addressed, and such other procedures as may be specified by the City Council. If a hearing is to be held, the public notice shall give the date and time of such hearing, whether public participation will be allowed and the procedures by which such participation may be obtained. The Company is a necessary party to any hearing conducted in regard to its operations.

747.22 RATES AND CHARGES.

(a) Senior Citizen Discount. From and after the first complete month following passage of this renewal ordinance, Company shall allow a Senior Citizen Discount of fifteen percent (15%) off the Expanded Basic Service rates for those senior citizens in the City of Rocky River who qualify for the homestead exemption or live at city designated senior citizens' housing complexes.

(b) Public Hearing For Rate Increase. In the event that the Company determines to increase subscriber rates, the Company shall give the Council thirty (30) days notice thereof. Such notice will be in writing to the Clerk of Council. The Company shall, if the City so requests, participate in an informational public hearing for the purpose of describing such rate increase and the reasons therefor. This paragraph shall not be construed to impose any form of rate regulation on the Company.

(c) The Company shall not discriminate among customers of its services for Basic cable service. The Company may offer senior citizen and bulk rate discounts.

747.23 BREACH OF FRANCHISE

The City reserves the right to cancel, in the manner hereinafter set forth, the franchise granted hereunder upon the breach of any of the material terms and conditions with the Agreement. Upon any breach thereof, the City shall give the Company written notice of its intention to cancel said franchise setting forth the specific acts which are allegedly in violation of the terms of this Agreement. Said notice shall be given by certified mail addressed to the Company's local business office. In the event the Company fails to correct said breach or comply with the terms and conditions of this Agreement within seventy-five (75) days after receipt of said notice, unless a delay is caused by circumstances beyond the reasonable control of the Company, the City after a public hearing affording the Company due process shall have the right to cancel this franchise.

747.24 SEVERABILITY.

All terms and conditions of this Agreement are subject to the rules and regulations of the FCC and all applicable state and federal laws. If any provision of this Agreement is held by any court or federal or state agency of competent jurisdiction to be invalid as conflicting with any federal or state law, rules or regulation now or hereafter in effect, or if held by any such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, said provision shall be considered a separate, distinct and independent part of this Agreement, and such holding shall not affect the validity and enforceability of any other provisions hereof. Notwithstanding the foregoing, if any part of this Agreement is declared or found to be invalid by the FCC or any court or agency of competent jurisdiction, such part may, at the option of either party, be renegotiated.

747.25 MISCELLANEOUS PROVISIONS.

(a) Amendment or Modification. This Agreement shall not be amended or modified except by written agreement executed in the same manner as this Agreement.

(b) Notices. Notices required to be sent to the City under this Agreement shall be in writing and shall be delivered by hand, or shall be sent by certified mail, return receipt requested, to the City of Rocky River, 21012 Hilliard Blvd., Rocky River, Ohio 44116, Attn: Clerk of Council, or such other address as may be designated by the City in writing. Notices required to be sent to the Company shall be in writing and shall be delivered or sent by certified mail, return receipt requested to the Company at 12221 Plaza Drive, Parma, Ohio 44130, Attn: General Manager, or such other address as may be designated by the Company in writing.

(c) Governing Law. The terms of this Agreement shall be construed in accordance with the laws of the State of Ohio.

(d) Binding Effect. Subject to other provisions contained herein, this Agreement shall be binding upon and shall inure to the benefit of the successors in interest and assigns of the respective parties hereto.

(e) Inspection and Records.

(1) The City shall have the right, upon reasonable notice to the Company and at reasonable times for the purpose of verifying compliance with this Agreement, to inspect all or any part of the Company's records as well as all books, records, maps, plans, financial statements, service complaint logs, performance test results and documents of every kind in connection with the Grant, the cable system, the system facilities, and the Company's undertakings with respect to this Agreement which relate to the operation of the cable system in the City. If any such books, records, maps, financial statements, service complaint logs, performance test results, or other like material of the Company are not kept in the Company's local office, said records shall upon reasonable request be made available to the City. The City shall take such reasonable steps as necessary to limit disruption of the Company's business.

(2) The Company shall at all times maintain:

(i) A record of all complaints received and interruptions or degradation of service experienced for the preceding one (1) year.

(ii) A full and complete set of plans, records and "as built" maps showing the exact location of all cable system equipment installed or in use in the Company's service area, exclusive of subscriber service drops.

(3) The Company need not take any action under this section that would render it in violation of Section 551 (Protection of Subscriber Privacy) of the Cable Act.

747.26 ACCEPTANCE OF FRANCHISE RENEWAL.

Within fifteen (15) days from the date of passage of this ordinance without amendment, the Company shall file with the Clerk of Council its written acceptance thereof, thereupon this ordinance shall be a binding contract between the City and the Company.

747.27 ACTIONS OF COUNCIL.

It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

The franchise covered by this ordinance shall take effect and be in force from and after January 1, 1999.

747.28 CAPTIONS.

The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference. Such captions shall not affect the meaning or interpretation of this ordinance.

747.29 TERMINATION OF FRANCHISE.

(a) Upon normal termination date (including renewals) of this franchise, or if the franchise is forfeited or abandoned for any other reason prior to the normal termination thereof, the Company may not sell or transfer its facilities, equipment and installations as then existing to any entity without approval of Council. Such approval may not be unreasonably withheld.

(b) No purchaser or transferee from the Company of Company's facilities, equipment and installations, or any assignee of Company's franchise, shall acquire any rights or authorization to operate a cable television system in the City except as it may be separately granted to it by the City. Such a grant by the City shall not be unreasonably withheld. It shall be prima facie evidence of entitlement to such a grant to such a purchaser or transferee or assignee if such entity agrees to abide by all of the terms and conditions of the franchise agreement then existing and it is determined by Council that such purchaser or transferee or assignee has the financial, technical, and legal abilities to conform to the terms and conditions of the franchise agreement then existing.

(c) Upon the normal termination date (including renewals) of this franchise, or if this franchise is non-renewed at its termination date, or if this franchise is terminated for cause prior to its normal termination date, then the sale of said cable system to another person shall be (1) in the case of non-renewal, at fair market value, determined to be on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, and (2) in the case of termination for cause, at an equitable price.

747.30 WAIVER

Nothing in this ordinance shall be construed or be deemed a waiver of or an amendment to the rights of the City or the Company under the Cable Act of 1984 as the same has been amended from time to time.

(Ord. 171-96. Passed 10-28-96.)

747.31 STUDIO AND TECHNICAL ASSISTANCE REQUIREMENT.

The Company shall make a studio available to the City, its residents, the Rocky River schools and the Rocky River Public Library. "Studio" shall mean a facility that contains at minimum three (3) studio quality cameras on movable tripods, separate suites for audio editing and video editing, digital editing capabilities, control room, an enclosed sound-proof room for video taping at least 15' (fifteen) by 30' (thirty) in size, open to City residents, the schools and the library, with technical assistance, including capabilities for professional assistance in writing, producing and directing, available during normal hours of operation and operated and staffed at no cost to the City, its residents, the schools or the library. The City requires that the past performance of the Company be continued under this studio and technical assistance requirement provision.

(Ord. No. 33-98. Passed 3/9/98.)

747.32 INSTITUTIONAL NETWORK.

The Company shall construct and maintain an Institutional Network in the City of Rocky River. The "Institutional Network" will be a cable line separate from the existing cable system, and shall be installed and maintained at the sole expense of Cox Communications Cleveland Area, Inc. The City of Rocky River, the Rocky River School District and the Rocky River Public Library will be permitted to use this Institutional Network, for school, library, and/or city uses, in any way they want; and an additional separate line will be constructed to connect the City Hall and the City Service Garage/Wastewater Treatment Plant; there will be no restrictions whatsoever on such school and/or city use. The schools will have video, audio, data, and telephony available over the Institutional Network. The Institutional Network will be fully operational up to the communication point within each school as designated by the School Administration. This will allow the schools to input video, audio, data and telephony into the Network. Any other locations in the City may be added to this Network as agreed to by Cox Communications Cleveland Area, Inc.

(Ord. No. 93-98. Passed 6/22/98.)

747.33 HIGH SPEED MODEM AND INTERNET ACCESS.

(a) "High Speed Modem" shall mean, at minimum, a cable modem or whichever telephony device, such as an ISDN modem or a DSL modem, is currently offered on the market and capable of accessing the Internet.

(b) Cox Communications Cleveland Area, Inc. shall make free high speed modems and free Internet access available to each school, public and parochial, in the Rocky River School District and to the Rocky River Public Library as soon as

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the devices are available for offering by Cox Communications Cleveland Area, Inc. to the public in Rocky River.

747.34 UNFAIR COMPETITION CONDITION.

The amendments contained in Sections 747.31 through 747.33 are conditioned upon no unfair competition for the construction, operation and maintenance of any cable television system in the City of Rocky River. "Unfair competition" as used in this Section shall be defined as any City authorization for the construction, operation and maintenance of any cable television system containing less burdensome terms than those contained in this entire Chapter 747. The City shall have the right to determine that any additional proposal for a cable television system will have substantially equivalent current cash value of services provided to the community as set forth in the provisions of Chapter 747. This provision is not meant to restrict any competition in the cable television area of the City of Rocky River but is meant to assure that current communication benefits and services continue for the City, the schools and the library.
(Ord. No. 36-98. Passed 3/9/98.)