CHAPTER 27
CABLE TV

(Cr. Ord. #80-53; Rep. & Recr. Ord. #97-75)

27.01 -- Purpose of Chapter
27.02 -- Title
27.03 -- Definitions
27.04 -- Grant of Franchise
   (a) Right/Obligation to Provide Service
   (b) Franchise Required
   (c) Franchise Nonexclusive
   (d) Term
   (e) Grantee to have no Recourse
   (f) Mortgage or Pledge of System
   (g) Previous Rights Abandoned
   (h) Subject to Other Regulatory Agencies Rules and Regulations
   (i) Pole-Use Agreement Required
   (j) No Right of Property
   (k) Revising Franchise Requirements
   (l) Use of Grantee's Facilities
   (m) Franchise Binding
27.05 -- Application
   (a) Application
   (b) Franchise Renewal Application
   (c) Supplementation to Application
   (d) Review of Application
27.06 -- Modification of Franchise
   (a) Application Required
   (b) Justification, Commercial Impracticability
   (c) Modification of Public, Educational and Governmental Access
   (d) Negotiations
   (e) Procedures for Approval or Denial
   (f) Appeal of Denial
   (g) Costs Incurred for Modification
27.07 -- Review of Grantee's Performance
   (a) Franchise Reviews
   (b) Reviews of Franchise Prior to Expiration
   (c) Costs Related to Franchise Reviews
27.08 -- Rights Reserved to City
   (a) No Impairment of City's Rights
   (b) Right of Amendment
   (c) Grantee Agrees to City's Rights
   (d) City's Right of Inspection
   (e) City's Right of Acquisition
27.09 -- Acceptance and Effective Date of Franchise
   (a) Effective Date
   (b) Acceptance
   (c) Written Notice of Acceptance
27.10 -- Franchise Renewal
   (a) Renewal Request
   (b) Renewal Criteria Where Cable Act Applies
   (c) Renewal Where Cable Act Does Not Apply
27.11 -- Revocation of Franchise
   (a) City's Right to Revoke and Grounds for Revocation
   (b) Notice and Opportunity to Cure Prior to Revocation
   (c) Notice and Opportunity for Hearing
   (d) Revocation Resolution
27.12 -- Procedures on Revocation or Termination
   (a) Removal of Facilities/Continued Operation
   (b) Restoration of Property
   (c) Restoration by City, Reimbursement of Costs
   (d) Extended Operation
27.13 -- Other Remedies
   (a) Lesser Remedies
   (b) Monetary Damages
   (c) Opportunity to Cure Prior to Imposition of Monetary Damages
27.14 -- Purchase of System by City
   (a) Purchase of System by City on Revocation
   (b) Purchase of System by City on Nonrenewal
27.15 -- Transfer of Ownership or Control
   (a) Transfer of Franchise
   (b) Notice to City on 20% Change of Ownership or Control
   (c) Consent of City Required on 51% Change of Ownership or Control
   (d) Grantee's Responsibility
   (e) Effect of City's Consent to Transfer
   (f) Transfer Documentation to be Filed with City
   (g) City's Right to Purchase System
27.16 -- Franchise Area
27.17 -- Initial Provision of Service and Extension of Service
   (a) Service to Initial Service Area
   (b) New Construction Timetable
   (c) Service to Developed Areas
   (d) Service to New Subdivisions/Newly Developed Areas
   (e) Special Agreements
27.18 -- Rate Regulation
   (a) City Reserves Right of Rate Regulation
   (b) Notice of Certification
   (c) Service Disconnection
   (d) Buried Service Charge
27.19 -- Protection of Individual Rights
   (a) Discriminatory Practices Prohibited
   (b) Fairness and Equal Access
   (c) Equal Employment
   (d) Subscriber Protection
   (e) Discontinuation of Service
   (f) Rights of Residents
27.20 -- Regulatory Jurisdiction and Procedures
   (a) Continuing Regulatory Jurisdiction
   (b) Cable TV Regulatory Board
   (c) Powers and Duties of the Cable TV Regulatory Board
   (d) Rules and Regulations of the Regulatory Board
   (e) Cable TV Office
   (f) Cable TV Officer
   (g) Responsibilities of Cable TV Officer
(h) Relationship to Other Departments
(i) Regulatory Procedures
(j) Failure to Enforce Provisions
(k) Contravention of Provisions

27.21 -- Franchise Fee
(a) Franchise Fee
(b) Payment Schedule
(c) Estimated Payments and True-up
(d) Financial Statement to be Provided by Grantee
(e) Interest on Delinquent Payments
(f) Acceptance by the City
(g) Alternative Fee Basis

27.22 -- Customer Service Standards
(a) Additional Standards May be Imposed
(b) Local Payment Center
(c) Telephone Availability
(d) Installations, Outages and Service Calls
(e) Repair Standards
(f) Notification of Service Interruption to Cable TV Officer
(g) Subscriber Credit for Service Interruptions
(h) Antenna Switch/Removal of Antenna
(i) Notice of Operating Policies
(j) Notice of Rates, Programming Service and Channel Position
(k) Copies Notices to be Filed with the City
(l) Billing

27.23 -- System Design
(a) Channel Capacity
(b) Service Requirements and Continuous Operation

27.24 -- Construction
(a) System Construction Schedule
(b) Approval of Proposed Construction
(c) Excavation Permits
(d) Use of Existing Poles or Conduits
(e) Method of Installation
(f) Initial Service
(g) Upgrade of Facilities, Equipment and Service

27.25 -- Technical Standards
(a) Standards
(b) Tests and Compliance Procedures
(c) Additional Testing
(d) Costs of Tests

27.26 -- Construction Standards
(a) Compliance with Safety Codes
(b) Compliance with Electrical Codes
(c) Compliance with Aviation Requirements

27.27 -- Proof of Compliance

27.28 -- Complaint Procedures
(a) Complaints to Grantee
(b) Complaints to the City
(c) Review by the City
(d) Remedies for Violations

27.29 -- Complaint File, Service Request Log and Outage Log
(a) Complaint File
(b) Service Request Log and Summary
(c) Outage Log and Summary
27.30 -- Authority for Use of Streets
   (a) Use of Streets
   (b) Filing of Plans with the City
   (c) Non-Interference/Notice

27.31 -- Conditions on Use of Streets
   (a) Facilities Not to be Hazardous or Interfere
   (b) Restoration and Reimbursement
   (c) Emergency Removal of Facilities
   (d) Changes Required by Public Improvements
   (e) Requests for Removal or Change
   (f) Authority to Trim Trees

27.32 -- Services
   (a) Services Provided
   (b) Basic Cable Service
   (c) Public Educational and Government Access Channels
   (d) Education and Governmental Connection to Cable System
   (e) Cable Channel for Commercial Use

27.33 -- Subscriber Privacy
   (a) Collection of Subscriber Information
   (b) Disclosure of Subscriber Information
   (c) Subscriber Access to Information
   (d) Destruction of Subscriber Information

27.34 -- Quality of Service

27.35 -- Open Books and Records
   (a) Maintenance of Books and Records
   (b) City Right to Inspect
   (c) Confidential Information

27.36 -- Reports and Records
   (a) Annual Submissions to the City
   (b) Submissions Required Upon Request
   (c) Other Submissions
   (d) Records to be Kept on File
   (e) Public Availability of Reports

27.37 -- Bonds
   (a) Proposal Bond
   (b) Forfeit of Proposal Bond
   (c) Return of Proposal Bond
   (d) Performance Bond
   (e) Construction Bond
   (f) Bond Evidence to be Filed with the City

27.38 -- Security Fund

27.39 -- Work Performed by Others

27.40 -- Indemnity
   (a) Extent of Indemnity
   (b) Notification of Claims
   (c) Defense of Claims
   (d) City’s Negligence

27.41 -- Insurance
   (a) Liability Insurance
   (b) Notice of Cancellation or Reduction of Coverage
   (c) Evidence of Insurance Filed with City Clerk
   (d) City’s Right to Revise Insurance Requirements
   (e) No Waiver
27.42 -- Protection of Non-subscribers
27.43 -- Grantee Rules
   (a) Grantee Rules and Regulations
   (b) Rules to be in Conformance with Other Regulations
   (c) Rules to be Filed with City
27.44 -- Unauthorized Reception or Use of Cable Services
   (a) No Unauthorized Use
   (b) No Tampering
   (c) Penalties
27.45 -- Emergency Alert System
27.46 -- Interconnection
   (a) Interconnection Study
   (b) Interconnection Procedure
   (c) Relief
   (d) Cooperation Required
27.47 -- General
   (a) Compliance with Laws, Rules and Regulations
   (b) Conflicting Ordinances Repealed
   (c) Publication Costs
   (d) Severability
   (e) Waiver or Exemption
   (f) Nonenforcement
   (g) Force Majeure
27.01 PURPOSE OF CHAPTER

The purpose of this Chapter is to authorize the City of Watertown to grant a non-exclusive Franchise to one or more Grantees to install, maintain, and operate within the City a Cable Television System for the distribution of television signals, frequency-modulated radio signals and any other electronic signals capable of being transmitted on a coaxial or fiber optic network including data transmission and closed circuit television programs, provided that the Grantee conforms to the conditions, limitations, and requirements of this Chapter.

27.02 TITLE

This Chapter shall be known and may be cited as the "Cable Television Franchise" Chapter of the City of Watertown Municipal Code.

27.03 DEFINITIONS

For the purpose of this Chapter, 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 include the future, words in the plural number include the singular number and words in the singular number include the plural number.

(a) Basic Service. Any Service Tier which includes, at a minimum, all signals of domestic television broadcast stations provided to any Subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station), any public, educational, and governmental programming required by the Franchise, and any additional Video Programming signals or service added to the Tier by the Grantee.


(c) Cable Operator. Any Person or group of Persons who provides Cable Service over a Cable System and directly or through one or more affiliates owns a significant interest in such a Cable System or who otherwise Controls or is responsible for, through any arrangement, the management and operation of such a Cable System.

(d) Cable Service. The one-way transmission to Subscribers of Video Programming, or Other Programming Service; and, Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

(e) Cable TV Regulatory Board or Regulatory Board. The board formed under Section 27.20 of this Chapter and charged with carrying out the continuing regulatory functions of the City as set out in this Chapter.

(f) Cable Television System, Cable TV System, or Cable System. Any facility owned by a Cable Operator 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:

(i) a facility that services only to retransmit the television signals of one or more television broadcast stations;

(ii) a facility that serves Subscribers without using any public right-of-way;
(iii) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, 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, unless the extent of such use is solely to provide interactive on-demand services;

(iv) an open video system that complies with Section 653 of the Cable Act, including any amendments thereto, or

(v) any facilities of any electric utility used solely for operating its electric utility systems.

(g) **Channel.** A portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television Channel (as television Channel is defined in FCC regulations).

(h) **City.** The City of Watertown, Wisconsin, or any duly appointed designee thereof, including, but not limited to, the Common Council, and all the area within the territorial limits of the City and its future corporate boundaries

(i) **Common Council or Council.** The present governing body of the City or any successors to the legislative power of said body or any duly appointed designee thereof.

(j) **Control.** The power or authority to direct or cause the direction of the management and policies of the Grantee.

(k) ** Dwelling Unit.** A building or that part of a building used as a home or residence.

(l) **Extended Basic Service.** Any Video Programming provided over a Cable System, regardless of Service Tier, including installation or rental of equipment used for the receipt of such Video Programming, other than:

(i) Video Programming carried on the Basic Service Tier;

(ii) Video Programming offered on a pay-per-channel or pay-per-program basis; or

(iii) a combination of multiple Channels of pay-per-channel or pay-per-program Video programming offered on a multiplexed or time-shifted basis so long as the combined service consists of commonly-identified Video Programming and is not bundled with any regulated Service Tier.

(m) **FCC.** The Federal Communications Commission, its designee, or any successor thereto.

(n) **Franchise.** An initial authorization, or renewal thereof issued by the City, as franchising authority, to a Grantee to construct or operate a Cable System.

(o) **Franchise Agreement.** A contractual agreement entered into between the City and any Grantee hereunder which is enforceable by the City and said Grantee and which sets forth the rights and obligations between the City and said Grantee in connection with the Franchise.

(p) **Franchise Area.** The area within the corporate boundaries of the City of Watertown, which is subject to the terms and conditions granted under the City's cable television Franchise.

(q) **Franchise Fee.** Any tax, fee, or assessment the City imposes on the Grantee solely because of the Grantee's status as such. The term "Franchise Fee" does not include:

(i) any tax, fee, or assessment of general applicability (including any such tax for 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 the Grantee);
(ii) capital costs which are required by the Franchise to be incurred by Grantee for educational or governmental access facilities;

(iii) 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

(iv) any fee imposed under Title 17, United States Code.

(r) Grantee. A Person to whom a Franchise under this Chapter is granted and the lawful successors or assigns of such Person.

(s) Gross Revenues. Any and all revenues derived directly or indirectly by a Grantee, its affiliates, subsidiaries, parents, or any Person in which the Grantee has a financial interest from or in connection with the operation of the Cable System pursuant to this Chapter. Gross Revenues includes compensation in whatever form, derived from all Cable Services, cable operations, and cable-related activities within the Franchise Area including, but not limited to:

(i) revenues from Subscriber rates, pay television, premium Channels, Service Tiers, service clusters, institutional networks, on-air advertising, installations, reconnections, or similar fees;

(ii) rebates or commissions received from travel, home shopping or similar services, or commercial access; and

(iii) any and all, compensation from all ancillary Cable Services, cable operations, and cable-related activities within the Franchise Area.

(t) Initial Service Area. All areas in the City having at least thirty (30) Dwelling Units per strand mile.

(u) Normal Business Hours. Those hours during which similar businesses in the City are open to serve customers. In all cases, "Normal Business Hours" must include some evening hours at least one night per week and some weekend hours.

(v) Normal Operating Conditions. Those service conditions which are within the Control of the Cable Operator. Those conditions which are not within the Control of the Cable Operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the Control of the Cable Operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the Cable System.

(w) Other Programming Service. Information that a Cable Operator makes available to all Subscribers generally.

(x) Person. Any natural Person or any association, firm, partnership, joint stock company, limited liability company, joint venture, corporation, or other legally recognized entity, private or public, whether for-profit or not-for-profit.

(y) Public, Educational, or Governmental Access Facilities. Channel capacity designated for public, educational, or governmental use and the facilities and equipment for the use of such Channel capacity.

(z) Service Tier or Tier. A category of Cable Service or other services provided by a Cable Operator and for which a separate rate is charged by the Cable Operator.
**Chapter 27 – Cable TV**

27.03 (aa) Street. The surface of and space above and below any public, road, highway, freeway, lane, alley, court, sidewalk, parkway or drive, or any public right-of-way, now or hereafter existing as such within the City.

(bb) Subscriber. Any Person legally receiving any service provided by a Grantee pursuant to this Chapter.

(cc) Video Programming. Programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

### 27.04 GRANT OF FRANCHISE

(a) Right/Obligation to Provide Service. In the event the City shall grant to a Grantee or renew a nonexclusive, revocable Franchise to construct, operate, maintain and reconstruct a Cable System within the Franchise Area, said Franchise shall constitute both a right and an obligation to provide the service of a Cable System as required by this Chapter and by the terms of the Franchise Agreement.

(b) Franchise Required. Subject to federal and state law, no Person shall construct, install, maintain or operate within any public Street in the City or within any other public property of the City a Cable Television System unless a Franchise authorizing the use of the Streets or properties or areas has first been obtained pursuant to the provisions of this Chapter and unless such Franchise is in full force and effect.

(c) Franchise Nonexclusive. Any Franchise granted under this Chapter shall be revocable and nonexclusive. The City reserves the right to grant a similar Franchise to any Person at any time.

(d) Term. The term of any initial or renewed Franchise granted under this Chapter shall be established in the Franchise Agreement.

(e) Grantee to have no recourse. The Grantee shall have no recourse whatsoever against the City for any loss, cost, expense or damage arising out of any provision or requirement of this Chapter or its regulation or from the City's exercise of its authority to grant additional Franchises.

(f) Mortgage or Pledge of System. Nothing in this Chapter shall be deemed to prohibit a Grantee from mortgaging or pledging of its Cable System or any part thereof. However, any such mortgage or pledge shall be subject to and subordinate to the right of the City under this Chapter, any Franchise Agreement or applicable laws.

(g) Previous Rights Abandoned. The Franchise shall be in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled or exercisable by the Grantee or any successor pertaining to the construction, operation, maintenance or reconstruction of a Cable System in the City. The acceptance of the Franchise shall operate, as between the Grantee and the City, as an abandonment of any and all of such rights, privileges, powers, immunities and authorities within the City. All construction, operation, maintenance and reconstruction by the Grantee of any Cable System in the City shall be under this Chapter and the Franchise Agreement and not under any other right, privilege, power, immunity or authority.

(h) Subject to Other Regulatory Agencies Rules and Regulations. The Grantee shall, at all times during the life of the Franchise, be subject to all lawful exercise of the police power by the City and other duly authorized regulatory state and federal bodies and shall comply with any and all codes which the City has adopted or shall adopt applying to the public generally and to other Grantees.
(i) **Pole-Use Agreements Required.** The Franchise shall not relieve the Grantee of any obligation involved in obtaining pole- or conduit-use agreements from the gas, electric and telephone companies, or others maintaining poles or conduits in the Streets of the City, whenever the Grantee finds it necessary to make use of such poles or conduits.

(j) **No Right of Property.** Anything contained herein to the contrary notwithstanding, the Franchise shall not impart to the Grantee any right of property in or on City-owned property.

(k) **Revising Franchise Requirements.** The City may establish appropriate requirements for initial Franchises or Franchise renewals and may modify these requirements from time to time to reflect changing conditions and technology in the cable industry.

(l) **Use of Grantee’s Facilities.** The City shall have the right to install and maintain, free of charge, upon the poles and within the underground pipes and conduits of the Grantee, any wires and fixtures desired by the City to the extent that such installation and maintenance does not interfere with existing and future operations of the Grantee.

(m) **Franchise Binding.** Anything contained herein to the contrary notwithstanding, all provisions of this Chapter shall be binding upon the Grantee, its successors, lessees or assignees.

### 27.05 APPLICATION

(a) **Application.** All applicants for an initial Franchise under this Chapter shall prepare and file a written application with the City Clerk. An initial application shall contain the following:

(i) **Proposal Bond and Filing Fee.** Provision of the proposal bond as required in Section 27.37 and payment of a non-refundable filing fee to the City of Four Hundred Dollars ($400.00) which sum shall be due and payable concurrently with the request for application information; thereafter costs related to the application investigation to a maximum of an additional Five Hundred Dollars ($500.00) shall be due and payable by the applicant on receipt of a statement rendered by the City.

(ii) **Name and address of applicant.** The name and business address of the applicant, date of application and signature of applicant or appropriate corporate officer.

(iii) **Description of proposed operation.** A general description of the applicant's proposed operation in the Franchise Area and in other areas within the State, including but not limited to business hours, operating staff, maintenance procedures beyond those required in this Chapter, management and marketing staff complement and procedures, and if available, the rules of operation for public access.

(iv) **Description of proposed services.** A statement of the television and radio services to be provided, including off-the-air, interconnect, microwave relay, satellite relay, pay television programming, and locally originated signals, and the proposed division of these Channels into Service Tiers. A statement setting forth a description of the following: the automated and/or microprocessor services proposed; two-way or upstream services proposed; production facilities to be made available by the Grantee for Public and Educational Access Channels required to be made available by this Chapter and/or to the FCC.

(v) **Programming assistance.** A statement establishing any additional funding, facilities, equipment or personnel beyond those required elsewhere to be designated to promote local programming development. It is understood that the foregoing shall be available without charge to all on a fair and nondiscriminatory basis and may be used by the Grantee as well. Such funding and services shall be contingent upon a special showing, where required, that the proposed uses are consistent with the regulatory program of the FCC.
(vi) **Schedule of charges.** A statement of the applicant's proposed schedule of charges for Cable Services.

(vii) **Corporate organization.** A statement detailing the corporate organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.

(viii) **Stockholders.** A statement identifying the number of authorized and outstanding shares of applicant's stock including a current list of the names and current addresses of its shareholders holding five (5) percent or more of applicant's outstanding stock.

(ix) **Intra-Company relationships.** A statement describing all intra-company relationships of the applicant, including parent, subsidiary or affiliated companies.

(x) **Agreements and understandings.** A statement setting forth all agreements and understandings, whether written or oral, existing between the applicant and any other Person with respect to any Franchise awarded under this Chapter and the conduct of the operation thereof existing at the time of proposal submittal.

(xi) **Financial Statement.** If the applicant is a corporation, audited financial statements for the two (2) previous fiscal years. If the applicant is a partnership, copies of the "U.S. Partnership Return of Income" (IRS Form 1065) for the two (2) previous fiscal years. If the applicant is a sole proprietorship, copies of "U.S. Individual Tax Return" (IRS Form 1040) for the two (2) previous fiscal years.

(xii) **Financial projection.** A ten (10) year operations pro forma which shall include the initial and continuing plant investment, annual profit and loss statements detailing income and expenses, annual balance sheets and annual levels of Subscriber penetration. Costs and revenues anticipated for voluntary services shall, if presented, be incorporated in the pro forma as required in this Chapter, but shall be separately identified in the pro forma.

(xiii) **Financial support.** Suitable written evidence from a recognized financing institution, addressed to both the applicant and to the City, advising that the applicant's financial ability and planned operation have been analyzed by the institution and that the financing institution is prepared to make the required funds available to applicant, if awarded a Franchise. If the planned operation is to be internally financed, a board resolution shall be supplied authorizing the obtaintment and expenditure of such funds as are required to construct, install and operate the Cable System contemplated under this Chapter.

(xiv) **Technical description.** A technical description of the type of Cable System proposed.

(xv) **Technical statement.** A statement from the applicant that its proposed Cable System and proposed services shall meet all the requirements set forth in this Chapter.

(xvi) **Existing Franchises.** A statement of existing franchises held by the applicant indicating when the franchises were issued and when the systems were constructed and the present state of the system(s) in each respective governmental unit, together with the name, address and telephone number of a responsible governmental official knowledgeable of the applicant and of the system performance in each such case.

(xvii) **Convictions.** A statement as to whether the applicant or any of its officers or directors or holders of five (5) percent or more of its voting stock has in the past ten (10) years been convicted of or has charges pending for any crime other than a routine traffic offense and the disposition of each such case.
(xviii) **Operating Experience.** A statement detailing the prior cable television experience of the applicant including that of the applicant’s officers, management and staff to be associated with the proposed operation.

**(b) Franchise Renewal Application.** All applicants seeking to renew a Franchise under this Chapter shall prepare and file a written application with the City. The application shall include the following:

(i) A non-refundable application fee, the amount of which shall be determined by the Common Council by resolution. The application fee shall be applied by the City to defray the costs it incurs in initiating renewal procedures as set forth in Section 626 of the Cable Act, including any amendments thereto.

(ii) A summary of the technical, financial and programming history of the network since the granting of the original Franchise.

(iii) A statement and timetable that outlines all proposed changes, expansion or improvements in the Cable System as to services, programming or technical specifications during the forthcoming five (5) year period.

**(c) Supplementation to Application.** The City may require such supplementary, additional or other information that the City deems reasonably necessary for its determinations. Such modifications, deletions, additions or amendments to the application shall be considered only if specifically requested by the City.

**(d) Review of Application.** Upon receipt of an application under this Chapter, the City shall review the application and make it available for public inspection at such places as the City shall designate. The City shall make a decision on the application after evaluating the application. The City may grant one (1) or more Franchises, or may decline to grant any Franchise.

### 27.06 MODIFICATION OF FRANCHISE

**(a) Application Required.** The Grantee may apply to the City for modification of the Franchise Agreement. The application shall be in writing and shall state the reasons for the requested modification. The City shall review such application for modification based on the terms and conditions set out in Section 625 of the Cable Act, including any amendments thereto. The City may approve the Grantee’s request for modification based on the findings of its review.

**(b) Justification, Commercial Impracticability.** The application for modification to the Franchise Agreement shall state the Grantee’s justifications for such proposed modification. Grantee shall indicate within such justifications any projected technical, financial and service impacts, which such proposed modifications intend to remedy. Where the Grantee has indicated commercial impracticability as a justification for modification, the Grantee shall show any changes in conditions arising since the execution of the Franchise Agreement; that such change in conditions was not foreseeable at the time of execution of the Franchise Agreement; and, that such change in conditions was beyond the Control of the Grantee. The burden of proof to justify a claim of commercial impracticability shall be borne by the Grantee.

**(c) Modification of Public, Educational, and Governmental Access.** The City may prohibit award of any proposed modification to the Franchise pertaining to provision of services relating to Public, Educational or Governmental Access.
(d) Negotiations. If, after the City has completed its review of the application for modification of the Franchise Agreement, the City has not made a final determination regarding the merits of the requested modification, the Grantee may request negotiations with the City for modification of service requirements in accordance with Section 625 of the Cable Act, including any amendments thereto. The City shall permit such negotiations to proceed only in such cases where the Grantee agrees to maintain mix, quality and level of services originally required by the Franchise at the time it was granted. The City and the Grantee shall have one hundred twenty (120) calendar days to negotiate and approve such modifications, unless the Grantee and the City agree to an extension of time.

(e) Procedures for Approval or Denial. The City shall grant or deny the Grantee's request for modification within one hundred twenty (120) days of its receipt of the application for modification. The Grantee and City may mutually agree to extend the one hundred and twenty (120) day time period. No modification of the Franchise Agreement shall be approved without the express approval of the Common Council.

(f) Appeal of Denial. If the City denies the Grantee's request for modification, the Grantee may seek judicial review of the City's determination in accordance with Section 625 of the Cable Act, including any amendments thereto.

(g) Costs Incurred with Modification. When the City receives an application for modification from a Grantee, the City shall prepare an estimate of its costs to consider the modification request. The costs may include, but shall not be limited to, reasonable fees for any or all of the following: an attorney, an accountant, an engineer, municipal staff and others with expertise or training relating to the modification request. The City shall provide to the Grantee the estimate of fees and costs within thirty (30) days of receipt of the Grantee’s application. Grantee shall reimburse City for the actual costs City incurs in acting on Grantee's application. Should the City initiate a request for modification of the Franchise, each party shall bear its own costs and fees.

27.07 REVIEW OF GRANTEE’S PERFORMANCE

(a) Franchise Reviews. From time to time, but no more often than every three (3) years during the term of a Franchise, the City may schedule a public meeting or meetings with the Grantee to review the Franchise performance, plans and prospects. The Grantee shall make available specified records, documents and information for this purpose, and the City may inquire in particular whether the Grantee is supplying a level and variety of services equivalent to those being generally offered at that time in the industry in comparable market situations.

(b) Reviews of Franchise Prior to Expiration. Any Franchise review conducted to determine whether the City shall renew a Grantee's Franchise shall be carried out in accordance with the requirements of the Cable Act.

(c) Costs Related to Franchise Reviews. The cost of conducting a Franchise review shall be equally divided between the City and the Grantee. Such costs may include, but are not limited to, fees for legal, engineering, and accounting services.

27.08 RIGHTS RESERVED TO CITY

(a) No Impairment of City’s Rights. Nothing in this Chapter shall impair or affect the right of the City to acquire the property of the Grantee through the exercise of the right of eminent domain at a fair and just value, which shall not include any amount for the Franchise itself or for any of the rights or privileges granted and nothing shall contract away, modify or abridge, either for a term or in perpetuity, the City's right to eminent domain.
(b) Right of Amendment. The City may, for time to time, add to, modify or delete provisions of this Chapter, as it shall deem necessary in the exercise of its regulatory powers, provided that such additions, modifications, or deletions are reasonable and do not place an undue financial burden on the Grantee. Such additions, modifications, or deletions shall be made only after a public hearing for which the Grantee has received advanced written notice of thirty (30) days.

(c) Grantee Agrees to City's Rights. The City reserves every right and power which is required to be reserved or provided by an ordinance of the City and the Grantee by its acceptance of the Franchise agrees to be bound thereby and to comply with any action or requirements of the City in its exercise of such rights or powers which have been or shall be enacted or established.

(d) City's Right of Inspection. During the life of any Franchise granted under this Chapter, the City may inspect and supervise all construction and installation work performed subject to the provisions of this Chapter and the Franchise Agreement to insure compliance with the terms of this Chapter and the Franchise Agreement.

(e) City's Right of Acquisition. Upon expiration, revocation or other termination of the Franchise as provided by law or upon receipt of an application for approval of an assignment or transfer of the Franchise or upon a change of defacto Control, the City shall have the right to purchase the Grantee's Cable System as set forth in Sections 27.14 and 27.15(g) of this Chapter.

27.09 ACCEPTANCE AND EFFECTIVE DATE OF FRANCHISE

(a) Effective Date. Any Franchise awarded under this Chapter shall take effect thirty (30) days after the effective date of the Franchise Agreement between the City and the Grantee provided that the Grantee has accepted the Franchise pursuant to Subsection (b).

(b) Acceptance. To accept a Franchise granted under this Chapter, a Grantee must file any required bonds, funds and proof of insurance, as well as written notice of acceptance, with the City Clerk.

(c) Written Notice of Acceptance. The Grantee's written notice of acceptance shall include a certification that the Grantee expressly acknowledges the following by acceptance of the Franchise that:

(i) The Grantee has relied upon its own investigation and understanding of the power and authority of the City to grant the Franchise.

(ii) The Grantee has not been induced to enter into the Franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the City concerning any term or condition of the Franchise that is not included in this Chapter.

(iii) The Grantee has carefully read this Chapter and the Franchise Agreement and that it accepts all the obligations under this Chapter and under the Franchise Agreement and also agrees that it will not challenge any provision of this Chapter or the Franchise Agreement as unreasonable, arbitrary, invalid or void, but shall accept the validity of the terms and conditions of the Franchise in their entirety.

27.10 FRANCHISE RENEWAL

(a) Renewal Request. The City shall determine whether to renew a Franchise granted under this Chapter in the event that the Grantee files a written request for such a renewal. The Grantee shall submit such a request at least 30 (but no sooner than 36) months, before the expiration of the Franchise. At the
time of such request, the City may revise this Chapter, reevaluate the needs of the community for Cable Service, and review the performance of the Grantee. The City shall conduct any proceedings necessary to consider the renewal request.

(b) Renewal Criteria Where Cable Act Applies. To the extent applicable, the Cable Act shall govern the procedures and standards for renewal of any Franchise awarded pursuant to this Chapter. Accordingly, the City shall renew or extend a Franchise unless it finds that:

(i) The Grantee has not substantially complied with the material terms of this Chapter, the Franchise Agreement, or with applicable law, or its officers have been convicted of a felony;

(ii) The quality of the Grantee’s service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix or quality of Cable Services or other services provided over the Cable System, has been unreasonable in light of community needs;

(iii) The Grantee lacks the legal, technical, or financial ability to provide the services, facilities, and equipment it proposes to provide;

(iv) The service, facilities, and equipment the Grantee proposes to provide are unreasonable in light of the community need for and cost of such services, facilities, and equipment; or

(v) The proposals contained in the renewal application are otherwise unreasonable.

(c) Renewal Where Cable Act Does Not Apply. To the extent that the Cable Act is not applicable, the City in its sole discretion and judgment shall have the right to grant, deny or conditionally grant renewal of a Franchise, provided that the City shall not unreasonably refuse to renew the Franchise or unreasonably condition the renewal. The conditions the City may place on its approval shall include, but are not limited to: remedy of historical or existing violations of the Franchise or ordinance; payment of all fees and penalties owed by the Grantee at the time of the renewal; acceptance of any updated ordinance; and acceptance of any updated Franchise Agreement.

27.11 REVOCATION OF FRANCHISE

(a) City's Right to Revoke and Grounds for Revocation. In addition to all other rights which the City has pursuant to law or equity, the City reserves the right to revoke, terminate or cancel any Franchise granted under this Chapter, in the event that one or more of the following occur, each of which shall be deemed a material breach of the Franchise:

(i) The Grantee violates any material provision of this Chapter or its Franchise Agreement with the City;

(ii) The Grantee violates any state or federal law applicable to the Grantee's operation within the City;

(iii) The Grantee practices any fraud or deceit upon the City or a Subscriber;

(iv) The Grantee becomes insolvent, unable or unwilling to pay its debts, or is adjudged as bankrupt;

(v) The Grantee ceases to provide service over the Cable System for a period exceeding fourteen (14) days for any reason within the Grantee's Control, or abandons the management and/or operation of the Cable System; or
(vi) The Grantee materially misrepresents a fact in the application for or negotiation of, or renegotiation of, or renewal of, its Franchise.

(b) **Notice and Opportunity to Cure Prior to Revocation.** In the event that the City determines that the Grantee has committed a material breach of the Franchise, the City may make a written demand on the Grantee that the Grantee cure such breach and inform the Grantee that continued breach may be cause for revocation. If the breach is not cured to the satisfaction of the City within thirty (30) days following such demand, the City may revoke the Grantee's Franchise and terminate the Franchise Agreement pursuant to the revocation procedures set out in Section 27.12.

(c) **Notice and Opportunity for Hearing.** The City shall not revoke any Franchise without giving the Grantee reasonable notice and opportunity for a public hearing before the Common Council.

(d) **Revocation Resolution.** In the event that the City determines to revoke a Grantee's Franchise under this Section, the City shall, by resolution, declare that the Grantee's Franchise is terminated and any security fund and bonds forfeited and shall undertake the revocation procedures set out in Section 27.12.

27.12 **PROCEDURES ON REVOCATION OR TERMINATION**

(a) **Removal of Facilities/Continued Operation.** In the event that a Grantee's Franchise is revoked, expires, or is otherwise terminated, the City may order the Grantee to remove its facilities from the Franchise Area within ninety (90) days of the date of such order, or the City may require the Grantee to continue operating its Cable System for a period not to exceed twenty-four (24) months as indicated in Subsection (d) below.

(b) **Restoration of Property.** In removing its facilities from the Franchise Area, the Grantee shall refill, at its own expense, any excavation it makes and shall leave all public ways and places in as good condition as that prevailing prior to the Grantee's removal of its facilities without affecting the electrical or telephone cables, wires, or attachments. The Grantee’s insurance, indemnity obligations, performance bond(s) and security fund(s) required by this Chapter and by the Franchise Agreement, shall continue in full force and effect during the period of removal and until full compliance by the Grantee with the terms and conditions of this Section.

(c) **Restoration by City, Reimbursement of Costs.** If the Grantee fails to complete any work required by Subsections (a) and/or (b) above, or any other work required by the City within thirty (30) days after receipt of written notice, and to the satisfaction of the City, the City may cause such work to be done and the Grantee shall reimburse the City for the cost thereof within thirty (30) days after receipt of an itemized list of such costs, or the City may recover such costs through the security fund or bonds provided by Grantee. The City shall be permitted to seek legal and equitable relief to enforce the provisions of this Section.

(d) **Extended Operation.** Subject to federal, state and local law, upon either the expiration or revocation of a Franchise, the City may require the Grantee to continue to operate the Cable System for a defined period of time not to exceed twenty-four (24) months from the date of such expiration or revocation. The Grantee shall, as trustee for its successor in interest, continue to operate the Cable System under the terms and conditions of this Chapter and the Franchise Agreement.

27.13 **OTHER REMEDIES**

(a) **Lesser Remedies.** Nothing shall prohibit the City from invoking lesser remedies than revocation for violations of the provisions of this Chapter or the Franchise Agreement, including imposing monetary damages as set out in Subsection (b) below.
(b) Monetary Damages. If after notice to the Grantee, opportunity to cure, and opportunity for hearing, the City determines that the Grantee has failed to perform any material obligation under this Chapter or the Franchise Agreement, or fails to do so in a timely manner, the City may at its option, and in its sole discretion assess monetary damages against the Grantee as provided in this Subsection (b). This provision for assessment of damages is intended to be separate and apart from the City’s right to enforce the provisions of the construction and performance bonds provided for in this Chapter and is intended to be in addition to any other remedies. This provision is intended to provide compensation to the City for actual damages.

(i) For failure to comply with any of the customer service standards adopted by the City in this Chapter or set out in the Franchise Agreement, the Grantee shall pay to the City the sum of Two Hundred Dollars ($200.00) for each day the Grantee fails to comply.

(ii) For failure to furnish, maintain, or offer Cable Services to any potential Subscriber within the Franchise Area in accordance with Section 27.17 or on order of the City, the Grantee shall pay to the City the sum of Two Hundred Dollars ($200.00) for any such occurrence.

(iii) For failure to obtain or file evidence of required insurance or other required financial security, the Grantee shall pay to the City the sum of Three Hundred Dollars ($300.00) for any such occurrence.

(iv) For failure to provide access to data documents, records or reports to the City as required by this Chapter, the Grantee shall pay to the City the sum of One Hundred Dollars ($100.00) for any such occurrence.

(v) For failure to comply with applicable construction, operation, or maintenance standards, the Grantee shall pay to the City the sum of Three Hundred Dollars ($300.00) for any such occurrence.

(vi) For failure to comply with the requirements of Section 27.29 of this Chapter, the Grantee shall pay to the City the sum of Two Hundred Dollars ($200.00) for any such occurrence.

(vii) For failure to comply with a rate decision or refund order issued by the City, the Grantee shall pay to the City the sum of Five Hundred Dollars ($500.00) for any such occurrence.

(c) Opportunity to Cure Prior to Imposition of Monetary Damages. Prior to assessing monetary damages against the Grantee as provided in Subsection (b), the City shall make a written demand on the Grantee that the Grantee cure its failure to perform any material obligation under this Chapter or the Franchise Agreement and inform the Grantee that its continued failure may result in the assessment of monetary damages. If the Grantee’s failure to perform is not cured to the satisfaction of the City within thirty (30) days following such demand, the City may impose monetary damages on the Grantee pursuant to Subsection (b). The City may extend the cure period beyond thirty (30) days in the event that the Grantee is proceeding in good faith with due diligence to cure its failure to perform but is unable to do so within thirty (30) days.

27.14 PURCHASE OF SYSTEM BY CITY

(a) Purchase of System by City on Revocation. If the City revokes the Franchise for cause, the Grantee shall first offer the Cable System for sale to the City at an equitable price under the following procedures:
(i) If the determination of an equitable price cannot be negotiated or determined by the City and the Grantee, the price shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the City shall each choose an appraiser and the appraisers chosen shall choose a third appraiser and the price determined by such appraisers shall be considered the equitable price at which the Cable System will be offered to the City. The determination of the price of the Cable System shall be decreased by the amount of any and all damages sustained by the City in connection with revocation, including without limitation, payment made by the City to another Person or entity to operate the Cable System for a temporary period after revocation. The cost of the appraisal procedure shall be shared equally by the City and the Grantee.

(ii) The City shall have ninety (90) days commencing on the day the equitable price of the Cable System is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the City does not exercise its option to purchase, and the Cable System is not sold to another operator who has obtained a Franchise from the City, the Grantee, upon request by the City, shall promptly remove all its facilities from the Franchise Area. While transfer of the Cable System and Franchise is being negotiated, ordered, the Grantee may be required to continue service to the public.

(b) Purchase of System by City on Nonrenewal. If the City determines not to renew a Grantee's Franchise, the Grantee shall first offer the Cable System for sale to the City at fair market value, determined on the basis of the Cable System valued as a going concern but with no value allocated to the Franchise itself. The following procedures shall be followed:

(i) If the determination of fair market value cannot be negotiated or determined, the value shall be determined by an impartial appraisal procedure pursuant to Ch. 788, Wis. Stats., wherein the Grantee and the City shall each choose an appraiser and the appraisers chosen shall choose a third appraiser and the valuation determined by such appraisers shall be considered the fair market value at which the Cable System will be offered to the City. The determination of the value of the Cable System shall be decreased by the amount of any damages sustained by the City in connection with nonrenewal, including without limitation, payment made by the City to another Person or entity to operate the Cable System for a temporary period after nonrenewal. The cost of the appraisal procedure shall be shared equally by the City and the Grantee.

(ii) The City shall have ninety (90) days commencing on the day the fair market value of the Cable System is determined either through negotiation or the appraisal procedure to exercise its option to purchase. If the City does not exercise its option to purchase, and the Cable System is not sold to another operator who has obtained a Franchise from the City, the Grantee, upon request by the City, shall promptly remove all its facilities. While transfer of the Cable System and Franchise is being negotiated, arranged or ordered, the Grantee may be required to continue service to the public.

27.15 TRANSFER OF OWNERSHIP OR CONTROL

(a) Transfer of Franchise. Any Franchise granted under this Chapter shall be a privilege to be held for the benefit of the public. Any Franchises granted cannot, in any event, be sold, transferred, leased, assigned or disposed of by any method, including, but not limited to, forced or voluntary sale, merger, or consolidation, either in whole or in part, without the prior written consent of the City, and then only under such reasonable conditions as the City may establish. Such consent as required by the City, shall be given or denied no later than one hundred twenty (120) days following any request, and shall not be unreasonably withheld. Prior consent shall not be required when transferring the Franchise between wholly-owned subsidiaries of the same entity.
(b) Notice to City on 20% Change of Ownership or Control. A Grantee shall promptly notify the City in writing of any proposed change in, or transfer of, Control of the Grantee. For the purpose of this Subsection, a change in, or transfer of, Control shall occur on the acquisition or transfer by any Person of twenty (20) percent or more of the beneficial ownership interest in the Grantee.

(c) Consent of City Required on 51% Change of Ownership or Control. In the event that any Person or group of Persons acquires or transfers 51% or more of the beneficial ownership interest in the Grantee, Grantee's Franchise shall be subject to cancellation unless and until the City shall have consented in writing to the acquisition or transfer. The City shall give or deny consent no later than one hundred twenty (120) days after receiving written notice of the acquisition or transfer. The City's consent shall not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer or acquisition of Control, the City may inquire into the qualifications of the prospective Controlling party, and the Grantee shall assist the City in any such inquiry.

(d) Grantee's Responsibility. In seeking the City's consent to any change in ownership or Control, the Grantee shall have the responsibility to do the following:

(i) To show, to the City's satisfaction, whether the proposed purchaser, transferee, or assignee (the "proposed transferee"), which in the case of a corporation, shall include all directors and all Persons having a legal or equitable interest of fifty-one (51) percent or more of the voting stock (1) has ever been convicted of a felony or is presently under an indictment, investigation or complaint charging a felony; (2) has ever had a judgment in an action for fraud, deceit or misrepresentation entered against it, her, him, or them by any court of competent jurisdiction; or (3) has pending any legal claim, lawsuit or administrative proceeding arising out of or involving a Cable System.

(ii) To establish, to the City's satisfaction, the financial solvency of the proposed transferee by submitting all current financial data for the proposed transferee which the Grantee was required to submit in its Franchise application, and such other data as the City may request, where the same shall be audited, certified and qualified by a certified public accountant.

(iii) To establish, to the City's satisfaction, that the legal, financial and technical capability of the proposed transferee is such as shall enable it to maintain and operate the Cable System for the remaining term of the Franchise under the existing Franchise terms.

(e) Effect of City's Consent to Transfer. The consent or approval of the City to any transfer by the Grantee shall not constitute a waiver or release of the rights of the City in and to the Streets, and any transfer shall by its terms, be expressly subject to the terms and conditions of any Franchise. The Grantee shall not be released from its obligations under this Chapter and the Franchise Agreement without the express written consent of the City.

(f) Transfer Document to be Filed with City. A Grantee, upon transfer, shall within sixty (60) days thereafter file with the City a copy of the deed, agreement or other written instrument evidencing such sale, transfer of ownership or Control or lease, certified and sworn to as correct by the Grantee.

(g) City's Right to Purchase System. The City shall be entitled to a right of first refusal of any written offer to purchase the Grantee's Cable System, which offer the Grantee has accepted subject to the City's rights under this Chapter. The price to be paid by the City shall be the price of such offer on the same terms and conditions as such offer. The City shall notify the Grantee of its decision to purchase within ninety (90) days of the City's receipt from the Grantee of a copy of the offer.
27.16 FRANCHISE AREA

The City may grant a Franchise for the area within the corporate boundaries of the City, or any defined section of the City. The Franchise Agreement shall indicate the specific boundaries for the Franchise Area.

27.17 INITIAL PROVISION OF SERVICE AND EXTENSION OF SERVICE

(a) Service to Initial Service Area. Within two (2) years from the date of the award of an initial Franchise, the Grantee must make Cable Television Service available to every Dwelling Unit within the Initial Service Area. Thereafter, the Grantee must extend service according to Subsections (c), (d), and (e) below.

(b) New Construction Timetable.

(i) Within six (6) months from the date of the award of an Initial Franchise, the Grantee shall make Cable Television Service available to at least twenty (20) percent of the Dwelling Units within the Initial Service Area. Within one (1) year from the date of the award of the initial Franchise, the Grantee must make Cable Television Service available to at least fifty (50) percent of the Dwelling Units within the Initial Service Area.

(ii) In its application for an initial Franchise, the prospective Grantee may propose a timetable of construction which will make Cable Television Service available in the Initial Service Area sooner than the above minimum requirements, in which case such schedule shall be made part of the Franchise Agreement.

(iii) Any delay beyond the terms of the timetable set out in this provision or the Franchise Agreement, unless specifically approved by the City in writing, shall be considered a material breach of the Franchise Agreement.

(c) Service to Developed Areas. In developed areas of the City, the Grantee shall, on request of a potential Subscriber, extend service to the potential Subscriber pursuant to the following requirements:

(i) Without regard to density of Dwelling Units, the Grantee shall extend and make Cable Television Service available to any Dwelling Unit within three hundred (300) feet of existing cable plant.

(ii) Where the Dwelling Unit is not within three hundred (300) feet of existing cable plant, the Grantee shall provide to any potential Subscriber desiring service an estimate of the cost to extend service to the potential Subscriber. The Grantee shall extend service upon request of the potential Subscriber. The Grantee and the potential Subscriber shall share the cost of the extension as follows: the Grantee shall pay one hundred (100) percent of the cost of the first three hundred (300) feet of the extension and shall pay sixty (60) percent and the potential Subscriber forty (40) percent of the cost of the next three hundred (300) feet of the extension, up to a maximum of six hundred (600) feet. For that part of an extension that is longer than six hundred (600) feet, the Grantee may charge the potential Subscriber for the Grantee's actual cost of that portion of the extension. Within five (5) years, any amount paid by a Subscriber for an extension under this subsection shall be refundable to that Subscriber in the event that, during this five (5) year period, the area subsequently reaches a density level of thirty (30) Dwelling Units per strand mile. In no event shall the amount of the refund exceed the amount paid by the Subscriber for the extension.

(d) Service to New Subdivisions/Newly Developed Areas. The Grantee shall, at its expense, extend its System so that Cable Television Service is available in all new subdivisions or newly developed areas in the City as follows:
(i) All new cable facilities shall be placed underground unless the Plan Commission determines otherwise pursuant to Subdivision Regulations 20.11(13)(a).

(ii) Where cable facilities are to be placed underground, the developer will provide the Grantee with an approved engineering plan of the project. On receiving the plan, the Grantee shall contact the public utility that will be performing the trenching work in the area to determine when open trenching will be available for the Grantee's installation of conduit, pedestals and/or vaults, and laterals to be provided at the Grantee's expense. The Grantee shall provide the public utility performing the trenching work with specifications as needed for trenching and shall place its facilities in the trenches on the date specified by the public utility. The Grantee shall be responsible for its share of trenching costs and the cost of any easements required to bring Cable Television Service to the new subdivision or developing area. The Grantee shall activate its facilities and make Cable Television Service available to every Dwelling Unit in the new subdivision or developing area when at least thirty (30) Dwelling Units per strand mile have been constructed.

(iii) Where cable facilities are to be placed above ground, the developer will forward to the Grantee an approved engineering plan of the project. Once the density level of the new subdivision or developing area reaches thirty (30) Dwelling Units per strand mile, the Grantee shall have three (3) months to extend and make Cable Television Service available to every Dwelling Unit in the new subdivision or developing area, unless the City agrees to extend the three (3) month time period on a project-by-project basis.

(e) Special Agreements. Nothing in this Chapter shall be construed to prevent the Grantee from serving areas not covered under this Section upon agreement with developers, property owners, or residents, provided that five (5) percent of the Gross Revenues derived from such service within the Franchise Area are returned to the City as required under Section 27.21 of this Chapter.

27.18 RATE REGULATION

(a) City Reserves Right of Rate Regulation. The Grantee shall establish rates for its services which shall be applied on a nondiscriminatory basis in the Franchise Area. Pursuant to federal law, the City reserves the right to assume regulation of rates paid by cable Subscribers; such rate regulation shall be performed by the Watertown Common Council in accordance with FCC Rules and Regulations "Part 76, Subpart N." As specified by the FCC's Rules (Part 76, Subpart N), such rate regulation shall cover Basic Service rates and customer premises installations and equipment rates (including charges for, but not be limited to, converter boxes, remote control units, connections for additional television receivers and other cable home wiring). The City reserves the right to further regulate rates pursuant to any additional powers granted it by either the FCC or federal or state law.

(b) Notice of Certification. In the event that the City assumes rate regulatory powers, the City shall notify the Grantee of the City's FCC Certification. Upon receipt of such notification by the Grantee, Basic Service rate regulation shall become effective.

(c) Service Disconnection. A Subscriber shall have the right to have its service disconnected without charge, except for actual costs incurred by the Grantee or other charges that are allowable under state or federal law. Service disconnections shall include the removal of any equipment owned by the Grantee from the Subscriber's residence. Such disconnection shall be made as soon as practicable and in no case later than thirty (30) days following written notice to the Grantee of same. No Grantee shall enter into any agreement with a Subscriber which imposes any charge following disconnection of service, except
for reconnection and subsequent monthly or periodic charges, and those charges shall be no greater than charges for new customers. This Subsection shall not prevent a Grantee from entering into an agreement with a Subscriber regarding the collection of any past due amounts, nor shall this Subsection prevent a Grantee from refusing service to any Person because of the Grantee's prior accounts with that Person which remain due and owing.

(d) Buried Service Charge. In the event that a Subscriber requests a buried service drop to a residence in an area where telephone, electric power, and cable TV distribution cables are above ground, the Grantee shall bury, or allow the Subscriber to bury, a direct-burial drop. Where the Grantee does the work, the Grantee may charge the Subscriber for the actual costs the Grantee incurs in providing the buried service drop.

27.19 PROTECTION OF INDIVIDUAL RIGHTS

(a) Discriminatory Practices Prohibited

(i) A Grantee shall not refuse cable television service or otherwise discriminate against any Person or organization who requests such service on the basis of race, color, religion, national origin, creed or sex. A Grantee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any unreasonable preference or advantage, nor subject any Person to any prejudice or disadvantage. The Grantee shall comply at all time with the Cable Act and all other applicable federal, state and local laws and regulations, and all executive and administrative orders relating to non-discrimination which are hereby incorporated and made part of this Chapter by reference.

(ii) This Section shall not be deemed to prohibit promotional rates for service introductions or temporary promotional discounts. This Section does not preclude a Grantee from offering special services or rates to senior citizens, or services to commercial Subscribers at rates different from those charged residential Subscribers, which shall include, but not be limited to, charges for installation on a time and material basis. The Grantee may also enter into separate contracts with multiple Dwelling Unit buildings and may charge discounted rates for services based upon single point billing or other contractual considerations.

(b) Fairness and Equal Access. A Grantee's Cable System shall be operated in a manner consistent with the principles of fairness and equal access to its facilities, equipment, Channels, studios and other services for all citizens, businesses, public agencies or other entities having a legitimate use for the Cable System and no one shall be arbitrarily excluded from its use. Allocation of use of such facilities shall be made according to the rules or decisions of regulatory agencies affecting the same, and where such rules or decisions are not effective to resolve a dispute between conflicting users or potential users, the matter shall be submitted for resolution by the City.

(c) Equal Employment. A Grantee shall strictly adhere to the equal employment opportunity requirements of federal, state and local laws and regulations in effect on the date of the Franchise grant, and as amended from time to time.

(d) Subscriber Protection. No property owner, manager, lessee, tenant or other Person may request or accept payment in any form for permitting Cable System access to his or her property or premises, nor discriminate in rental charges or conditions or otherwise between tenants who subscribe to Cable Services and those who do not.
(e) Discontinuation of Service. If a Subscriber fails to pay any proper fee or charge for any service provided by the Grantee, the Grantee may discontinue said service, provided that the unpaid bill is at least forty-five (45) days past due and the Subscriber has been given at least ten (10) business days prior notice of the intention to discontinue service. If the Grantee receives payment of all outstanding fees and charges, including any late charges, before any service has been discontinued, then the Grantee shall not discontinue said service. After any service has been discontinued, upon request of the Subscriber accompanied by payment in full of all fees or charges due the Grantee and the payment of an appropriate reconnection charge, if any, the Grantee shall promptly reinstate said service. Subscribers shall retain the right to deactivate their terminals, but shall continue to be responsible for charges until the Grantee is notified to terminate service. The Subscriber shall not be charged any fee for the cancellation or downgrading of Cable Service, except in accordance with applicable state or federal law.

(f) Rights of Residents.

(i) An owner or operator of an apartment building, condominium, nursing home, mobile home park, or any other rental facility may not interfere with or charge a fee for the installation of Cable System facilities for the use of a lessee of said property or premises, except that such owner or operator may require:

(1) installation to conform to reasonable conditions necessary to protect the safety, appearance and functioning of the premises;
(2) the Grantee, occupant, or tenant to pay for the installation, operation, or removal of such facilities; and
(3) the Grantee, occupant, or tenant to agree to indemnify the owner or operator for any damages caused by the installation, operation or removal of such facilities.

(ii) It shall be unlawful for the Grantee to compensate or offer to compensate any Person, or for any Person to demand or receive compensation from the Grantee, for the placement upon the premises of such Person of Grantee’s facilities necessary to connect such Person’s premises to the distribution lines of Grantee to provide Cable Service to said premises.

27.20 REGULATORY JURISDICTION AND PROCEDURES

 (a) Continuing Regulatory Jurisdiction. The City shall have continuing regulatory jurisdiction and supervision over the operation of any Franchise granted under this Chapter and may from time to time adopt such reasonable rules and regulations as it may deem necessary to carry out its regulatory functions.

 (b) Cable TV Regulatory Board. The continuing regulatory functions of the City shall be conducted by the Cable TV Regulatory Board. The Board shall be composed of (5) citizen members, all appointed by the Mayor, subject to the approval of the Common Council. Members shall be appointed for a term of three (3) years.

 (c) Powers and Duties of the Cable TV Regulatory Board. The duties of the Regulatory Board shall be as follows:

 (i) Resolve Subscriber complaints or disputes between Subscribers and the Grantee which have been submitted to the Cable TV Office pursuant to Section 27.28.

 (ii) Recommend to the Mayor and the Common Council a budget which shall not exceed the franchise fees collected by the City from the Grantee during the previous fiscal year. Capital support payments shall be allocated for capital improvements upon recommendations of the Regulatory Board and approval by the Common Council.
(iii) Review and audit reports and records submitted to the City by the Grantee as required by Section 27.36, and such other correspondence as submitted concerning the operation of the Cable TV System so as to insure that the necessary reports are completed, submitted and fulfilled pursuant to the terms of this Chapter.

(iv) Assure that all records, tariffs, rates, charges and rules pertinent to the operation of the Cable TV System in the City are made available for inspection by the public during Normal Business Hours on reasonable notice.

(v) Solicit, review and provide recommendations to the Common Council for selection of applicants for a Franchise under this Chapter.

(vi) Review rates and recommend to the Common Council approval or disapproval of any rate changes subject to the City’s jurisdiction.

(vii) Initiate inquiries, receive requests for review of rates charged by the Grantee, and provide recommendations on such actions to the Common Council.

(viii) Administer the sanctions established in Section 27.13 to insure the Grantee’s compliance with this Chapter and the Franchise Agreement.

(ix) Recommend to the Common Council any changes in this Chapter that the Regulatory Board deems to be in the public interest and explain how such changes would improve Cable Service and what monetary impact the changes would have on Subscribers.

(x) Carry out such other duties as the Common Council may assign.

(d) Rules and Regulations of the Regulatory Board.

(i) The Regulatory Board shall adopt such rules and regulations as are necessary to insure that due notice is given to all parties concerning any hearing on any complaints to the Regulatory Board and that the hearings are held promptly. The Regulatory Board shall also have such powers to include the election of its own offices.

(ii) The findings and decisions of the Regulatory Board shall be final, subject to written appeal to the Common Council. The decision of the Common Council shall be final, subject to written appeal to a court or agency of competent jurisdiction.

(e) Cable TV Office. There shall be an office of Cable TV for the purpose of exercising the City’s continuing regulatory jurisdiction over any Franchise granted by the City for the operation of a Cable Television System. (Am. #04-2)

(f) Cable TV Officer. The Mayor, with Common Council approval, shall designate one (1) City employee to hold the position of Cable TV Officer. The Cable TV Officer shall be a non-voting member of the Cable TV Regulatory Board. (Am. #04-2)

(g) Responsibilities of the Cable TV Officer. The Cable TV Officer shall be charged with the following responsibilities:

(i) Receive and investigate such complaints, disputes or disagreements as may be directed or referred to the City between Subscribers and a Grantee, not first able to resolve their differences.
(ii) Report and present recommendations on complaints, disputes or disagreements after investigation to the Cable TV Regulatory Board for the issuance of a finding or the scheduling of a hearing as provided by this Chapter.

(iii) Confer with the Grantee and advise on the interconnection of the Cable TV System with other cable and communications systems.

(iv) Carry out such other duties as the Mayor, the Common Council and the Cable TV Regulatory Board may assign and as are necessary to facilitate the functions of the Cable TV Office and the Cable TV Regulatory Board.

(h) Relationship to Other Departments

(i) All departments of the City government shall cooperate with the Cable TV Officer and the Cable TV Regulatory Board to effectuate compliance with the duties and responsibilities as contemplated by this Chapter. Departments are directed to cooperate fully with the Cable TV Officer and Cable TV Regulatory Board in this purpose.

(ii) All City departments shall make available all information pertaining to the Cable TV System as may be required by the Cable TV Officer and by the Cable TV Regulatory Board.

(iii) The Cable TV Officer shall keep the City department heads informed on matters pertaining to the Cable TV System which affect or appear likely to affect operation of the department.

(iv) The City Attorney or his or her designated assistant shall provide legal counsel to the Cable TV Officer and to the Cable TV Regulatory Board.

(i) Regulatory Procedures

(i) The Cable TV Regulatory Board shall first consider any inquiry or proceeding requiring Common Council action to be taken in regard to any Franchise granted under this Chapter, whether upon application or request by the Grantee or any other party, or on its own motion, and shall submit its report, together with a recommendation, to the Common Council within sixty (60) days of the receipt of such request unless such time is extended by agreement between the Regulatory Board and the requesting party. Any final action by the Common Council on the Regulatory Board's recommendation shall be taken only after thirty (30) days' notice of such proposed action, inquiry or proceeding is published in the official newspaper having general circulation and a copy of such notice is served upon the Grantee. The Grantee shall have an opportunity to respond at the hearing and in writing. Members of the public shall have an opportunity to respond or comment in writing on the proposed action and appear at such proceeding or hearing. The hearing or proceeding shall be set no later than ninety (90) days after notice to the Grantee. The Common Council shall act upon this proceeding within one hundred eighty (180) days of the notice of hearing unless the time is extended by agreement between the City and Grantee.

(ii) The public notice required by this Section shall state clearly the action or proposed action to be taken, the time provided for response, including response by the public, the Person or Persons in authority to whom such response shall be addressed, and such other procedures as may be specified by the Common Council. If a hearing is to be held, the public notice shall give the date, location and time of such hearing. The Grantee shall be a necessary party to any hearing conducted in regard to its operation.

(j) Failure to Enforce Provisions. The Grantee shall not be excused from complying with any of the terms or conditions of the Franchise by any failure of the City upon one or more occasions to insist upon or seek compliance with any such terms or conditions.
(k) Contravention of Provisions. The cost of any successful litigation incurred by the City to enforce any provision of this Chapter or of the Franchise Agreement shall be reimbursed to the City by the Grantee. Such costs shall include filing fees, costs of deposition, discovery and expert witnesses, all other expenses of suit and reasonable attorney's fees.

27.21 FRANCHISE FEE

(a) Franchise Fee. A Grantee shall pay to the City a Franchise Fee in the amount designated in the Franchise Agreement. Unless otherwise specified in the Franchise Agreement, such Franchise Fee shall be five (5) percent of the Grantee's Gross Revenues, or such other maximum amount as allowed by law. In the event that a change in either state or federal law would allow the City to increase the Franchise Fee above 5 (five) percent of the Grantee's Gross Revenues, the Grantee shall not be liable for such increase until the City shall give Grantee written notice of such change in the law. The Franchise Fee payment shall be in addition to any other payment owed to the City by the Grantee and shall not be construed as payment in lieu of municipal property taxes or other state, county or local taxes. (Am. #04-2)

1. This franchise fee shall be deposited in the General Fund and be considered as general revenue.

2. This franchise fee shall not be designated for any specific purpose other than to help balance the General Fund budget.

3. The Public, Education and Government Fee may be specifically designated for capital equipment purchases, subject to Common Council approval.

(b) Payment Schedule. The Franchise Fee shall be paid on a quarterly basis according to the following schedule: revenues for January through March shall be reflected in a May 15th payment; revenues for April through June shall be reflected in an August 15th payment; revenues for July through September shall be reflected in a November 15th payment; and revenues for October through December shall be reflected in a February 15th payment. The payment period shall commence as of the effective date of the Franchise or any renewal date.

(c) Estimated Payments and True-up. The Grantee may make estimated payments for the first three quarters of a calendar year, provided that no estimated quarterly payment is less than twenty-five (25) percent of the previous year's total annual payment and that any discrepancy between the estimated quarterly payments and the total owed for the calendar year is trued up by the February 15th payment.

(d) Financial Statement to be Provided by Grantee. With each February 15th Franchise Fee payment, the Grantee shall furnish to the City a financial statement, indicating:

(i) the total amount of the Grantee's annual Gross Revenues derived from the operation of the Grantee's Cable System within the Franchise Area in the immediately preceding year and

(ii) the amount of revenue derived from each category of service (e.g., Basic Service, Extended Basic Service, premium Channels, equipment rental). The City shall have the right to conduct an independent audit of the Grantee's records, and if such audit indicates a Franchise Fee underpayment of five (5) percent or more, the Grantee shall assume all reasonable costs of such audit.

(e) Interest on Delinquent Payments. If any payment is not made as required, interest on the amount due shall accrue from the date of the required submittal at an annual rate of twelve (12) percent. The Grantee shall pay an additional compensation to the City if the payment is late by forty-five (45) days or more. Such additional compensation shall be equal to an additional six (6) percent per annum in order to defray those additional expenses and costs incurred by the City by reason of the delinquent payment.

(f) Acceptance by the City. No acceptance of any payment by the City shall be construed as a release or as an accord and satisfaction of any claim the City may have for further or additional sums payable as a Franchise Fee under this Chapter or for the performance of any other obligation of the Grantee.
(g) Alternative Fee Basis. In the event the Franchise Fee payment established under this Chapter is ruled unconstitutional or unenforceable, the City may impose and collect an equivalent charge on any legally permissible basis, provided such charge does not exceed the previously allowed limit on Franchise Fee payments.

27.22 CUSTOMER SERVICE STANDARDS

(a) Additional Standards May be Imposed. Nothing in this Chapter shall be construed to prohibit the Grantee and City from agreeing to exceed the customer service standards set out in this Chapter or the establishment or enforcement of any state or local law or regulation concerning customer service or consumer protection that imposes customer service standards or consumer protection requirements that exceed the customer service standards set out in this Chapter or address matters not addressed in this Chapter.

(b) Local Payment Center. The Grantee shall maintain a local Watertown payment center, which shall be open during Normal Business Hours. This payment center shall accept Subscriber payments and handle equipment returns.

(c) Telephone Availability.

(i) The Grantee shall maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers twenty-four (24) hours a day, seven (7) days a week. Trained representatives of the Grantee will be available to respond to customer telephone inquiries during Normal Business Hours. After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained representative of the Grantee on the next business day.

(ii) Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under Normal Operating Conditions, measured on a quarterly basis.

(iii) The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

(iv) Under Normal Operating Conditions, the customer will receive a busy signal less than three (3) percent of the time.

(d) Installations, Outages and Service Calls. Under Normal Operating Conditions, each of the following four (4) standards shall be met by the Grantee no less than ninety-five (95) percent of the time measured on a quarterly basis:

(i) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to one hundred and fifty (150) feet from the existing distribution system.

(ii) Excluding conditions beyond the Control of the Grantee, the Grantee shall begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known to the Grantee. The Grantee must begin actions to correct other service problems the next business day after receiving notification of the service problem.
(iii) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. (The Grantee may schedule service calls and other installation activities outside of Normal Business Hours for the express convenience of the customer.)

(iv) The Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If the Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

(e) Repair Standards. The Grantee shall maintain a repair force of technicians who, under Normal Operating Conditions, are capable of responding to Subscriber requests for service within the following time frames:

(i) System Service Interruption: Under Normal Operating Conditions, within two (2) hours, including weekends, of receiving Subscribers calls which by number identify a system service interruption of sound or picture on one (1) or more channels, affecting all the Subscribers of the system or an interruption of all services to two (2) percent of all Subscribers.

(ii) Isolated Service Interruption: Within twenty-four (24) hours, including weekends, of receiving requests for service identifying an isolated Service Interruption (less than two (2) percent of Subscribers) of sound or picture for one (1) or more Channels. This standard shall be met no less than ninety-five (95) percent of the time, measured on a quarterly basis.

(iii) Inferior Reception Quality: Within forty-eight (48) hours, including weekends, of receiving a request for service identifying a problem concerning picture or sound quality.

The Grantee shall be deemed to have responded to a request for service under the provisions of this Section when a technician arrives at the service location or contacts the customer by telephone and begins work on the problem. In the case of a Subscriber not being home when the technician arrives, response shall be deemed to have taken place if the technician leaves written notification of arrival.

(f) Notification of Service Interruption to Cable TV Officer. The Grantee shall promptly notify the Cable TV Officer, in writing, or, if appropriate, by oral communication, of any significant interruption in the operation of the Cable System. For the purposes of this Section, a "significant interruption in the operation of the Cable System" shall mean any interruption of sound or picture on one (1) or more Channels of a duration of at least twenty-four (24) hours to at least five (5) percent of the Subscribers.

(g) Subscriber Credit for Service Interruptions. Upon notification by a Subscriber of a service interruption of more than four (4) hours in one (1) day, the Grantee shall comply with the following:

(i) Where the service interruption is caused by the Grantee, the Grantee shall give the Subscriber a credit for one (1) day of Cable Service.

(ii) Where the service interruption is not caused by the Grantee, the Grantee shall give the Subscriber a credit for each hour that Cable Service is interrupted.
(h) Antenna Switch/Removal of Antenna. The Grantee, upon request of any Subscriber, may provide and install, at a reasonable charge, a switching device so as to permit a Subscriber to continue to use his own television antenna, if he so chooses. Grantee shall not require the removal, or offer to remove or provide any inducements for removal of any potential or existing Subscriber's antenna, as a condition of provision of service.

(i) Notice of Operating Policies. The Grantee shall provide written information on each of the following areas at the time of installation of service, at least annually to all Subscribers, and at any time upon request:

(i) products and services offered;

(ii) prices and options for programming services and conditions of subscription to programming and other services;

(iii) installation and service maintenance policies;

(iv) instructions on how to use the Cable Services;

(v) Channel positions of programming carried on the Cable System;

(vi) the procedures for billing and making inquiries or complaints (including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed) and also furnish information concerning the City office responsible for administration of the Franchise including the name and telephone number of the office.

The written information shall also include a description of the Grantee's business hours, legal holidays and procedures for responding to inquiries after Normal Business Hours. The Grantee shall provide all Subscribers and the City with written notice no less than thirty (30) days prior to any proposed change in any of the areas listed in this Subsection.

(j) Notice of Rates, Programming Service, and Channel Position. The Grantee shall provide the City and Subscribers with written notice of any changes in rates, programming services, or Channel position at least thirty (30) days prior to implementing such change(s). Such notice shall state the precise amount of any rate change and briefly explain in readily understandable fashion the cause of the rate change (e.g., inflation, changes in external costs or the addition/deletion of Channels). When the change involves the addition or deletion of Channels, each Channel added or deleted must be separately identified. Notices to Subscribers shall inform them of their right to file complaints about changes in cable programming Service Tier rates and services, shall state that the Subscriber may file the complaint within ninety (90) days of the effective date of the rate change, and shall provide the address and telephone number of the City Clerk. Notwithstanding any other provision of this Chapter, the Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment or charge of any kind imposed by the City or any Federal or State agency on the transaction between the Grantee and the Subscriber.

(k) Copies Notices to be Filed with the City. Copies of all notices provided to Subscribers pursuant to Subsections (i) and (j) shall be filed concurrently with the City.

(l) Billing. Bills shall be clear, concise, understandable and shall include the Grantee's toll free or collect telephone number for Subscriber use. Bills shall be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills shall also clearly delineate all activity during the billing period, including optional charges, rebates and credits. In case of a billing dispute, the Grantee shall respond to a written complaint from a Subscriber within thirty (30) days. Refund checks will be issued promptly, and no later than either:
(i) the customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(ii) the return of the equipment supplied by the Grantee if service is terminated. Credits for service shall be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

27.23 SYSTEM DESIGN

(a) Channel Capacity. The Grantee shall operate a Cable System having a minimum capacity of 60 analog or equivalent downstream video Channels. The Grantee shall upgrade its Cable System as required in the Franchise Agreement.

(b) Service Requirements and Continuous Operation. The Grantee shall design its Cable System with the capability to provide two (2) way interactive System programming, upstream Channel and downstream Channel capacity, digital radio and FM radio services, and access Channels. Services shall also include capacity to retransmit stereo audio signal of commercial AM and FM radio stations and stereo audio signals carried on video broadcast and cable cast programming. The Grantee shall also operate and maintain its Cable System in a manner which will enable continuous twenty-four (24) hour operation of all services, as required herein.

27.24 CONSTRUCTION

(a) System Construction Schedule. The Grantee shall comply with the requirements of the Cable System construction or upgrade schedule contained in the Franchise Agreement. The Grantee shall provide a detailed construction or upgrade plan indicating progress schedules, area construction maps, test plan, and projected dates for adding service. In addition, the Grantee shall update this information on a monthly basis, by submitting a copy of its normal internal progress reports, showing specifically whether schedules are being met and the reason for any delays.

(b) Approval of Proposed Construction. The Grantee shall first obtain the City's approval prior to commencing construction on the Streets, alleys, public grounds or places of the City. Applications for approval of construction shall be in a form provided by the City. The right of construction, including easements, is not implied except on locations where the City has the authority to grant such rights and easements and then only in conformity with the provisions of this Chapter. All other rights of construction, including easements, shall be the responsibility of the Grantee.

(c) Excavation Permits. The Grantee shall not open or disturb the surface of any Street, sidewalk, driveway, or public place for any purpose without first having obtained all necessary permits.

(d) Use of Existing Poles or Conduits. Nothing in this Chapter shall authorize the Grantee to erect and maintain in the City, new poles where existing poles are servicing the area. The Grantee shall seek and obtain permission from the City before erecting any new poles, underground conduit or appurtenances where none exist at the time the Grantee seeks to install or expand its Cable System.

(e) Method of Installation.

(i) All wires, cables, amplifiers and other property of the Grantee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, with due respect for engineering and safety considerations.
(ii) All installations shall be underground in those areas of the City where public utilities providing telephone and electric service are underground at the time of installation.

(iii) In areas where telephone or electric utility service is aboveground, the Grantee shall place its facilities underground without additional cost to the City or to the residents of the City (other than as may be reflected in rates charged to Subscribers) at such time as such telephone and electric facilities are required to be placed underground by the City or are placed underground.

(f) Initial Service. After service has been established by activating trunk and distribution cables for any area, the Grantee shall provide service to any requesting Subscriber within the area within thirty (30) days from the date of the request.

(g) Upgrade of Facilities, Equipment and Service. The Grantee shall upgrade its facilities, equipment and service as the demands of Subscribers dictate so that the Cable System is as advanced as the current state of technology with field-proven equipment will allow. Changes in facilities and equipment involving a substantive upgrade of the Cable System shall be subject to consideration and approval by the Regulatory Board.

27.25 TECHNICAL STANDARDS

(a) Standards. The Grantee's Cable System shall be constructed and operated so as to meet those technical and performance standards required by the FCC's rules and regulations relating to Cable Television Systems and found in 47 C.F.R. §§ 76.601 to 76.630, as amended from time to time.

(b) Tests and Compliance Procedures. Within sixty (60) days after the effective date of the Franchise Agreement, the Grantee shall, upon the City's request, submit a detailed test plan describing the methods and schedules for testing its Cable System on an ongoing basis to determine compliance with this Chapter and the Franchise Agreement. The test plan shall be subject to the approval of the City, which approval shall not be unreasonably withheld. The tests for basic Cable Service shall be performed at intervals of no greater than twelve (12) months. The tests may be witnessed by representatives of the City, and the Grantee shall submit written test reports to the City. If more than ten (10) percent of the locations tested fail to meet the performance standards, the Grantee shall be required to indicate what corrective measures have been taken, and the entire test shall be repeated. Grantee's failure to take corrective measures within thirty (30) days after the initial tests are performed may be considered a breach of the Franchise.

(c) Additional Testing. At any time after commencement of service to Subscribers, the City may require the Grantee to perform additional tests, full or partial repeat tests, or tests involving service to a specific Subscriber. Such additional tests will be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance with the technical standards established in this Chapter or the Franchise Agreement.

(d) Costs of Tests. The costs of all tests required in Subsections (b) and (c) above, and retesting as necessary, shall be paid by the Grantee and may be passed through to Subscribers.

27.26 CONSTRUCTION STANDARDS

(a) Compliance with Safety Codes. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970 and any amendments thereto as well as all state and local codes where applicable.
(b) **Compliance with Electrical Codes.** The construction, installation, and maintenance of all of the Grantee's electronic equipment shall be in accordance with the applicable sections of the then-current edition of the National Electric Safety Code, the National Electrical Code, and all state and local codes where applicable.

(c) **Compliance with Aviation Requirements.** Antennas and their supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aeronautical Administration and all other applicable federal, state, or local laws, codes and regulations governing the erection and operation of supporting structures or television towers.

27.27 **PROOF OF COMPLIANCE**

Upon reasonable notice by the City, the Grantee shall demonstrate compliance with any or all of the standards and requirements imposed by this Chapter. The Grantee shall provide sufficiently detailed information to permit the City to readily verify the extent of compliance.

27.28 **COMPLAINT PROCEDURES**

(a) **Complaints to Grantee.** A Grantee shall establish written procedures for receiving, acting upon and resolving Subscriber complaints without intervention by the City. The procedures shall prescribe the manner in which a Subscriber may submit a complaint, either orally or in writing, to the Grantee. At the conclusion of the Grantee's investigation of a Subscriber complaint, but in no event more than ten (10) days after receiving the complaint, Grantee shall notify the Subscriber of the results of the investigation and its proposed action or resolution, if any. The Grantee shall also notify the Subscriber of the Subscriber's right to file a complaint with the City in the event the Subscriber is dissatisfied with the Grantee's decision.

(b) **Complaints to the City.** A Subscriber who is dissatisfied with the Grantee's proposed decision shall be entitled to have the complaint reviewed by the City. The Subscriber shall initiate the review by filing a complaint, together with the Grantee's decision, if any, with the Cable TV Office and by notifying the Grantee of the filing. The Subscriber shall make such filing and notification within twenty (20) days of receipt of the Grantee's decision or, if no Grantee decision has been provided, within thirty (30) days after filing the original complaint with Grantee. The City may extend these time limits for reasonable cause.

(c) **Review by the City.** The City shall determine, upon a review of a Subscriber complaint and the Grantee's decision, if any, whether further action is warranted. In the event the City does not initiate further proceedings within fifteen business (15) days of the filing of the complaint, the Grantee's proposed action or resolution shall be final. If the City decides to initiate further investigation, the City shall require the Grantee and the Subscriber to submit, within ten business (10) days of notice thereof, a statement of the facts and arguments in support of their respective positions. The City shall issue a written decision within thirty (30) days of receipt of the statements or, if a hearing is requested, within thirty (30) days of the conclusion of the hearing, setting forth the basis of the decision.

(d) **Remedies for Violations.** The City may, as a part of a Subscriber complaint decision issued by the City under the provisions of this Chapter, impose monetary damages on the Grantee. Damages may be imposed only if the City finds that the Grantee has arbitrarily refused or failed without reasonable justification to comply with the provisions of this Section.
27.29 COMPLAINT FILE, SERVICE REQUEST LOG, AND OUTAGE LOG

(a) Complaint File. A Grantee shall keep an accurate and comprehensive file of any and all complaints regarding the Cable System. A Grantee shall establish a procedure to remedy complaints quickly and reasonably to the satisfaction of the City. A Grantee shall keep complete records of its actions in response to all complaints for a period of three (3) years. The Grantee shall make a copy of its complaint file available to the City upon request.

(b) Service Request Log and Summary. The Grantee shall maintain a log and summary of all Subscriber service requests, identifying the number and nature of the requests and their disposition for a period of three (3) years. The Grantee shall make a copy of such log and summaries available to the City upon request.

(c) Outage Log and Summary. A Grantee shall maintain a log and summary of all major service outages for a period of three (3) years. For the purposes of this Subsection, a “major service outage” shall mean any interruption of sound or picture on one (1) or more Channels of a duration of at least twelve (12) hours to at least two (2) Subscribers. A copy of such log and summaries shall be made available to the City upon request.

27.30 AUTHORITY FOR USE OF STREETS

(a) Use of Streets. For the purpose of constructing, operating and maintaining a Cable System in the City, a Grantee may erect, install, construct, repair, replace, relocate, reconstruct and retain in, on, over, under, upon, across and along the Streets within the City such lines, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of the Grantee’s Cable System, provided that the Grantee applies for and obtains all applicable permits, pays all fees, and otherwise complies with this Chapter and all other City codes and ordinances.

(b) Filing of Plans with the City. Prior to construction, reconstruction, upgrade, rebuild or any other major modification or change of the Grantee’s system, other than routine repairs, the Grantee shall, in each case, file its plans for such work with the City and shall not commence any such work until it receives written approval of its plans from the City. The City shall not unreasonably withhold its approval. Upon the City's request, the Grantee shall provide written progress reports to the City until the work is completed.

(c) Non-Interference/Notice. The Grantee shall construct, maintain, and operate its Cable System so as not to interfere with other uses of the Streets. The Grantee shall individually notify all residents directly affected by the proposed work at least five (5) business days prior to the commencement of such work.

27.31 CONDITIONS ON USE OF STREETS

(a) Facilities Not to be Hazardous or Interfere.

(i) All wires, conduits, cables and other property and facilities of the Grantee shall be so located, constructed, installed and maintained as not to endanger any Person or unnecessarily interfere with the usual and customary trade, traffic and travel upon the Streets and public places of the City.

(ii) The Grantee shall keep and maintain all its property in good condition, order and repair. The City reserves the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the Grantee.
(iii) The Grantee shall keep accurate maps and records of all its facilities and furnish copies of such maps and records when requested by the City.

(iv) The Grantee shall not place poles or other equipment where they will interfere with the rights or reasonable convenience of adjoining property owners, or with any gas, electric or telephone fixtures or with any water hydrants or mains. All poles or other fixtures placed in a Street shall be placed in the right-of-way between the roadway and the property, as specified by the City.

(b) Restoration and Reimbursement.

(i) In the event of disturbance of any Street or private property by the Grantee, it shall, at its own expense and in a manner approved by the City and the owner, replace and restore such Street or private property in as good a condition as before the work causing such disturbance was done.

(ii) If the Grantee fails to perform such replacement or restoration, the City or the owner shall have the right to do so at the sole expense of the Grantee. Payment to the City or owner for such replacement or restoration shall be immediate, upon demand, by the Grantee. All requests for replacement or restoring of such Streets or private property as may have been disturbed must be in writing to the Grantee.

(c) Emergency Removal of Facilities. If, at any time, in case of fire or disaster in the City, it shall become necessary in the reasonable judgment of the City to cut or move any of the wires, cables, amplifiers, appliances or appurtenances thereto of the Grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the Grantee, at its sole expense.

(d) Changes Required by Public Improvements. The Grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same Street or other public place, or remove from the Street or other public place, any property of the Grantee when required by the City by reason of traffic conditions, public safety, Street vacation, Street construction, change or establishment of Street grade, installation of sewers, drains, water pipes, City-owned power or signal lines, and tracts or any other type of structure or improvement by public agencies.

(e) Requests for Removal or Change. The Grantee shall, on the request of any Person holding a building moving permit, temporarily raise or lower its wires to permit the moving of such building. The expense of such temporary removal, raising or lowering the wires shall be paid by the Person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than seventy-two (72) hours prior notice of any move contemplated to arrange for temporary wire changes.

(f) Authority to Trim Trees. The Grantee shall have the authority to trim trees upon and overhanging Streets, alleys, sidewalks, and other public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. All trimming is to be done under the supervision and direction of the City after the explicit, prior written notification and approval of the City and at the expense of the Grantee.

27.32 SERVICES

(a) Services Provided. The Grantee shall provide, at a minimum, the services listed in the Franchise Agreement and this Section 27.32. The Grantee shall not reduce such services without prior notification to and approval by the City.
(b) **Basic Cable Service.** Basic Cable Service, which shall include any Service Tier which includes the retransmission of local television signals, shall be provided to all Subscribers at the established monthly subscription rates.

(c) **Public Educational and Government Access Channel.** The Grantee shall provide at least three (3) Channels for use by the City for public, education, and governmental (PEG) access purposes. The City may request that the Grantee provide additional PEG access Channels pursuant the terms of the Franchise Agreement.

(d) **Education and Governmental Connection to Cable System.** Upon request by the City, the Grantee shall provide free Basic and Extended Basic Service to any and all City buildings used for municipal purposes and to all public and parochial school buildings used for educational purposes within the Franchise Area and within three hundred (300) feet of existing cable plant. The Grantee may charge for usual installation costs. The City may extend service within each building so served as long as such extensions are in compliance with applicable FCC rules and regulations.

(e) **Cable Channel for Commercial Use.** The Grantee shall designate Channel capacity for commercial use as required by the Cable Act and applicable law.

**27.33 SUBSCRIBER PRIVACY**

(a) **Collection of Subscriber Information.** Except as otherwise provided in this Subsection (a), no Grantee shall use the Cable System to collect personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned. A Grantee may use the Cable System to collect such information in order to obtain information necessary to render a Cable Service or other service provided by the Grantee over the Cable System to the Subscriber or to detect unauthorized reception of cable communications. As used in this Section 27.33, personally identifiable information does not include any record of aggregate data which does not identify particular persons, the City or any other Person shall not initiate or use any form, procedure or device for procuring information or data from cable Subscribers' terminals by use of the Cable System, without prior written authorization from each Subscriber so affected.

(b) **Disclosure of Subscriber Information.** Except as otherwise permitted by the Cable Act, shall not disclose personally identifiable information concerning any Subscriber without the prior written or electronic consent of the Subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a Person other than the Subscriber or the Grantee.

(c) **Subscriber Access to Information.** A Subscriber shall be provided to all personally identifiable information regarding that Subscriber which is collected and maintained by the Grantee. Such information shall be made available to the Subscriber at reasonable times and at a convenient place designated by the Grantee. A Subscriber shall be provided reasonable opportunity to correct any error in such information.

(d) **Destruction of Subscriber Information.** A Grantee shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under Subsection (c) or pursuant to a court order.
27.34 QUALITY OF SERVICE

The overall quality of service provided by a Grantee to Subscribers may be subject to evaluation by the City, at least annually. In addition, the City may evaluate the quality of service at any time, based on Subscriber complaints received by the Grantee, and the City, and the Grantee's response to those complaints. Upon determining that service quality is inadequate, the City may order the Grantee to cure the inadequacies. The Grantee shall commence corrective action within thirty (30) days after receipt of written notice such order. Failure to do so shall be deemed to be a material breach of the Franchise and subject to the remedies prescribed in this Chapter. The City may use the performance bond and/or security fund provided for in this Chapter to remedy any such Franchise breach.

27.35 OPEN BOOKS AND RECORDS

(a) Maintenance of Books and Records. All records pertaining to Subscribers, Cable System operations and finances of the Grantee shall be maintained in a local office or a regional office that is no more than one hundred (100) miles from the corporate offices of the City.

(b) City Right to Inspect. On twenty-four (24) hours written notice, at any time during Normal Business Hours at the Grantee's local office or regional office, the City shall have the right to inspect all books, records, maps, plans, financial statements, all logs required under this Chapter, performance test results, record of requests for service and other like materials of the Grantee relating to the operation of the Cable System in the Franchise Area.

(c) Confidential Information. When requested by the Grantee and to the extent allowed by law, the City shall treat as confidential proprietary information or trade secrets obtained by the City during records inspection; the City shall make such information available only to those Persons who must have access to the information to perform their duties on behalf of the City.

27.36 REPORTS AND RECORDS

(a) Annual Submissions to the City. The Grantee shall file annually with the City Clerk, not later than three (3) months after the end of Grantee's fiscal year during which it accepted a Franchise under this Chapter and within three (3) months after the end of each subsequent fiscal year, two (2) copies of the following:

(i) A summary of the previous year’s activities in development of the Cable System, including, but not limited to, services begun or discontinued during the reporting year, and the number of Subscribers for each class of service;

(ii) Each type of Subscriber agreement if different from those already on file with the City. Copies of individual Subscribers agreements shall not be filed with the City.

(iii) A statement of projected construction within the Franchise Area, if any, for the next three (3) years; and

(iv) Accurate maps and/or plats of the location and character of all existing and proposed installations of the Grantee over, upon or under the Streets of the City. A description of the location of any businesses or Dwelling Units adjacent to the Grantee's physical plant, to which cable access is not technologically or economically feasible shall be identified and listed separately along with the reason(s) Cable TV Service is not available.
(b) **Submissions Required Upon Request.** Upon request by the City, the Grantee shall file two (2) copies of the following with the City Clerk:

(i) Any quarterly or annual reports to the Grantee's stockholders, partners, or other equity owners, including reports of parent companies or other Controlling or related entities;

(ii) A list of Grantee's officers, members of its board of directors, and other principals of the Grantee;

(iii) A list of all stockholders, partners or other entities holding five (5) percent or more of the owner’s equity in the Grantee, including similar lists for the parent companies or other Controlling or related entities of the Grantee.

(iv) All rules and regulations promulgated by the Grantee during the fiscal year in the conduct of its business under this Chapter.

(c) **Other Submissions.** Copies of all petitions, applications and communications submitted by the Grantee to the FCC, Securities and Exchange Commission or any other federal or state regulatory commission or agency having jurisdiction in respect to any matter affecting cable operation within the Franchise Area shall also be submitted simultaneously to the City.

(d) **Records to be Kept on File.** All records required by this Section shall be kept on file by the Grantee for the applicable periods under federal and state law or, where no period is designated by law, for the duration of the Franchise.

(e) **Public Availability of Reports.** The reports and records required under this Chapter shall be available for public inspection during Normal Business Hours in the office of the City Clerk. Subscribers shall be notified of the availability of such reports and records.

### 27.37 BONDS

(a) **Proposal Bond.** Each applicant for an initial Franchise under this Chapter shall submit a proposal bond in a form acceptable to the Mayor of Watertown, or a certified check on a bank that is a member of the Federal Deposit Insurance Corporation, payable to the order of the City of Watertown in the amount of five thousand dollars ($5,000).

(b) **Forfeit of Proposal Bond.** Should the applicant for an initial Franchise fail or refuse to accept a Franchise under this Chapter or fail or refuse to furnish the performance bond as required in Subsection (c) within thirty (30) days after receiving written notification of the award of a Franchise by the City, the applicant shall be considered to have abandoned its proposal and the City shall enforce the proposal bond in accordance with its terms or retain the proceeds of the certified check.

(c) **Return of Proposal Bond.** Proposal bonds or certified checks received in lieu thereof from applicants whose proposals are not accepted by the City shall be returned to the applicant within thirty (30) days after the proposal is rejected.
(d) Performance Bond. At the time an initial or renewed Franchise is accepted, the Grantee shall furnish and file with the City a performance bond running to the City, with at least two (2) good and sufficient sureties or other financial guaranties approved by the Mayor of Watertown, in the amount set out in the Franchise Agreement and conditioned on the faithful performance of the Grantee and on the further condition that in the event the Grantee shall fail to comply with any law, ordinance, regulation or agreement governing the Franchise, there shall be recoverable jointly and severally from the principal and sureties on the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification or cost or removal or abandonment of any property of the Grantee, plus a reasonable allowance for attorney’s fees and costs, up to the full amount of the bond. The bond shall contain the following endorsement:

It is understood and agreed that this bond may not be canceled nor the intention not to renew be stated until thirty (30) days after receipt by the City Clerk of Watertown, Wisconsin, by registered mail of two (2) copies of a written notice of such intent to cancel or not to renew.

At the time of a Franchise review, the Grantee may submit to the City a written application for a reduction in the sum total amount of the performance bond for the remainder of the Franchise term and any renewal or extension of the Franchise. The Cable TV Regulatory Board shall determine and submit a revised sum total amount to the Common Council for action. The decision of the Council shall be final.

(e) Construction Bond. Prior to undertaking any construction work costing $50,000 or more relating to the Franchise granted under this Chapter, the Grantee shall file with the City a construction bond in the amount specified in the Franchise Agreement in favor of the City and any other Person who may claim damages as a result of the breach of any duty by the Grantee assured by said bond. Such construction bond shall be in the form approved by the City and issued by a company approved by the City. In no event shall the amount of such construction bond be construed to limit the liability of the Grantee for damages. The City may waive this requirement or permit consolidation of the construction bond with the performance bond specified above in Subsection (b).

(f) Bond Evidence to be Filed with the City. Two (2) copies of all bonds or certified copies thereof and written evidence of payment of any required premium shall be filed and maintained with the City Clerk during the term of any Franchise granted under this Chapter or any renewal thereof.

27.38 SECURITY FUND

Within thirty (30) days after the effective date of the Franchise Agreement, the Grantee may be required to deposit into a bank account established by the City, and maintain on deposit through the term of this Franchise, the sum specified in the Franchise Agreement, as security for the Grantee’s faithful performance of all of its obligations under this Chapter and the Franchise Agreement and for the payment by the Grantee of any claims, liens, taxes and fees due to the City which arise by reason of the construction, operation, or maintenance of the Grantee’s Cable System.

27.39 WORK PERFORMED BY OTHERS

The Grantee shall give prior notice to the City specifying the names and addresses of any entity, other than the Grantee, that performs services valued at $10,000 within one calendar year or more relating to the Franchise, provided, however, that all provisions of the Franchise remain the responsibility of the Grantee. All provisions of any Franchise shall apply to any subcontractor or others performing any work or services pursuant to the provisions of the Franchise. Nothing in this Section shall be construed as allowing the transfer of any rights or responsibilities of the Grantee without written approval of the City.
27.40 INDEMNITY

(a) Extent of Indemnity. The Grantee shall, by acceptance of any Franchise granted, indemnify, defend and hold harmless the City, its officers, boards, commissions, agents, and employees from any and all claims, suits, judgments for damages or other relief, costs and reasonable attorneys fees in any way existing out of or through or alleged to arise out of or through:

(1) the acts of the City in granting the Franchise;

(2) the acts or omissions of Grantee, its servants, employees, or agents including, but not limited to, any failure or refusal by Grantee, its servants, employees or agents to comply with any obligation or duty imposed on the Grantee by this Chapter or the Franchise Agreement; or

(3) the Grantee's exercise of any right or privilege granted or permitted by this Chapter or the Franchise Agreement; or

(4) the release, threatened release by the Grantee's facilities or the storage by the Grantee of any hazardous wastes or hazardous substances on, under or adjacent to the Streets (collectively referred to as Covered Claims).

Hazardous substances shall be interpreted broadly to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar item by used by any federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. Such indemnification shall include, but not be limited to, all claims arising in tort, contract, infringements of copyright, violations of statutes, ordinances or regulations or otherwise.

(b) Notification of Claims. The City shall notify the Grantee within ten (10) business days after the presentation of any claim or demand, either by suit or otherwise, made against the City. City's failure to so notify the Grantee does not relieve the Grantee of its obligation under this Section 27.40.

(c) Defense of Claims. In the event any claims shall arise, the City or any other indemnified party shall tender the defense thereof to the Grantee. Defense of any such claim shall be by counsel reasonably acceptable to the City or other indemnified party. Provided, however, in the event the City, in its sole discretion, determines that its interests cannot be represented in good faith by the Grantee, the Grantee shall pay all expenses (including reasonable attorney's fees) incurred by the City in defending itself. Grantee shall not agree to any settlement of claims that affects the City without the City's approval.

(d) City's Negligence. The Grantee shall not be required to indemnify the City to the extent that any Covered Claim solely arises from the negligence or willful misconduct on the part of the City's officials, boards, commissions, agents or employees.

27.41 INSURANCE

(a) Liability Insurance. The Grantee shall maintain throughout the term of the Franchise, and any extensions thereto, the insurance policies described below, which shall be written on an occurrence basis. Such policies shall name as an additional insured the City, its officers, boards, commissions, agents and employees, be primary to any insurance carried by the City, and shall be obtained from a company or companies approved by the City and in a form satisfactory to the City. Such policies shall be as follows:

(i) General Comprehensive Liability Insurance. General Comprehensive Liability Insurance containing the following coverages: Premises/Operations; Products/Completed Operations; Broad Form Property Damage; Contractual Liability; Coverage for Explosion, Collapse and Underground Hazards; and Pollution Control Liability. The policy shall include limits of not less than $1,000,000 for bodily injury (including death) and property damage for each occurrence of not less than $2,000,000 in the aggregate.
(ii) **Worker's Compensation.** Worker's Compensation Insurance in compliance with Section 102.31 of the Wisconsin Statutes and in compliance with the laws of each state having jurisdiction over each employee.

(iii) **Comprehensive Automobile Liability.** Comprehensive Automobile Liability including owned, non-owned, and hired vehicles with limits of not less than $1,000,000 for bodily injury (including death) and $1,000,000 for property damage for each occurrence.

(iv) **Umbrella Liability.** Umbrella Liability with limits of not less than $8,000,000, which shall be in excess of the insurance required in Subsections (a)(i) and (iii) and which shall carry the following endorsement:

It is hereby understood and agreed that despite anything to the contrary where underlying insurance, as described herein, provides greater protection or indemnity to the insured than the terms and conditions of this policy, this insurance shall pay on behalf of the insured the same terms, conditions and coverages which apply to the basic underlying insurance. Where no such broader underlying insurance exists, this policy shall pay on behalf of the insured upon terms and conditions and limitations of the carrier's umbrella excess policy.

(b) **Notice of Cancellation or Reduction of Coverage.** The insurance policies mentioned above shall contain an endorsement stating that the policies are extended to cover the liability assumed by the Grantee under the terms of this Chapter and the Franchise Agreement and shall provide that the policy may not be canceled nor the amount of coverage thereof reduced until thirty (30) days after receipt by the City Clerk by registered mail of written notice of such intent to cancel or reduce the coverage.

(c) **Evidence of Insurance Filed with City Clerk.** During the term of the Franchise or any renewal term, the Grantee shall file and maintain with the City Clerk all policies of insurance or certified copies thereof and written evidence of payment of required premiums.

(d) **City's Right to Revise Insurance Requirements.** The City reserves the right to revise the insurance requirements stated in this Chapter at any time during the term of any Franchise granted under this Chapter.

(e) **No Waiver.**

(i) Neither the provisions of this Chapter nor any insurance accepted by the City pursuant hereto, nor any damages recovered by the City thereunder, shall be construed to excuse faithful performance by the Grantee or limit the liability of the Grantee under this Franchise or for damages, either to the full amount of any bond required by this Chapter or the Franchise Agreement or otherwise.

(ii) No provision of this Chapter is intended, or shall be construed, to be a waiver for any purpose by the City of the provisions of Section 893.80 of the Wisconsin Statutes or other applicable limits on municipal liability.

**27.42 PROTECTION OF NON-SUBSCRIBERS**

A Grantee shall at all times keep its cables and other appurtenances used for transmitting signals shielded in such a manner that there will be no interference with signals received by radios or televisions not connected to the Grantee's service.
27.43 GRANTEES RULES

(a) Grantee Rules and Regulations. A Grantee may promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Grantee to exercise its rights and perform its obligations under the Franchise and to assure uninterrupted service to all its Subscribers.

(b) Rules to be in Conformance with Other Regulations. No rules, regulations, terms and conditions promulgated by a Grantee under this Section shall not be in conflict with the provisions of this Chapter, the Franchise Agreement or state or federal law.

(c) Rules to be Filed with City. Two (2) copies of all rules, regulations, terms and conditions promulgated by the Grantee and any additions or deletions thereto shall be kept currently on file with the City Clerk and another copy shall be maintained for public inspection during Normal Business Hours at the Grantee's local payment center. No such rules, regulations, terms, and conditions or amendments, additions or deletions thereto shall take effect until so filed and maintained.

27.44 UNAUTHORIZED RECEPTION OR USE OF CABLE SERVICES

(a) No Unauthorized Use. It shall be unlawful for any Person to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a Grantee's Cable System within the Franchise Area for the purpose of enabling receiving any television signal, radio signal, picture, program or sound, without payment to the Grantee.

(b) No Tampering. It shall be unlawful for any Person, without the Grantee's consent, to willfully tamper with, remove or injure any cables, wires or equipment used by a Grantee for distribution of television signals, radio signals, picture, programs or sound.

(c) Penalties. Any Person violating or failing to comply with the provision of this Section shall be subject to a forfeiture for each day of violation or failure to comply, not to exceed Three Hundred Dollars ($300.00).

27.45 EMERGENCY ALERT SYSTEM

The Grantee shall provide and maintain all equipment, systems, software, services, security provisions, and procedures required for a fully operational emergency cable override warning system in accordance with FCC rules.

27.46 INTERCONNECTION

(a) Interconnection Study. At the City's request, the Grantee shall conduct a study to determine whether interconnection of its Cable System with other adjacent Cable Systems for the purpose of sharing public, educational, and governmental access programming is technically feasible. The Grantee shall submit a report of any such study to the City for its review. The report shall include a statement of the likely impact of such interconnection on Subscriber rates.

(b) Interconnection Procedure. Where the City determines that interconnection is technically and economically feasible, the City may request that the Grantee initiate negotiations with the other affected system(s) in order that all costs may be shared equally among the owners of the system(s) to be interconnected for both construction and operation of the interconnection link.
(c) **Relief.** The City may grant the Grantee reasonable extensions of time to interconnect, or the City may rescind its order to interconnect upon petition by the Grantee to the City. The City shall grant the petition if it finds that the Grantee has negotiated in good faith and has failed to obtain an approval from the operator or franchising authority of the system(s) to be interconnected or that the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates.

(d) **Cooperation Required.** The Grantee shall cooperate with any interconnection corporation, regional interconnection authority or City, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing, or otherwise providing for the interconnection of Cable Systems beyond the boundaries of the City.

**27.47 GENERAL**

(a) **Compliance with Laws, Rules, And Regulations.** In the event any valid law, rule or regulation of any governing authority or agency having jurisdiction, including but not limited to the FCC, contravenes the provisions of this Chapter subsequent to its adoption, the provisions hereof shall be superseded by any such valid law, rule or regulation to the extent that the provisions hereof are in conflict and contrary to any such law, rule or regulation.

(b) **Conflicting Ordinances Repealed.** All ordinances or parts of ordinances in conflict with this Chapter are hereby repealed to the extent of any such conflict.

(c) **Publication Costs.** The Grantee shall assume the cost of publication of the Franchise ordinance as such publication is required by law. A bill for the publication costs shall be presented to the Grantee by the City upon the Grantee's filing of acceptance and shall be paid at that time.

(d) **Severability.** Should any word, phrase, clause, sentence, paragraph, or portion of this Chapter or a Franchise be declared to be invalid by a court of competent jurisdiction, such adjudication shall not affect the validity of this Chapter and the Franchise as a whole, but shall only affect the portion thereof declared to be invalid; and the Common Council hereby expressly states and declares that it would nonetheless have passed this Chapter and granted the Franchise had it known that any such word, phrase, clause, sentence, paragraph or portion of said Chapter or Franchise were invalid.

(e) **Waiver or Exemption.** The City reserves the right to waive provisions of this Chapter or exempt a Grantee from meeting provisions of this Chapter, if the City determines that such waiver or exemption is in the public interest.

(f) **Nonenforcement.** Subject to the provisions of the Cable Act, a Grantee shall not be relieved of any obligation to comply with any of the provisions of this Chapter, the Franchise Agreement, or any rule, regulation, requirement or directive promulgated by the City by reason of any failure of the City or its officers, agents or employees to enforce prompt compliance nor shall such be considered a waiver thereof.

(g) **Force Majeure.** Any delay, pre-emption, or other failure to provide Cable Service and to perform other duties contained in this Chapter and the Franchise Agreement by the Grantee caused by factors beyond the Grantee's Control, such as acts of God, labor disputes, non-delivery by program suppliers, war, riots, government order or regulation, shall not result in a breach of the terms of this Chapter or the Franchise Agreement. Grantee shall exercise reasonable efforts to cure promptly any such delays and the cause thereof, and performance under the terms of this Chapter and Franchise Agreement shall be excused by City for the period of time during which such factors continue.