

911. CABLE FRANCHISE: VIOLATION PROCEDURE

911.010 BASIS FOR VIOLATION

City or Commission shall give written notice to Grantee if City, in its sole discretion, determines that Grantee has:

- (a) Violated any material provision of this Franchise or the acceptance hereto;
- (b) Violated any law, ordinance, rule, order, regulation or determination of the City, state or federal government, not in conflict with this Franchise;
- (c) Attempted to evade any provision of this Franchise or the acceptance hereof;
- (d) Practiced any fraud or deceit upon City or Subscribers;

Made a material misrepresentation of fact in the application for or negotiation of this Franchise;
or

911.020 VIOLATION PROCEDURE

The written notice shall describe in reasonable detail the alleged violation so as to afford Grantee an opportunity to remedy the violation.

- (a) Grantee shall have thirty (30) Days subsequent to receipt of the notice in which to correct the violation (or if such violation is of such a character as to require more than thirty (30) Days within which to cure the same, and Grantee fails to commence to cure the same within said thirty (30) Day period and thereafter fails to use reasonable diligence, in City's sole opinion, to cure such violation as soon as possible).
- (b) Grantee may, within ten (10) Days of receipt of notice, notify the City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee shall specify with particularity the matters disputed by Grantee and shall stay the running of the above-described time until the Commission or City issues final findings of fact with respect to the violation. However, all penalties shall accrue from the date of the notice of violation until the Commission or City issues final findings of fact with respect to the violation.
- (c) The City or Commission shall hear Grantee's dispute at the next regularly scheduled or specially scheduled meeting. Grantee shall have the right to speak and introduce evidence. The City or Commission shall determine whether Grantee has committed a violation and shall make written findings of fact relative to its determination.

- (d) If after hearing the dispute, the violation is upheld by the City or Commission, then Grantee shall have thirty (30) Days within which to remedy the violation.
- (e) If Grantee fails to cure the violation within thirty (30) Days, such violation shall be a substantial breach and City may elect to terminate the Franchise or establish and draw on the Bond or Security Fund as provided in Sections 909 or 910.
- (f) The City may place the issue of termination of this Franchise before the governing body of City at a regular meeting. If City decides there is cause or reason to terminate, the following procedure shall be followed:
 - (i) City shall provide Grantee with a written notice of the reason or cause for proposed termination and shall allow Grantee a minimum of thirty (30) Days subsequent to receipt of the notice in which to correct the violation.
 - (ii) Grantee shall be provided with an opportunity to be heard at a public hearing prior to any decision to terminate this Franchise.
 - (iii) If, after notice is given and an opportunity to cure, at Grantee's option, a public hearing is held, and the City determines there was a violation, breach, failure, refusal or neglect, the City may declare by resolution the Franchise terminated and of no further force and effect unless there is compliance within such period as the City may fix, such period may not be less than thirty (30) Days. No opportunity for compliance need be granted for fraud or misrepresentation.

911.030 FAILURE TO ENFORCE

Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the City to enforce prompt compliance, and City's failure to enforce shall not constitute a waiver of rights or acquiescence in Grantee's conduct.

911.040 COMPLIANCE WITH THE LAWS

(a) If any federal or state law or regulation shall require or permit City or Grantee to perform any service or act or shall prohibit City or Grantee from performing any service or act which may be in conflict with the terms of this Franchise, then as soon as possible following knowledge thereof, either party shall notify the other of the point in conflict believed to exist between such law or regulation. Grantee and City shall conform to state laws and rules regarding cable communications not later than one (1) year after they become effective, unless otherwise stated, and shall conform to federal laws and regulations regarding cable as they become effective.

(b) If any term, condition or provision of this Franchise or the application thereof to any Person or circumstance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof and the application of such term, condition or provision to Persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Franchise and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and complied with, provided the loss of the invalid or unenforceable clause does not substantially alter the agreement between the parties. In the event such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantee and City.