5/11/93

ORDINANCE NO. 660 N.S.

AN ORDINANCE OF THE CITY OF PASO ROBLES GOVERNING CABLE TELEVISION FRANCHISES HEREINAFTER GRANTED BY THE CITY OF PASO ROBLES.

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ORDINANCE NO. 660 N.S.

THE CITY COUNCIL OF THE CITY OF PASO ROBLES DOES ORDAIN AS FOLLOWS:

The following Chapter is added to the City of Paso Robles Municipal Code:

CHAPTER CABLE TELEVISION FRANCHISES

Section 1.1 Intent

A. The City of Paso Robles, pursuant to applicable Federal and State law, is authorized to grant one or more non-exclusive franchises to construct, operate, maintain and reconstruct cable television systems within the City limits.

B. The City Council finds that the development of cable television and communications systems has the potential of having great benefit and impact upon the residents of Paso Robles. Because of the complex and rapidly changing technology associated with cable television, the City Council further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or such persons as the City may designate. It is the intent of this Chapter and subsequent amendments to provide for and specify the means to attain the best possible cable television service to the public and any franchises issued pursuant to this Chapter shall be deemed to include this as an integral finding thereof.

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Section 1.2 Definitions

For the purposes of this Chapter, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. Words not defined shall be given their common and ordinary meaning.

A. "Basic Cable Service" means any service tier which includes the retransmission of local television broadcast signals.

B. "Cable Television System" or "System", also referred to as "Cable Communications System" or "Cable System", means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment, that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

(1) A facility that serves only to transmit television signals of one (1) or more television broadcast stations;

(2) A facility that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility uses any public rights-of-way;

(3) A facility of a common carrier, except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or

(4) Any facilities of any electric utility used solely for operating its electric utility system.

C. "Cable Service" means the total of the following:

(1) The one-way transmission to subscribers of video programming or other programming service; and

(2) Subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

D. "Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a cable system which is capable of delivering a television channel as defined by the Federal Communications Commission.

E. "Council" means the City Council of the City of Paso Robles.

F. "Franchise" means an initial authorization, or renewal thereof, issued by the Council, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system.

G. "Franchise Agreement" means a franchise grant ordinance or a contractual agreement, containing the specific provisions of the franchise granted, including references, specifications, requirements and other related matters.

H. "Franchise Fee" means any tax, fee or assessment of any kind imposed by the City on a Grantee as compensation for the Grantee's use of the public rights-of-way. The term "franchise fee" does not include:

(1) Any tax, fee or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminatory against cable operators or cable subscribers);

(2) Capital costs which are required by the franchise to be incurred by Grantee for public, educational, or governmental access facilities;

(3) Requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

(4) Any fee imposed under Title 17, United States Code.

I. "Grantee" means any "person" receiving a franchise pursuant to this Chapter and under the granting franchise ordinance or agreement, and its lawful successor, transferee or assignee.

J. "Grantor" or "City" means the City of Paso Robles as represented by the Council or any delegate acting within the scope of its jurisdiction.

K. "Gross Annual Receipts" means the annual gross receipts received by a Grantee from all sources of operations of the Cable Television System within the City utilizing the public streets and rights-of-way for which a franchise is required in order to deliver such cable service, excluding refundable deposits, rebates or credits, except that any sales, excise or other taxes or charges collected

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for direct payment or pass-through to local, State or Federal government, other than the franchise fee, shall not be included.

L. "Initial Service Area" means the area of the City which will receive service initially, as set forth in any Franchise Agreement.

M. "Installation" means the connection of the system to subscribers' terminals, and the initiation of service.

N. "Person" means an individual, partnership, association, joint stock company, trust, corporation or governmental entity.

O. "Public, Educational or Government Access Facilities" or "PEG Access Facilities" means the total of the following:

(1) Channel capacity designated for noncommercial public, educational, or government use; and

(2) Facilities and equipment for the use of such channel capacity.

P. "Section" means any section, subsection or provision of this Chapter.

Q. "Service Area" or "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted, unless otherwise specified in the franchise granting ordinance or agreement.

R. "Service Tier" means a category of cable service or other services provided by a Grantee and for which a separate rate is charged by the Grantee.

S. "State" means the State of California.

T. "Street" means each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the City limits: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way and similar public property and areas that the Grantor shall permit to be included within the definition of street from time to time.

U. "Subscriber" means any person who or which elects to subscribe to, for any purpose, a service provided by the Grantee by means of or in connection with the cable system, and who pays the charges therefor.

Section 1.3 Franchise to Install and Operate

A franchise granted by the City under the provisions of this Chapter shall encompass the following purposes:

A. To authorize Grantee to engage in the business of providing cable television service, and such other services as may be permitted by law, which Grantee chooses to provide, to subscribers within the designated service area.

B. To authorize Grantee to erect, install, construct, repair, rebuild, reconstruct, replace, maintain, and retain, cable lines, related electronic equipment, supporting structures, appurtenances, and other property in connection with the operation of the cable system in, on, over, under, upon, along and across streets or other public places within the designated service area.

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C. To authorize Grantee to maintain and operate its properties for the origination, reception, transmission, amplification, and distribution of television and radio signals and for the delivery of cable services, and such other services as may be permitted by law.

D. To set forth the respective obligations of a Grantee and the City under the franchise.

Section 1.4 Franchise Required

It shall be unlawful for any person to construct, install or operate a cable television system in the City within any public street without a properly granted franchise awarded pursuant to the provisions of this Chapter.

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Section 1.5 Term of the Franchise

A. A franchise granted hereunder shall be for a term established in the franchise agreement, commencing on the date established in the franchise agreement.

B. A franchise granted hereunder may be renewed upon application by the Grantee pursuant to the provisions of applicable State and Federal law and of this Chapter.

Section 1.6 Franchise Territory

Any franchise shall be valid within all the territorial limits of the City, and within any area added to the City during the term of the franchise, unless otherwise specified in this Chapter or the franchise agreement.

Section 1.7 Federal or State Jurisdiction

This Chapter shall be construed in a manner consistent with all applicable Federal and State laws, and shall apply to all franchises granted or renewed after the effective date of this Chapter to the extent permitted by applicable law.

Section 1.8 Franchise Non-Transferable

A. Grantee shall not sell, transfer, lease, assign, sublet or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation or otherwise, the franchise or any of the rights or privileges therein granted, without the prior consent of the Council and then only upon such terms and conditions as may be reasonably prescribed by the Council, which consent shall not be unreasonably denied or delayed. Any attempt to sell, transfer, lease, assign or otherwise dispose of the franchise without the consent of the Council shall be null and void. The granting of a security interest in any Grantee assets, or any mortgage or other hypothecation, shall not be considered a transfer for the purposes of this section.

B. The requirements of Subsection A. shall apply to any change in control of Grantee. The word "control" as used herein is not limited to major stockholders or partnership interests, but includes actual working control in

whatever manner exercised. In the event that Grantee is a corporation, prior authorization of the Council shall be required where ownership or control of more than ten percent (10%) of the voting stock of Grantee is acquired by a person or group of persons acting in concert, none of whom own or control the voting stock of the Grantee as of the effective date of the franchise, singularly or collectively.

C. Grantee shall notify Grantor in writing of any foreclosure or any other judicial sale of all or a substantial part of the franchise property of the Grantee or upon the termination of any lease or interest covering all or a substantial part of said franchise property. Such notification shall be considered by Grantor as notice that a change in control of ownership of the franchise has taken place and the provisions under this Section governing the consent of Grantor to such change in control of ownership shall apply.

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D. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, Grantor may inquire into the qualifications of the prospective transferee or controlling party, and Grantee shall assist Grantor in such inquiry. In seeking Grantor's consent to any change of ownership or control, Grantee shall have the responsibility of insuring that the transferee completes an application in form and substance reasonably satisfactory to Grantor, which application shall include the information required under Subsections A. through G. of Section 1.13 of this Chapter. An application shall be submitted to Grantor not less than sixty (60) days prior to the date of transfer. In addition to the information included in the application, Grantor also may require from the proposed transferee such additional information as Grantor may reasonably deem to be applicable. The transferee shall be required to establish that it possesses the qualifications and financial and technical capability to operate and maintain the system and comply with all franchise requirements for the remainder of the term of the franchise. If the legal, financial, character, and technical qualifications of the applicant are satisfactory, the Grantor shall consent to the transfer of the franchise. The consent of the Grantor to such transfer shall not be unreasonably denied or delayed.

E. Any financial institution having a pledge of the Grantee or its assets for the advancement of money for the construction and/or operation of the franchise shall have the right to notify the Grantor that it or its designee satisfactory to the Grantor shall take control of and operate the cable television system, in the event of a Grantee default of its financial obligations. Further, said financial institution shall also submit a plan for such operation within thirty (30) days of assuming such control that will insure continued service and compliance with all franchise requirements during the term the financial institution exercises control over the system. The financial institution shall not exercise control over the system for a period exceeding one (1) year unless extended by the Grantor in its discretion and during said period of time it shall have the right to petition the Grantor to transfer the franchise to another Grantee.

F. Upon transfer, Grantee shall reimburse Grantor for Grantor's reasonable processing and review expenses in connection with a transfer of the franchise or of control of the franchise, including without limitation, costs of administrative review, financial, legal and technical evaluation of the proposed transferee, consultants (including technical and legal experts and all costs incurred by such experts), notice and publication costs and document preparation expenses, not to exceed any maximum that may be specified in the franchise agreement. Any such reimbursement shall not be charged against any franchise fee due to Grantor during the term of the franchise.

ORDINANCE NO. 654 N.S.
AN ORDINANCE OF THE CITY OF EL PASO DE ROBLES AMENDING THE MUNICIPAL CODE REGARDING PUSHCARTS
(CODE AMENDMENT 92012)

WHEREAS, The existing Municipal Code does not provide regulations and development standards for Pushcarts; and

WHEREAS, Pushcarts have the potential to contribute toward the economic vitality of a community by offering color, variety, and convenience to the consumer, complementing the operation of businesses that are in storefront locations; and

WHEREAS, The City has initiated an amendment to the Municipal Code to provide for and regulate Pushcarts in a manner that will protect the public safety and enhance community appearance; and

WHEREAS, public hearings were conducted by the Planning Commission on January 11 and 25, 1993 and by the City Council on February 16, March 2, and April 6, 1993, to consider facts as presented in the staff report and to accept public testimony regarding this proposed code amendment; and

WHEREAS, the proposed Code Amendment has been determined to be Categorically Exempt under the California Environmental Quality Act; and

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of El Paso de Robles, California, that Title II be amended to add Chapter 11.25 of the Municipal Code in the manner contained in the attached "Exhibit A".

PASSED AND ADOPTED, This 20th day of April, 1993, by the following roll call vote:

AYES: Heggarty, Macklin, Martin, Picanco, Iversen

NOES: None

ABSENT: None

MAYOR CHRISTIAN E. IVERSEN

ATTEST:

RICHARD J. RAMIREZ, CITY CLERK

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otherwise make available to any party for any purpose other than the operation or transfer of the cable system without consent of the subscriber pursuant to State and Federal privacy laws:

(1) Any list of the names and addresses of subscribers containing the names and addresses of subscribers who request in writing to be removed from such list; and

(2) Any list which identifies the viewing habits of individual subscribers. This does not prohibit the Grantee from providing composite ratings of subscriber viewing to any party.

Section 1.43 Separability

If any provision of this Ordinance is held by any court or by any Federal or State agency of competent jurisdiction, to be invalid as conflicting with any Federal or State law, rule or regulation now or hereafter in effect, or is held by such court or agency to be modified in any way in order to conform to the requirements of any such law, rule or regulation, such provision shall be considered a separate, distinct, and independent part of this Chapter, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed, so that the provision thereof which had been held invalid or modified is no longer in conflict with such law, rule or regulation, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantor and Grantee, provided that Grantor shall give Grantee thirty (30) days' written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for Grantee to comply with such provision.

PASSED, APPROVED, AND ADOPTED THIS 3rd DAY OF August, 1993 by the following roll call vote:

AYES:	Heggarty, Macklin, and Martin
NOES:	Picanco, and Iversen
ABSENT:	None
ABSTAIN:	None

Christian E. Iversen, Mayor

ATTEST:

Richard J. Ramirez, City Clerk

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PROOF OF PUBLICATION

STATE OF CALIFORNIA,
County of San Luis Obispo } SS.

I am a citizen of the United States and a resident of the Count aforesaid; I am over the age of eighteen years, and not a party to or interested in the above entitled matter. I am the principal clerk of the printer of the Paso Robles Country News, a newspaper of general circulation, printed and published weekly on Wednesday in Paso Robles, Calif., County of San Luis Obispo, and which newspaper has been adjudged a newspaper of general circulation by Decree entered in the Superior Court of San Luis Obispo County, State of California, on March 11, 1982, Case No. 56022, under the provisions of Chapter 1, Division 7, Title 1 of the Government Code of the State of California, that the notice of which the annexed is a printed copy (set in type no smaller than nonpareil), has been published in each regular and entire issue of said newspaper and not in any supplement thereof on the following days, to wit:

DATES RUN: 10-20-93

all in the year 19 93

I certify (or declare) under penalty of perjury that the foregoing is true and correct

Dated at PASO ROBLES, CA

California, this 20 day of AUG, 19 93

Signature KEITH BERWICK

Proof of Publication of
CITY OF PASO ROBLES - ORDINANCE #660 N.S.

LG# 4728

ORDINANCE NO. 660 N.S.
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CHAPTER CABLE TELEVISION FRANCHISES

Section 1.1 Intent

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