

PROPOSED AMENDMENT TO
CABLE REGULATORY COMMISSION ORDINANCE

In Section 3.115.010(4), after "a" insert "franchised".

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151322

PROPOSED AMENDMENTS TO CABLE ORDINANCES

Cable Regulatory Commission Ordinance

In Section 3.115.140(1), delete lines 1-4 and insert "3.115.140 Community Cable Corporation. (1) Each City Council Member, subject to confirmation by the Council, shall appoint two directors of the Corporation. In addition, the Commissioner in charge of the Office of Cable Communications, subject to confirmation by the Council, shall appoint the three non-voting directors of the Corporation. In appointing directors, the Council Members shall give consideration to representation on the board of directors of the fields of arts, education, public access, government, and community information; and of racial and ethnic minorities, non-English speaking people, women, and low-income people. The Commission shall monitor,".

Community Cable Corporation Ordinance

In Section 1, part 3, delete line 1 and insert "3. The City Council Members".

In Section 1, part a, delete lines 4 and 5 and insert "appointed by the City Council Members and the Council confirming the appointments."

Articles of Incorporation:

In Article IV, line 2, delete "eleven" and insert "ten".

In Article VIII, delete lines 2 and 3 and insert "persons who file with the corporation an". Also, delete lines 16-21 and insert "City of Portland Council Member or successor who appointed the Director whose position becomes vacant, subject to confirmation by the City Council, shall fill any vacancy on the Board. Except for elected Directors, the Council Member or successor who appointed a Director may remove the Director for cause at any time, subject to approval by the City Council."

Bylaws:

In Article II, Section 1, delete lines 1-16 and insert "Section 1. The Board of Directors shall consist of eighteen (18) Directors. Each City of Portland Council Member shall appoint two (2) Directors, and the Commissioner in charge of the Office of Cable Communications also shall appoint three (3) non-voting Directors, all subject to confirmation by the City Council. One non-voting Director shall be a member of the Portland Cable Communications Regulatory Commission (Commission); and two non-voting Directors shall be representatives of cable communications system operators. In the appointment of Directors, Council Members should give consideration to representation on the Board of the fields of arts, education, public access, government, and community information; and of racial and ethnic minorities, non-English speaking people,

women, and low-income people. In addition, there shall be five (5) elected Directors, each".

In Article II, Section 2, delete line 13 and insert "Council Member or successor who appointed the Director whose position becomes vacant,". Also, delete lines 16-18 and insert "Council Member or successor who appointed a Director may remove the Director for cause at any time, subject to approval by the City Council."

ORDINANCE NO. 151338

An Ordinance amending Title 3, Administration, of the Code of the City of Portland, Oregon by adding a new chapter 3.115, Cable Communications Regulatory Commission; amending Section 3.114.010; and declaring an emergency.

The City of Portland ordains:

Section 1. The Council finds:

- (1) It is desirable to create a cable communications regulatory commission to exercise the continuing regulatory powers of the City over cable communications franchise grantees.
- (2) It is desirable that the Office of Cable Communications provide staff support for the commission.

NOW, THEREFORE, the Council directs:

- a. That Title 3, Administration, of the Code of the City of Portland, Oregon, is amended by the addition of a new chapter 3.115, Cable Communications Regulatory Commission, to be numbered and titled and to read as follows:

Chapter 3.115 Cable Communications Regulatory Commission

- 3.115.010 Definitions
- 3.115.020 Commission Created
- 3.115.030 General Power and Duties
- 3.115.040 Monitoring
- 3.115.050 Reviewing Reports
- 3.115.060 Interconnection
- 3.115.070 Complaints
- 3.115.080 Evaluations
- 3.115.090 Rate Regulation
- 3.115.100 Promotion
- 3.115.110 Council Action
- 3.115.120 Appeal
- 3.115.130 Franchises
- 3.115.140 Community Cable Corporation
- 3.115.150 Annual Report

3.115.010 Definitions. Unless the context indicates otherwise, words used in this Chapter shall have the following meanings:

- (1) "Commission" means the Portland Cable Communications Regulatory Commission.

- (2) "Franchise" means a cable communications system franchise.
- (3) "Grantee" means the grantee of a cable communications system franchise within the City of Portland.
- (4) "System" means a franchised cable communications system.
- (5) "Corporation" means the Community Cable Corporation.

3.115.020 Commission Created. There hereby is created the Portland Cable Communications Regulatory Commission. The Commission shall consist of seven members, including a Chairman, appointed by the Commissioner in charge of the Office of Cable Communications and confirmed by the Council. Appointments shall be for terms of four years except that three of the initial appointments shall be for terms of two years. The Chairman's initial appointment shall be to one of the four year terms. When an interim vacancy occurs, the Commissioner in charge shall appoint and the Council shall confirm a member to fill the balance of the unexpired term. The Commissioner in Charge of the Office of Cable Communications may remove a member from the Commission at any time, subject to approval by the Council. All members shall be residents of the City. The Commissioner in charge shall appoint members to the Commission so as to provide an appropriate level of expertise taking into account the powers and duties of the Commission and in making appointments shall take into consideration the desirability of representation, without limitation, of racial and ethnic minorities, women, different geographic areas, and different socioeconomic groups. All members shall serve without compensation from the City or from the grantee of any franchise. No member may have an ownership interest in the grantee of a franchise.

3.115.030 General Powers and Duties. (1) All powers granted to the Commission by this Chapter shall be subject to the provisions of grantees' franchises. In the event of any conflict between this Chapter and a grantee's franchise, the provisions of the franchise shall prevail.

(2) Except as expressly provided otherwise in this Chapter, and subject to appeal as set out in this Chapter, the Commission shall exercise all cable communications system regulatory powers of the City over grantees operating within the City, whether such powers are granted to the City by law or under grantees' franchises. The Commission shall act in an advisory capacity to the City Council through the Commissioner in charge of the Office of Cable Communications on all other matters pertaining to cable communications franchises or proposed franchises. The Commission shall adopt such regulations as it deems necessary or desirable in order to exercise its powers and carry out its duties under this Chapter, provided,

that such regulations shall not become effective until approved by the Council.

3.115.040 Monitoring. The Commission shall monitor the performance of all grantees to determine whether the grantees are complying with the provisions of their franchises. In carrying out its monitoring duties, and subject to appeal as set out in this Chapter, the Commission shall cause to be made such reasonable inspections, tests, and demonstrations of grantees' systems as the Commission deems required in order to protect the public service, health, or welfare. The Commission shall make recommendations to the Council regarding actions it deems appropriate for franchise violations it discovers.

3.115.050 Reviewing Reports. The Commission shall review and as appropriate audit all reports filed by grantees with the City. Subject to appeal as set out in this Chapter, the Commission may require any grantee or grantees to prepare and file additional reports as necessary or desirable to carry out its duties under this Chapter. After consultation with affected grantees, the Commission may adopt regulations establishing the form of reports to be filed with the City; the place at which filings are to be made; and criteria and procedures for the protection of material contained in reports that is not open for public disclosure. The regulations shall be subject to the provisions of City Charter Section 10-107 and shall not become effective until approved by the Council.

3.115.060 Interconnection. The Commission, as necessary or desirable, shall coordinate the interconnection of the systems of grantees with each other, with systems of the City, and with systems outside the City but within the Metropolitan Service District, provided, however, that the Commission may not require any grantee to interconnect to a non-contiguous system without Council approval. The Commission may cooperate with other governmental units in the supervision of the interconnection of systems.

3.115.070 Complaints. The Commission may receive and investigate any unresolved complaint about a grantee's service filed with the Commission or referred to the Commission by the Commissioner in charge of the Office of Cable Communications. After consultation with affected grantees, the Commission may adopt regulations establishing methods and procedures to ensure that complainants have recourse to a satisfactory hearing and method for settling complaints. The regulations shall not become effective until approved by the Council.

3.115.080 Evaluations. The Commission shall evaluate, pursuant to such criteria and standards as the Commission previously shall have adopted, each grantee's system at least every three years and, based on the evaluation, issue a report to the Council through the Commissioner in charge of the Office of Cable Communications containing any recommendations for action by the City.

3.115.090 Rate Regulation. (1) If so instructed by the City Council the Commission shall prepare and recommend regulations governing rates of grantees. The recommendation shall include regulations to prevent grantees' use of entertainment system revenues to subsidize institutional system construction and operation. On approval by the City Council of regulations governing rates of grantees, the Commission shall exercise the powers and perform the duties assigned to it by the regulations.

(2) Until the City Council has approved regulations governing rates of grantees, the Commission shall exercise the powers and perform the duties assigned to it by the franchises of grantees.

3.115.100 System Development. The Commission shall use its regulatory powers and make recommendations to the City Council in order to promote and guide the development of systems in the City in a manner that will be in the public interest, with particular emphasis on non-entertainment cable communications services for homes and institutions and on new and innovative services, but subject to the limitation that entertainment system revenues shall not be used to subsidize institutional system construction and operation.

3.115.110 Council Action. Prior to any proposed City Council action regarding any system, systems, grantee, or grantees, the Commission shall consider and make its recommendation on the action, whether at the proposal of the City Council, a grantee or any other person, or on the Commission's own motion. The Commission shall make a recommendation to the City Council on the proposed action within sixty days after receipt of the proposal. The City Council shall not take any such action until it has received the Commission's recommendation. Notwithstanding any other provision of this Section, the Council may waive prior Commission consideration and recommendation on any proposed City Council action and may proceed to consider and take such action.

3.115.120 Appeal. Any grantee may appeal to the City Council any action of the Commission regarding the grantee by filing a written notice of appeal in the Office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The Commissioner in charge of the Office of Cable Communications or any two other Commissioners may cause any action of the Commission to be brought before the City Council on appeal by filing a written notice of appeal in the Office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. Any person directly affected by an action of the Commission may appeal to the City Council, provided the person has appeared before the Commission in person or in writing regarding the action, by filing a written notice of appeal in the Office of the City Auditor not more than 20 calendar days after the date of final action by the Commission. The notice of appeal shall state the action taken by the Commission, the reasons why

the action was improper, and the relief requested. The scope of the appeal shall be limited to consideration of the action, reasons, and relief set out in the notice of appeal. The appealed action shall be stayed pending a decision of the City Council.

3.115.130 Franchises. The Commission may make recommendations to the Council through the Commissioner in charge of the Office of Cable Communications regarding the renewal, termination, and forfeiture of franchises; the exercise of buyout authority; and the transfer of system ownership or control.

3.115.140 Community Cable Corporation. (1) Each City Council Member, subject to confirmation by the Council, shall appoint two directors of the Corporation. In addition, the Commissioner in charge of the Office of Cable Communications, subject to confirmation by the Council, shall appoint the three non-voting directors of the Corporation. In appointing directors, the Council Members shall give consideration to representation on the board of directors of the fields of arts, education, public access, government, and community information; and of racial and ethnic minorities, non-English speaking people, women, and low-income people. The Commission shall monitor, report annually, and make recommendations to the Council on the activities of the Corporation, including review of the budget and financial status of the Corporation and recommendations regarding the granting of funds by the City to the Corporation. The Commission's recommendations regarding the granting of funds by the City to the Corporation shall include a recommendation that at least forty percent of the franchise fees received by the City be granted to the Corporation together with a description of the work to be performed by the Corporation in consideration for the grant and the time period that the grant should cover. It is the Council's intention to appropriate at least forty percent of the franchise fees for grants to the Corporation and the balance for funding the Office of Cable Communications.

(2) The Corporation may exercise regulatory, control, and management powers over the channels to be controlled by the Corporation under the Cablesystems Pacific franchise to the full extent authorized by the franchise, provided, however, that the Corporation shall not transmit or permit to be transmitted over any channel over which it has programming control any material that is obscene or indecent. For purposes of this subsection, material shall be deemed obscene or indecent if (a) It depicts or describes in a patently offensive manner sadomasochistic abuse or sexual conduct; (b) The average person applying contemporary state standards would find the material, taken as a whole, appeals to the prurient interest in sex; and (c) Taken as a whole, it lacks serious literary, artistic, political, or scientific value. Also for purposes of this subsection, the terms "sadomasochistic abuse" and "sexual conduct" shall have the meanings assigned to them by ORS 167.060, 1971 Oregon Laws Chapter 743, Section 255.

3.115.150. Annual Report. The Commission shall prepare an annual report at the conclusion of each calendar year for inclusion in the budget request of the Office of Cable Communications. The report shall cover activities of

ORDINANCE No.

the Commission and Corporation during the past calendar year; planned activities of the Commission and Corporation during the upcoming calendar year; the receipt and use of franchise fees; the general performance of grantees; the development and use of systems within the City; anticipated new services on systems within the City; any recommendations of the Commission or the Corporation; and such other matters as the Commission may deem appropriate.

- b. That Title 3, Administration, of the Code of the City of Portland, Oregon is amended by amending section 3.114.010 to read as follows:

3.114.010 Creation and Functions

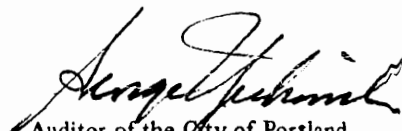
There is hereby established an Office of Cable Communications. The Office shall be administered by a Director and shall have such other employees as the Council may provide. The Office shall be responsible for supervising all cable communications franchising processes engaged in by the City, for monitoring performance by cable communications franchises, for promoting orderly development of City-owned cable communications systems, for providing staff support needed by the Portland Cable Communications Regulatory Commission, and for performing all other necessary work related to cable communications in the City.

Section 2. The Council declares that an emergency exists in that it is necessary to establish a system for regulating cable communications systems in the City as soon as possible; therefore, this ordinance shall be in full force and effect from and after its passage by the Council.

Passed by the Council, APR 1 1981

Commissioner Schwab
CPTomas:clp
March 23, 1981

Attest:


Auditor of the City of Portland

Calendar No. ¹⁰²⁰~~939~~

ORDINANCE No. 151338

Title

An Ordinance amending Title 3, Administration, of the Code of the City of Portland, Oregon by adding a new chapter 3.115, Cable Communications Regulatory Commission; amending Section 3.114.010; and declaring an emergency.

THURSDAY

MAR 19 1981

continued to MAR 26 1981
As Amended

MAR 26 1981

CONTINUED TO APR 1 1981

As Amended

Filed MAR 13 1981

GEORGE YERKOVICH
Auditor of the CITY OF PORTLAND

By *George Yerkovich*
Deputy

As amended

THE COMMISSIONERS VOTED AS FOLLOWS:		
	Yeas	Nays
Jordan	1	
Lindberg	1	
Schwab	1	
<i>MANAGE</i>	1	

FOUR-FIFTHS CALENDAR	
Ivancie	
Jordan	1
Lindberg	1
Schwab	1
McCready	

INTRODUCED BY
COMMISSIONER SCHWAB

NOTED BY THE COMMISSIONER
Affairs <i>[Signature]</i>
Finance and Administration
Safety
Utilities
Works

BUREAU APPROVAL
Bureau:
Prepared By: C.P. Thomas Date: March 23, 1981
Budget Impact Review: <input type="checkbox"/> Completed <input type="checkbox"/> Not required
Bureau Head:

CALENDAR	
Consent	Regular <input checked="" type="checkbox"/>

NOTED BY
City Attorney
City Auditor
City Engineer