

AN ORDINANCE GRANTING A FRANCHISE TO JAGUAR COMMUNICATIONS, INC. TO CONSTRUCT, OPERATE, AND MAINTAIN AN ADDITIONAL CABLE TELEVISION SYSTEM IN THE CITY OF HAYFIELD; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND PRESCRIBING PENALTIES FOR THE VIOLATION OF ITS PROVISIONS.

The City Council of the City of Hayfield ordains:

STATEMENT OF INTENT AND PURPOSE

The City intends, by the adoption of this Franchise, to bring about the development of a Jaguar Communications System, and the continued operation of it. Such a development can contribute significantly to the communication needs and desires of many. Further, the City may achieve better utilization and improvement of public services with the development and operation of a Cable Communication System.

FINDINGS

In the review of the proposal and application of Jaguar Communications, Inc. ("Grantee"), the City Council makes the following findings:

- A. The Grantee's technical ability, financial condition, legal qualifications, and character were considered and approved;
- B. Grantee's plans for constructing, upgrading, and operating the System were considered and found adequate and feasible in a full public proceeding after due notice and a reasonable opportunity to be heard;
- C. The Franchise granted to Grantee by the City complies with the existing applicable Minnesota Statutes, federal laws and regulations; and
- D. The Franchise granted to Grantee is nonexclusive.

**SECTION I
SHORT TITLE AND DEFINITIONS**

1.1) Short Title. This Franchise Ordinance shall be known and cited as the Jaguar Communications Ordinance.

1.2) Definitions. For the purposes of this Franchise, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the

context, words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory. The word "may" is directory and discretionary and not mandatory.

A. "Basic Cable Service" means any service tier which includes the lawful retransmission of local television broadcast signals and any public, educational, and governmental access programming required by the franchise to be carried on the basic service tier. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. § 543 (b) (7) (1993).

B. "City" means City of Hayfield, a municipal corporation, in the State of Minnesota, acting by and through its City Council.

C. "City Council" means the Hayfield, Minnesota City council.

D. "Jaguar Communications System" or "System" means a system of antennas, cables, wires, lines, towers, waveguides, or other conductors, Converters, equipment, or facilities located in City and designed and constructed for the purpose of producing, receiving, transmitting, amplifying, or distributing audio, video, and other forms of electronic signals in City. System as defined herein shall not be inconsistent with the definition as set forth in Minn. Stat. § 238.02, subd. 3 (1990) and 47 U.S.C. § 522 (6) (1989).

E. "Cable Programming Service" means 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:

- (1) Video programming carried on the Basic Service Tier;
 - (2) Video programming offered on a pay-per-channel or pay-per-program basis;
- or
- (3) 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:
 - (i) Consists of commonly-identified video programming; and
 - (ii) Is not bundled with any regulated tier of service.

Cable Programming Service as defined herein shall not be inconsistent with the definition as set forth in 47 U.S.C. § 543 (1) (2) (1993) and 47 C.F.R. 76.901(b) (1993).

F. "Cable Television Service" means the provision of television reception, communications and/or entertainment services for direct or indirect compensation, on or as otherwise provided by this ordinance, and distributing the same over a Jaguar Communications System.

G. "Class IV Jaguar Communications Channel" means a signaling path provided by a Jaguar Communications System to transmit signals of any type from a Subscriber terminal to another point in the System.

- H. "Converter" means an electronic device which converts signals to a frequency acceptable to a television receiver of a Subscriber and by an appropriate selector permits a Subscriber to view all Subscriber signals included in the service.
- I. "Drop" means the cable that connects the ground block on the Subscriber's residence to the nearest feeder cable of the System.
- J. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.
- K. "Grantee" is Jaguar Communications Inc., its agents, employees, lawful successors, transferees or assignees.
- L. "Gross Revenues" means compensation received directly by the Grantee from the operation of its System within City, limited to sums received from subscribers for Basic Cable Service fees, Cable Programming Service fees. Gross Revenues shall not include franchise fees or any taxes or fees on services furnished by Grantee imposed directly on any Subscriber or user by any municipality, state, or other governmental unit and collected by Grantee for such governmental unit.
- M. "Installation" means the connection of the System from feeder cable to the point of connection, including Standard Installations and custom installations.
- N. "Lockout Device" means an optional mechanical or electrical accessory to a Subscriber's terminal which inhibits the viewing of a certain program, certain channel, or certain channels provided by way of the Cable Communication System.
- O. "Pay Television" means the delivery over the System of pay-per-channel or pay-per-program audio-visual signals to Subscribers for a fee or charge, in addition to the charge for Basic Cable Service or Cable Programming Services.
- P. "Person" is any person, firm, partnership, association, corporation, company, or other legal entity.
- Q. "Standard Installation" means any residential installation which can be completed using a drop of one hundred fifty (150) feet or less.
- R. "Street" means the surface of, and the space above and below, any public street, road, highway, freeway, lane, alley, path, court, sidewalk, parkway, or drive, or any easement or right-of-way now or hereafter held by the City.
- S. "Subscriber" means any Person who lawfully receives Cable Television Service. In the case of multiple office buildings or multiple dwelling units, the "Subscriber" means the lessee, tenant or occupant.

T. "Unlawful" means a misdemeanor punishable by ninety (90) days in jail or \$700.00 or both. Said violation shall apply each day to each customer served. Unlawful conduct shall also allow the City to take any cause of action it may have against any Person in violation of the terms of this Franchise.

SECTION 2.

GRANT OF AUTHORITY AND GENERAL PROVISIONS

2.1) Franchise Required. It shall be unlawful for any person to construct, operate or maintain a Communications System in City unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid Franchise granted pursuant to this Ordinance. It shall also be unlawful for any person to provide Cable Television Service in City unless such person shall have first obtained and shall currently hold a valid Franchise granted pursuant to the provisions of this Ordinance. All Franchises granted by City pursuant to this Ordinance shall contain the same substantive terms and conditions.

2.2) Grant of Franchise. This Franchise is granted pursuant to the terms and conditions contained herein. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules and regulations.

2.3) Grant of Nonexclusive Authority.

A. The Grantee shall have the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over, and under the Streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in City, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in City of a Jaguar Communications System as herein defined. The Jaguar Communications System constructed and maintained by Grantee or its agents shall not interfere with other uses of Streets. Grantee shall make use of existing poles and other facilities available to Grantee to the extent it is technically and economically feasible to do so.

B. Notwithstanding the above grant to use Streets, no Street shall be used by Grantee if City in its sole opinion determines that such use is inconsistent with the terms, conditions, or provisions by which such Street was created or dedicated, or with the present use of the Street. The City shall also have the right to review and approve of any proposed underground additions to Grantee's system.

C. This Franchise shall be nonexclusive, and City reserves the right to grant a similar use of said Streets, alleys, public ways and places, to any Person at any time during the period of this Franchise, provided, however, that any additional Franchise grants shall be under the same substantive terms and conditions as this Franchise.

D. Grantee shall have the authority to use City easements, public rights-of-way, Streets

and other conduits for the distribution of Grantee's System. The City may require all developers of future subdivisions to allow and accommodate the construction of the System as part of any provisions for utilities to serve such subdivisions.

2.4) Franchise Terra. This Franchise shall be in effect for a period of fifteen (15) years from the date of acceptance by Grantee, unless renewed, revoked or terminated sooner as herein provided.

2.5) Previous Franchises. Upon acceptance by Grantee as required by Section 13 herein, this Franchise shall supersede and replace any previous Ordinance or Agreement granting a Franchise to Grantee to own, operate and maintain a Cable Television System within the City. Ordinance No. 20-1 is hereby expressly repealed.

2.6) Compliance with Applicable Laws, Resolutions and Ordinances. The Grantee shall at all times during the life of this Franchise be subject to all lawful exercise of the police power and the right of eminent domain by the City. This Franchise shall comply with the Minnesota franchise standards contained in Minn. Stat. § 238.01 et seq.

2.7) Rules of Grantee. The Grantee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable said Grantee to exercise its rights and perform its obligation under this Franchise and to assure uninterrupted service to each and all of its Subscribers; provided that such rules, regulations, terms and conditions shall not be in conflict with provisions hereto, the rules of the FCC, the laws of the State of Minnesota, the City, or any other body having lawful jurisdiction thereof.

2.8) Territorial Area Involved. This Franchise is granted for the corporate boundaries of the City, as it exists from time to time. In the event of annexation by the City, or as development occurs, any new territory shall become part of the area covered, provided, however, that Grantee shall not be required to extend service beyond its present System boundaries unless there is a minimum of forty (40) homes per cable mile. Access to cable service shall not be denied to any group of potential residential cable Subscribers because of the income of the residents of the area in which such group resides. Grantee shall be given a reasonable period of time to construct and activate cable plant to service annexed or newly developed areas.

2.9) Written Notice. All notices, reports, or demands required to be given in writing under this Franchise shall be deemed to be given when delivered personally to any officer of Grantee or City's Administrator of this Franchise or forty-eight (48) hours after it is deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, addressed to the party to whom notice is being given, as follows:

If to City:

Attn: City Clerk
P.O. Box 53
Hayfield, MN 55940-0053

If to Grantee:

Jaguar Communications, Inc.

Such addresses may be changed by either party upon notice to the other party given as provided in this Section.

SECTION 3.

CONSTRUCTION STANDARDS

3.1) Construction Standards. If the System, or subsequent rebuilds or extensions, proposed for the Franchise area consist of fewer than one hundred (100) plant miles of cable:

- A. Within ninety (90) days of the granting of the Franchise, the Grantee shall apply for the necessary governmental permits, licenses, certificates, and authorizations;
- B. The energized trunk cable must be extended substantially throughout the authorized area within one (1) year after receipt of the necessary governmental permits, licenses, certificates, and authorizations and the Persons along the route of the energized cable shall have individual Drops as desired during the same period of time; and
- C. The above-stated requirements may be waived by the City only upon occurrence of acts beyond the reasonable control of Grantee or acts of God.

3.2) Construction Codes and Permits.

- A. Grantee shall obtain all necessary permits from the City before commencing, any construction or extension of the System, including the opening or disturbance of any Street, or private or public property within the City. Grantee shall strictly adhere to all building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in the City and give due consideration at all times to the aesthetics of the property.
- B. The City shall have the right to inspect all construction or installation work

performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law.

3.3) Repair of Streets and Property. Any and all Streets or public property or private property, which are disturbed or damaged during the construction repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as good as that prevailing prior to Grantee's work, as approved by the City in the case of Streets and other public property.

3.4) Conditions on Street Use.

A. Nothing in this Franchise shall be construed to prevent the City from constructing, maintaining, repairing, or relocating sewers; grading, paving, maintaining, repairing, relocating and for altering, any Street; constructing, laying down, repairing, maintaining, or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

B. All System transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be located so as not to obstruct or interfere with the proper use of Streets, alleys and other public ways and places, and to cause minimum interference with the rights of property owners who abut any of the said Streets, alleys and other public ways and places, and not to interfere with existing public utility installations. The Grantee shall furnish to and file with the City Administrator the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities, and Grantee shall file with the City updates of such maps, plats and permanent records annually if changes have been made in the System.

C. If at any time during the period of this Franchise the City shall elect to alter, or change the grade or location of any Street, alley or other public way, the Grantee shall, upon reasonable notice by the City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City.

D. The Grantee shall not place poles, conduits, or other fixtures of System above or below ground where the same will interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Street shall be so placed as to comply with all requirements of the City.

E. The Grantee shall, on request of any Person holding a moving permit issued by the City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid by the Person requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

F. The Grantee shall have the authority to trim any trees upon and overhanging the Streets, alleys, sidewalks, or public easements of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee.

G. Nothing contained in this Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring Grantee's facilities.

3.5) Underground Cable.

A. In all areas of the City where all other utility lines are placed underground, Grantee shall construct and install its cables, wires and other facilities underground. Amplifier boxes and pedestal mounted terminal boxes may be placed above ground if existing technology reasonably requires, but shall be of size and design and shall be so located as not to be unsightly or unsafe.

B. In any area of the City where there are certain cables, wires and other like facilities of a public utility or public utility district underground and at least one operable cable, wire or like facility of a public utility or public utility district suspended above the ground from poles Grantee may construct and install its cables, wires and other facilities from the same pole with the consent of the owner of the pole.

C. Grantee shall be granted access to any easements granted to a public utility, municipal utility or utility district in any areas annexed by the City or new developments.

3.6) Removal and, Joint Use of Poles. No poles, conduits, or other wire holding structures shall be erected or installed by the Grantee without prior approval of the City with regard to location, height, type, and other pertinent aspects.

3.7) Safety Requirements.

A. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

B. The Grantee shall install and maintain its System wires, cables, fixtures and other equipment in accordance with the requirements of the National Electric Safety Code and all FCC, state and local regulations, and in such manner that they will not interfere with any installations of the City or of any public utility serving the City.

C. All System structures and all System lines, equipment and connections in, over, under and upon the Streets, sidewalks, alleys, and public ways and places of the City, wherever situated or located, shall at all times be kept and maintained in good condition, order, and repair so that the same shall not menace or endanger the life or property of any Person.

SECTION 4.

DESIGN PROVISIONS

4.1) Minimum

- A. Grantee shall provide a System which is capable of delivering 50 plus channels.
- B. All programming decisions remain the sole discretion of Grantee provided that Grantee notifies City and Subscribers in writing Thirty (30) days prior to any channel additions, deletions or realignments.

4.2) Care & Maintenance of System. The Grantee shall render effective service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruption, to the extent feasible, shall be preceded by notice and shall occur during periods of minimum use of the System.

4.3) Technical Standards. The technical standards used in the operation of the System shall comply, at minimum, with the technical standards promulgated by the FCC relating to Jaguar Communications Systems contained in Subpart K of Part 76 of the Federal Communications Commission's rules and regulations and found in Federal Regulations, Title 47, Section 76.601 to 76.617, which regulations are expressly incorporated herein by reference.

4.4) Special Testing. The City may request special testing of a location or locations within the System if there is a particular matter of controversy or unresolved complaints pertaining to such location(s). Request for such special tests shall be made on the basis of complaints received or other evidence indicating an unresolved controversy or significant noncompliance. Such tests shall be limited to the particular matter in controversy. The City shall endeavor to so arrange its request for such special testing so as to minimize hardship or inconvenience to Grantee or to the Subscribers. Before ordering such tests, Grantee shall be afforded thirty (30) days to correct problems or complaints upon which tests were ordered. The City shall meet with Grantee prior to requesting special tests to discuss the need for such and, if possible, visually inspect those locations which are the focus of concern. If, after such meetings and inspections, the City wishes to commence special tests and the thirty (30) days have elapsed without correction of the matter in controversy, the tests shall be conducted by a qualified engineer selected by the City. In the event that special testing is required by the City to determine the source of technical difficulties, the cost of said testing shall be borne by the Grantee if the testing reveals the source of the technical difficulty to be within Grantee's reasonable control. If the testing reveals the difficulties to be caused by factors which are beyond Grantee's reasonable control then the cost of said test shall be borne by the City.

4.5) FCC Reports. The results of tests required to be filed by Grantee with the FCC shall also be copied to the City upon request by the City.

4.6) Non-voice Return Capability. Grantee is required to use cable having the technical capacity for non-voice return communications.

4.7) Lockout Device. Upon the request of a Subscriber, Grantee shall provide by sale or lease a Lockout Device.

SECTION 5.

SERVICES PROVISIONS

5.1) Regulation of Service Rates.

A. The City may regulate rates for the provision of cable service, equipment, or any other communications service provided over the System to the extent allowed under federal or state law(s). In exercising its jurisdiction to regulate any such rates, City will adhere to regulations adopted by the Federal Communications Commission at 47 C.F.R., § 76.900 et sq.

B. A list of Grantee's current programming lineup, Subscriber rates and charges shall be maintained on file with City and attached hereto as Exhibit I and shall be available for public inspection. Grantee shall give City and Subscribers written notice and explanation of any change in a rate or charge no less than sixty (60) days prior to the effective date of the change.

C. In the event that City elects to exercise its jurisdiction over rates charged for cable service, equipment, or any other communications service, it shall, after notice, hold a public hearing for the consideration of view of interested parties with respect to initial rates filed and any subsequent proposed changes in rates charged for Basic Cable Service or equipment.

5.2) Sales Procedures. Grantee shall not exercise deceptive sales procedures when marketing its cable television services within the City. Grantee shall have the right to market its cable services door-to-door during reasonable hours.

5.3) Subscriber Inquiry and Complaint Procedures.

A. Grantee shall have a publicly listed toll-free telephone number and be operated so as to receive Subscriber complaints and requests on a twenty-four (24) hour-a-day, seven (7) days a week basis.

B. Grantee shall maintain adequate numbers of telephone lines and personnel to respond in a timely manner to schedule service calls and answer Subscriber complaints or inquires.

C. Subscriber requests for repairs shall be performed, to the extent possible, within twenty four (24) hours of the request.

D. Subject to the privacy provisions of 47 U.S.C. § 521 et. sq. (1993), City and Grantee shall, upon written request, prepare and maintain written records of all complaints made to them and the resolution of such complaints, including the date of such resolution. Grantee shall, upon written request, provide City with a written summary of such complaints and their resolution at least once per year.

5.4) Subscriber Contracts. Grantee shall submit any Subscriber contract utilized to the City. If no written contract exists, Grantee shall file with the City Clerk a document completely and concisely stating the terms of the residential Subscriber contract offered to customers, specifically including the length of the Subscriber contract, the length and terms of any Subscriber contract shall be available for public inspection during normal business hours.

5.5) Refund Policy. In the event a Subscriber established or terminates service and receives less than a full month's service, Grantee shall prorate the monthly rate on the basis of the number of days in the period for which service was rendered to the number of days in the billing.

SECTION 6.

PUBLIC ACCESS PROVISIONS

6.1) Public, Educational and Government Access. Grantee shall provide to each of its Subscribers who receive all, or part of, the total services Offered on the System, reception on at least one (1) specially designated access channel. The specially designated access channel may be used by local education authorities and local government on a first-come, first-served, nondiscriminatory basis. During those hours that the specially designated access channel is not being used by local educational authorities, or local government, the Grantee shall lease time to commercial or noncommercial users on a first-come, first-served, nondiscriminatory basis if the demand for that time arises. The Grantee may also use the specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government or commercial or noncommercial users who have leased time. The VHF spectrum must be used for the specially designated access channel required in the section.

6.2) Charges for Use. Channel time and playback of prerecorded programming on the specially designated access channel must be provided without charge to the general public, except that personnel, equipment and production costs may be assessed for live studio presentations exceeding five (5) minutes in length. Charges for production costs must be consistent with the goal of affording the public a low cost means of television access.

6.3) Access Rules. Grantee shall establish rules for use of any specially designated access channel. The initial access rules and any amendments thereto shall be maintained on file with the City and available for public inspection during normal business hours.

SECTION. 7.

OPERATION AND ADMINISTRATION PROVISIONS

7.1 Franchise Req.

A, Grantee hereby agrees to Collect and pay to the City an annual amount of five percent (5%) of its annual Gross Revenues.

B. Payments due the City under this provision shall be payable annually. The payment shall be made within one hundred eighty (180) days of the end of each calendar year together with a brief report showing the basis for the computation.

C. All amounts paid shall be subject to audit and re-computation by the City.

7.2) Access to Records. The City shall have the right to inspect, upon reasonable notice, at any time during normal business hours, those records maintained by Grantee which relate to System operations and to Gross Revenues, subject to the privacy provisions of 47 U.S.C. § 571 et. seq. ("Cable Act"). The Grantee shall also provide to City on a monthly basis "aged trial account balances" for the sole purpose of allowing the City to verify the accuracy of the Franchise Fee payments required by Section 7.1(A). Grantee and City shall at all times comply with all applicable subscriber privacy laws and regulations with respect to Grantee's system information.

7.3) Public Hearings. The Grantee shall attend any annual public hearing called by the City at which complaints and concerns of the citizens of the City may be heard regarding Grantee's cable television service.

SECTION 8.

GENERAL FINANCIAL AND INSURANCE PROVISIONS 8.1 Indemnification

of the City.

A. The City, its officers, boards, committees, commissions, elected officials, employees and agents shall not be liable for any loss or damage to any real or personal property of any Person, or for any injury to or death of any Person, arising out of or in connection with the construction, operation, maintenance, repair or removal of, or other action or event with respect to the System.

B. Grantee shall indemnify, defend, and hold harmless the City, its officers, boards, committees, commissions, elected officials, employees and agents, from and against all liability, damages, and penalties which they may legally be required to pay as a result of the exercise of the franchise, except claims because of City's own programming,

C. Nothing in this Franchise relieves a Person from liability arising out of the failure to exercise reasonable care to avoid injuring the Grantee's facilities while performing work connected with grading, regarding, or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system. City shall be liable for negligent acts by the City, its officers, boards, commissions, committees, elected officials, employees, and agents.

D. In order for the City to assert its rights to be indemnified, defended, and held harmless, the City must with respect to each claim:

1. Promptly notify Grantee in writing of any claim or legal proceeding which gives rise to such right;
2. Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of any claim or proceeding; and
3. Fully cooperate with reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such -claim or proceeding subject to paragraph two (2) above.

8.2) Insurance.

A. As a part of the indemnification provided in Section 8.3, but without limiting the foregoing, Grantee shall file with its acceptance, and at all times thereafter maintain in full force and effect at its sole expense, a comprehensive general liability insurance policy, including contractual liability coverage, in protection of the City in its capacity as such, its officers, elected officials, boards, commissions, agents and employees. The policy or policies shall name as additional insured the City, and their capacity as such, their officers, agents and employees. The policies of insurance shall be in the sum of not less than Three Hundred Thousand Dollars (\$300,000) for personal injury or death of any one person, and One Million Dollars (\$1,000,000) for personal injury or death of two or more Persons in any one occurrence, Three Hundred Thousand Dollars (\$300,000) for property damage to any one person and One Million Dollars (\$1,000,000) for property damage resulting from any one act or occurrence.

B. The policy or policies of insurance shall be maintained by Grantee in full force and effect during the entire term of the Franchise. Each policy of insurance shall contain a statement on its face that the insurer will not cancel the policy or fail to renew the policy, whether for nonpayment of premium, or otherwise, and whether at the request of Grantee or for other reasons, except after thirty (30) days advance written notice have been provided to the City.

SECTION 9

SALE, ABANDONMENT, TRANSFER AND REVOCATION OF FRANCHISE

9.1) City's Right to Revoke.

A. 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 this Franchise, and all rights and privileges pertaining thereto, if after the hearing required by §9.2B herein, it is determined that:

1. Grantee has violated any material provision of this Franchise; or
2. Grantee has attempted to evade any of the material provisions of the Franchise; or
3. Grantee has practiced fraud or deceit upon the City or Subscriber.

B. City may revoke this Franchise without the hearing required by §9.2B herein if Grantee is adjudged a bankrupt.

9.2) Procedures for Revocation.

A. The City shall provide Grantee with written notice of a cause for revocation and the intent to revoke and shall allow Grantee sixty (60) days subsequent or receipt of the notice in which to correct the violation or to provide adequate assurance of performance in compliance with the Franchise. Together with the notice required herein, the City shall provide Grantee with written findings of fact which are the basis of the revocation.

B. Grantee shall be provided the right to a public hearing affording due process before the City Council prior to revocation, which public hearing shall follow the sixty (60) day notice provided in paragraph (A) above. The City shall provide Grantee with written notice of its decision together with written findings of fact supplementing said decision.

C. After the public hearing, and upon written determination by the City to revoke the Franchise, Grantee may appeal said decision with an appropriate state or federal court or agency.

D. During the appeal period, the Franchise shall remain in full force and effect unless the term thereof sooner expires.

E. Upon satisfactory correction by Grantee of the violation upon which said notice was given, the initial notice shall become void.

9.3) Abandonment of Service. Grantee may not abandon the System or any portion thereof without

having first given three (3) months written notice to the City. Grantee may not abandon the System or any portion thereof without compensating the City for damages resulting from the abandonment,

9.4) Removal After Termination of Forfeiture,

A. In the event of termination or forfeiture of the Franchise, the City shall have the right to require Grantee to remove all or any portion of the System from all Streets and public property within the City.

B. If Grantee has failed to commence removal of System, or such part thereof as was designated by City, within one hundred twenty (120) days after written notice of City's demand for removal is given, or if Grantee has failed to complete such removal within twelve (12) months after written notice of City's demand for removal is given, City shall have the right to declare all right, title, and interest to the System to be in City with all rights of ownership including, but not limited to, the right to operate the System or transfer the System to another for operation by it pursuant to the provisions of 47 U.S.C. 547 (1989).

9.5) Sale or Transfer of Franchise.

A. No sale, transfer, or "fundamental corporate change" as defined in Minnesota Statutes, Section 238.083, of this Franchise shall take place until the parties to the sale, transfer, or fundamental corporate change files a written request with the City for its approval, provided, however, that said approval shall not be required where Grantee grants a security interest in its Franchise and assets to secure an indebtedness.

B. The City shall have thirty (30) days from the time of the request to reply in writing and indicate approval of the request or its determination that a public hearing is necessary due to potential adverse affect on Grantee's Subscribers resulting from the sale or transfer. Such approval or determination shall be expressed by Council Resolution within thirty (30) days of receipt of said request, or the request shall be deemed approved as a matter of law,

C. If a public hearing is deemed necessary pursuant to (B.) above, such hearing shall be commenced within thirty (30) days of such determination and notice of any such hearing shall be given in accordance with local law or fourteen (14) days prior to the bearing by publishing notice thereof once in a newspaper of general circulation in the City. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the City. Said hearing may be continued with the consent of Grantee.

D. Within thirty (30) days after the closing of the public hearing, the City shall approve or deny in writing the sale or transfer request. City shall set forth in writing with particularity its reason(s) for denying approval. The City shall not unreasonably withhold its approval.

E. The parties to the sale or transfer of the Franchise only, without the inclusion of the System in which substantial construction has commenced, shall establish that the sale or transfer of only the

Franchise will be in the public interest.

F. Any sale or transfer of stock in Grantee so as to create a new controlling, interest in the System shall be subject -to the requirements of this Section 9.05. The term "controlling interest" as used herein is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

G. In no event shall a transfer or assignment of ownership or control be approved without the transferee becoming a signatory to this Franchise.

H. In the event of any proposed sale or assignment pursuant to paragraph (A) of this Section the City shall have the right of first refusal of any bona fide offer to purchase the System. Bona fide offer, as used in this Section, means an offer received by the Grantee which it intends to accept subject to the City's rights under this Section. This written offer must be conveyed to the City along with the Grantee's written acceptance of the offer contingent upon the nights of the City provided for in this Section.

City shall be deemed to have waived its rights under this Section in the following circumstances:

1. If it does not indicate to Grantee in writing, within 30 days of notice of a proposed sale or assignment, its intention to exercise its right of purchase; or
2. It approves the assignment or sale of the Franchise as provided within this Section.

SECTION 10

PROTECTION OF INDIVIDUAL RIGHTS

10.1) Discriminatory Practices Prohibited. Grantee shall not deny service, deny access, or otherwise discriminate against Subscribers or general citizens on the basis of race, color, religion, national origin, sex or age. Grantee shall comply at all times with all other applicable federal, state, and city laws, and all executive and administrative orders relating to nondiscrimination.

10.2) Subscriber Privacy.

A. No signals including signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the Subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed *one* (1) year which shall be renewed at the option of the subscriber. No penalty shall be invoked for a Subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the Subscriber without penalty of any kind whatsoever. Such permission shall be required for each type or classification of Class IV Channel activity planned for

the purpose of monitoring individual viewing patterns or practices.

B. No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, or any other means, including but not limited to lists of the names and addresses of such Subscribers or any lists that identify the viewing habits of Subscribers shall be sold or otherwise made available to any party other than to Grantee and its employees for internal business use, and also to the Subscriber subject of that information, unless Grantee has received specific written authorization from the Subscriber to make such data available.

C. Written permission from the Subscriber shall not be required for the conducting of System wide or individually addressed electronic sweeps for the purpose of verifying System integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in paragraph (B.) of this Section.

SECTION 11

UNAUTHORIZED CONNECTIONS AND MODIFICATIONS

11.1) Unauthorized Connections or Modifications Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or governmental body or agency, without the express consent of the Grantee, to make or possess, or assist anybody in making or possessing, any connection extension, or division, whether physically, acoustically, inductively, electronically or otherwise, with or to any segment of the System.

11.2) Removal or Destruction Prohibited. It shall be unlawful for any firm, Person, group, company, corporation, or government body or agency to willfully interfere, tamper, remove, obstruct, or damage, or assist thereof, any part or segment of the System for any purpose whatsoever.

11.3) Penalty. Any firm, Person, group, company, corporation or government body or agency found guilty of violating this section may be fined not less than Twenty dollars (\$20.00) and the costs of the action or more than Five Hundred dollars (\$500.00) and the costs of the action for each and every subsequent offense. Each continuing day of the violation shall be considered a separate occurrence.

SECTION 12.

MISCELLANEOUS PROVISIONS

12.1) Franchise Renewal. Any renewal of this Franchise shall be done in accordance with applicable federal, state and local laws and regulations.

12.2) Work Performed by Others. All provisions of this Franchise shall apply to any

subcontractor or others performing, any work or services pursuant to the provisions of this Franchise. Grantee shall provide notice to City of the name(s) and address(es) of any entity, other than Grantee, which performs substantial services pursuant to this Franchise.

12.3) Amendment of Franchise Ordinance. Grantee and City may agree, from time to time, to amend this Franchise. Such written amendments may be made subsequent to a review session pursuant to Section 12.7 or at any other time if City and Grantee agree that such an amendment will be in public interest or if such an amendment is required due to changes in federal, state or local laws. City shall act pursuant to local law pertaining to the ordinance amendment process.

12.4) Compliance with Federal, State and Local Laws.

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

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

12.5) Non-enforcement by City. Grantee shall not be relieved of its obligations to comply with any of the provisions of this Franchise by reason of any failure or delay of the City to enforce prompt compliance. Any waiver by the City of a breach or violation of any provision of this Franchise shall not operate as or be construed to be a waiver of any subsequent breach or violation.

12.6) Administration of Franchise. The City Administrator or other City designee shall have continuing regulatory jurisdiction and supervision over the System and the Grantee's operation under the Franchise. The City may issue such reasonable rules and regulations concerning the construction, operation and maintenance of the System as are consistent with the provisions of the Franchise and law.

12.7) Rights Cumulative. All rights and remedies given to City by this Franchise shall be in addition to and cumulative with any and all other rights and remedies, existing or implied, now or hereafter

available to the City, at law or in equity, and such rights and remedies shall *not be* exclusive, but each and every right and remedy specifically given by this Franchise or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the City and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

12.8) Grantee Acknowledgment of Franchise. Grantee acknowledges that it has had an opportunity to review the terms and conditions of this Franchise and that under current law Grantee believes that said terms and conditions are not unreasonable or arbitrary, and that Grantee believes the City has the power to make the terms and conditions contained in this Franchise.

SECTION 13

PUBLICATION EFFECTIVE DATE; ACCEPTANCE AND EXHIBITS

13.1) Publication; Effective Date. This Franchise shall be published in accordance with applicable Minnesota law. The effective date of this Franchise shall be the date of acceptance by Grantee in accordance with the provisions of Section 13.2.

13.2) Acceptance.

A. Grantee shall accept this Franchise by unless the time for acceptance is extended by the City. Such acceptance by the Grantee shall be deemed the grant of this Franchise for all purposes. In the event acceptance does not take place, this Franchise and any and all rights previously granted to Grantee shall be null and void.

B. Upon acceptance of this Franchise, Grantee shall be bound by all the terms and conditions contained herein.

C. Grantee shall accept this Franchise in the following manner:

1. This Franchise will be properly executed and acknowledge by Grantee and delivered to City.
2. Grantee shall have continuing, responsibility for this Franchise, and if Grantee be a subsidiary or wholly-owned corporate entity of a parent corporation, performance of this Franchise shall be secured by a written guarantee of the parent corporation in a form and substance acceptable to City, which shall be delivered with the executed Franchise.

Passed and adopted this _____ day of _____, 2009

ATTEST:

ACCEPTED: This Franchise is accepted and we agree to be bound by its terms and conditions.

ATTEST:

Jaguar Communications

City of Hayfield

BY: _____

BY: _____

Its: _____

Its: Mayor

BY: _____

Its: City Clerk

Appendix F

AN ORDINANCE GRANTING A JAGUAR COMMUNICATIONS FRANCHISE IN HAYFIELD AND RULES GOVERNING THE OPERATION OF SAME

THE CITY COUNCIL OF THE CITY OF HAYFIELD ORDAINS AS FOLLOWS:

1. Definitions
2. Grant of authority
3. Compliance with Minnesota Jaguar Communications Board's Franchise standards
4. Compliance with State and Federal Laws
5. Certificate of Confirmation
6. Franchise Terms
7. Renegotiation of Franchise Terms
8. Franchise Exclusivity
9. Sale or Transfer of the Franchise, Sale or Transfer of Stock
10. Access to Financial Records
11. Rates and Rate Change Procedure Subscriber Rates
12. Franchise Administrator
13. Liability Insurance
14. Performance Bond
15. Liability for Injury to Franchisee's Facilities
16. Public Hearing RE: Franchisee's Credentials
17. Channel Capacity
18. Construction Schedule
19. Authorization to Commence Construction
20. Compliance with Applicable Codes
21. Relocation of Wires, etc.
22. Technical Standards
23. Special Testing
24. Non-Voice Return Capability
25. Subscriber Privacy
26. Subscriber Complaints
27. Repairs and Complaints
28. Termination
29. Abandonment
30. Procedure after Termination or Revocation
31. Municipal Right to Purchase System
32. Access Channels
33. Franchise of License Fee

SECTION I: DEFINITIONS

For the purpose of this Ordinance, 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. The word "shall" is always mandatory and not merely directory.

- (A) **"BOARD"** is the Minnesota Jaguar Communications Board.
- (B) **"FRANCHISOR"** is the City of Hayfield.
- (C) **"FRANCHISEE"** is Jaguar Communications, Inc.
- (D) **"FCC"** is the Federal Communications Commission of the United States.
- (E) **"CLASS IV CHANNEL"** means a signaling path provided by a Jaguar Communications system to transmit signals of any type from a subscriber terminal to another point in the Jaguar Communications system.
- (F) **"NON-VOICE RETURN COMMUNICATIONS"** means the provisions of appropriate system design techniques with the installation of cable and amplifiers suitable for the subsequent insertion of necessary non-voice communications electronic modules.
- (G) The word **"SHALL"** is mandatory.
- (H) The word **"MAY"** is permissive.
- (I) **"CITY"** is the City of Hayfield, Minnesota, as its boundaries now exist and as they may hereafter be changed.
- (J) **"COUNCIL"** is the City Council of the City of Hayfield, MN.
- (K) **"PERSON"** is any person, firm, partnership, association, corporation, company or organization of any kind.
- (L) **"COMMUNITY TELEVISION SYSTEM"** includes, but is not limited to, Jaguar Communications, Cable Television, CATV and Community Antenna Television and encompasses a system for the interception, sale, and distribution of television signals and for the purpose of transmitting VHF and FM signals and television pictures and sound originating on the Company's premises, and including a system capable of delivering a broad spectrum of electronic services beyond the former traditional service. (CATV).

SECTION II: GRANT OF AUTHORITY

The City Council of Hayfield, ordains that a cable communication franchise for the installation, operation, and maintenance of a Jaguar Communications system within the corporate limits of the City of Hayfield, is granted to the franchisee, and provided, however, that said franchisee shall be subject to the following terms and performance conditions.

SECTION III: COMPLIANCE WITH MINNESOTA COMMUNICATIONS BOARD'S FRANCHISE STANDARDS

The franchise shall at all times be in compliance with the rules of the Minnesota Communications Board.

SECTION IV: COMPLIANCE WITH STATE AND FEDERAL LAWS

The franchisee and the franchising authority shall conform to all state laws and rules regarding Jaguar Communications not later than one (1) year after they become effective unless otherwise stated and to all federal laws and regulations regarding cable as they become effective.

SECTION V: CERTIFICATE OF CONFIRMATION

The franchise shall cease to be of any force and effect if the franchisee fails to obtain either a regular certificate of confirmation or renewal of a certificate of confirmation from the Board, provided, however, that the franchisee may operate his Jaguar Communications system while the Board is considering the application for the renewal of his certificate of confirmation.

SECTION VI: FRANCHISE TERMS

The term date of this franchise ordinance is March 31, 1998, and any future renewal term, if after public procedure, and if granted by the franchise authority, shall be limited to fifteen (15) years.

SECTION VII: RENEGOTIATION OF FRANCHISE TERMS

Renegotiation between the franchisor and franchisee shall occur one (1) year before the end of the franchise term unless franchising authority determines not to reissue the franchise to the franchisee or desire to consider additional applicants for a franchise.

SECTION VIII: FRANCHISE EXCLUSIVITY

This franchise agreement is non-exclusive.

SECTION IX: SALE OR TRANSFER OF THE FRANCHISE, SALE OR TRANSFER OF STOCK

Sale or transfer of this franchise or sale or transfer of stock so as to create a new controlling interest is prohibited except at the approval of the franchising authority which approval shall not be unreasonably withheld, and that such sale or transfer is completed pursuant to Board Rules, Chapter 12.

SECTION X: ACCESS TO FINANCIAL RECORDS

The franchising authority is granted the authority to audit the franchisee's accounting and financial records annually, reports of gross subscriber revenues and other information as the franchising authority deems appropriate.

SECTION XI: RATES AND RATE CHANGE PROCEDURE SUBSCRIBER RATES

(A) Term of Subscriber Contracts

Residential subscriber contracts shall not exceed twelve months in duration, unless after twelve months, the contract may be terminated by the subscriber at any time at his/her option with no penalty to the subscriber.

(B) Subscriber Rates

The rates and charges for the signals distributed or transmitted hereunder shall be fair and reasonable and no higher than necessary to meet all costs of service including a fair return on the investment. By its acceptance of this franchise, the franchisee specifically grants and agrees that its rates and charges to its subscribers for television and radio signals shall be fair and equitable. The rates and charges are as follows:

During the first 30 days of operation all installation charges will be waived by Franchisee.

(C) Commercial:

Commercial rates will be provided on an individual basis and should be negotiated with the Franchisee. The rate will depend on the demand within that unit and the ease of installation and servicing, and the consistency of subscription within the unit. There shall be no increase in installation and monthly service charges for two (2) years after commencement of service.

(D) Rate Determination:

The determination of rates to be charged by the franchisee shall be made if possible, by direct negotiations between the franchisee and the City Council at a public hearing(s). In case of failure to reach an agreement by this method, the City Council shall appoint a representative; and these two, by mutual agreement select a third person, preferably an expert in valuation and the rate making, which shall together constitute a board of arbitration. This board shall report its findings as soon as possible and the rate which it shall agree upon by a majority vote shall be the legal rate, subject to revision by any court of competent jurisdiction. The City and the franchisee, may by mutual agreement, revise existing schedules of rates at any time, proceeding in each case as provided for the original fixing of rates. Any changes in rates shall be accomplished by an amendment to this franchise ordinance and shall become effective no sooner than fifteen (15) days from and after its passage.

(E) Rate Specifications:

Except as to otherwise provide in this section, the rates charged by the franchisee shall be those specified in this franchise ordinance, which may, by amendment hereto, provide for the establishment of reasonable classification of service and categories of subscribers, or specify different rates for differing services or for subscribers in different categories. Such

rates may not be changed except as provided herein.

Section XII: Franchise Administrator

City Clerk or such other person as may be from time to time designated by the City Council shall be responsible for the continuing administration of this franchise.

Section XIII: Liability Insurance

The franchisee shall indemnify and hold harmless the franchising authority at all times during the term of the franchise and shall maintain throughout the term of the franchise, liability insurance in the amount of five hundred thousand dollars (\$500,000.00), insuring both the franchising authority and the franchisee with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the franchise.

Section XIV: Performance Bond

At the time of the franchise becoming effective, and at all times thereafter until the franchise has liquidated all of its obligations with the franchising authority, the authority may require a performance bond, certificate of deposit or any other type of instrument approved by the franchising authority in the amount of ten thousand (\$10,000). This amount is deemed by the franchising authority to be adequate compensation for damages resulting from the franchisee's non-performance. The franchising authority may, from year to year, in its sole discretion, reduce the amount of the performance bond or instrument.

Section XV: Liability for Injury to Franchisee's Facility

Nothing in this franchise shall relieve any person from liability arising out of the failure to exercise reasonable care to avoid injuring the franchisee's facilities while performing any work connected with grading, re-grading or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

Section XVI: Public Hearing RE: Franchisee's Credentials

The franchisee's technical ability, financial condition and legal qualifications were considered and approved by the franchising authority in a full public proceeding affording reasonable notice and a reasonable opportunity to be heard.

Section XVII: Channel Capacity

The franchisee shall construct a cable system with a channel capacity available for immediate or potential use, equal to a minimum of 400 **MHZ** of bandwidth (the equivalent of 54 television broadcast channels) with 19 channels of immediate service.

Section XVIII: Construction Schedule

Within 30 days of the granting of the franchise, the franchisee shall apply for all necessary permits, licenses, certificates and authorizations; that energized trunk cable shall be extended substantially throughout the authorized area within eight (8) months after receipt of all necessary governmental permits, licenses, certificates and authorizations; and that state of the art equipment shall be installed in a workman like manner and that the construction shall be done in a figure eight or a lashed manner; and that persons along the route of the energized cable will have individual "drops" as desired during the same period of time; and the requirement of this provision may be waived by the franchising authority only upon occurrence of unforeseen events or acts of God.

Section XIX: Authorization to Commence Construction

The franchisee shall obtain a permit from the proper municipal authority before commencing construction of any communications system, including the opening or disturbance of any street, sidewalk, driveway or public place. If the franchisee fails to meet the conditions of the permit, the franchisor shall be authorized to **seek** a Court Order compelling compliance which shall result in the forfeiture of this franchise and all rights contained herein.

Section XX: Compliance with Applicable Codes

All wires, conduits, cable and other property and facilities of the franchise shall be located, constructed, installed and maintained in compliance with applicable codes. The franchisee shall keep and maintain all of its property so as not to unnecessarily interfere with the usual customary trade, traffic or travel upon the streets and public places of the franchise area or endanger the lives or property of any person.

Section XXI: Relocation of Wires, ETC..

Whenever the franchisor shall, during the period of this franchise, undertake any public improvement or authorize any project of action for a public purpose, which affects Jaguar Communications equipment, it shall direct the company to remove or relocate its wires, conduits, cables, vaults, pedestals, manholes, poles and other fixtures and property from the area affected by the improvements or project or action for a public purpose at the franchisee's expense upon reasonable notice to the company of the undertaking of such

public improvement or project or action for a public purpose by the franchisor.

Section XXII: Technical Standards

The rules of the Federal Communications Commission relating to Jaguar Communications systems contained in sub-part K of Part 76 of the Federal Communications Commission's rules and regulations relating to Jaguar Communications systems are incorporated by reference. The results of any tests required by the Federal Communications Commission shall be filed within 10 days of the conduct of such tests with the franchising authority and the board.

Section XXIII: Special Testing

In the event that special testing is required to determine the source of technical difficulties, the franchisee shall be responsible for the costs of such special testing, if the testing reveals the franchisee to be responsible. The franchisor or the subscriber shall be responsible for all costs of testing should the testing reveal that they are responsible.

Section XXIV: Non-Voice Return Capability

The franchise shall provide a Jaguar Communications system having the technical capacity for non-voice return communications.

Section XXV: Subscriber Privacy

No signals of Class IV Jaguar Communications Channel may be transmitted from a subscriber terminal for the purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provisions. Such written permission shall be for a limited period of time not to exceed one (1) year which shall be renewed at the option of the subscriber. No penalty shall be invoked for subscriber's failure to provide or renew such authorization. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such permission shall be required for each type of classification of Class IV Jaguar Communications activity planned for the purpose.

- (A) No information or data obtained by monitoring transmission of a signal from a subscriber terminal, including but not limited to lists of names and addresses of such subscribers or any list that identify the viewing habits of subscribers shall be sold or otherwise made available to any party other than to the company and its employees for internal

business use, and also to the subscriber subject of that information, unless the company has received specific written authorization from the subscriber to make such data available.

(B) Written permission from the subscriber shall not be required for the systems conducting system wide or addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of such information shall be subject to the provision set forth in 4 M C A R --4.202 W.I.

Section XXVI: Subscriber Complaints

All complaints by the franchisor, subscribers, or other citizens regarding the quality of service, equipment malfunction, billing disputes, and any other matters relative to the Jaguar Communications system shall be forwarded to the franchisor. Upon receiving any complaint, the franchiser administrator, or his designated agent, shall investigate the nature of the complaint and shall report the results of his investigation within 30 days after the complaint is received by the City Council. Upon the review of said investigation, the City Council, within 15 days shall provide a resolution to the complaint.

Section XXVII: Repairs and Complaints

The franchisee shall provide at least a toll-free or collect telephone number for the reception of subscriber complaints and shall maintain a repair service capable of responding to subscriber complaints or request for service within 24 hours after receipt of the complaint or request. Costs included in making repairs, adjustments and installations shall be borne by the franchisee unless the cause for repairs and adjustments are caused by the acts of the subscriber at which time the responsible parties shall pay such costs, unless otherwise provided for in this franchise.

Section XXVIII: Termination

The franchising authority shall have the right to terminate and cancel the franchise and all rights and privileges of the franchise in the event that the franchisee substantially violates any provisions of the franchise ordinance, attempts to evade any of the provisions of the franchise ordinance, or practices any fraud or deceit upon the franchising authority. The municipality shall provide the franchisee with a written notice of the cause for termination and its intention to terminate the franchise and shall allow the franchisee a minimum of thirty days (30) subsequent to receipt of the notice in which to correct the violation. The franchisee shall be provided with an opportunity to be heard at a public hearing before the governing body of the municipality prior to the termination of the franchise. In the event that the municipality determines to terminate the franchise, the franchisee shall have a period of thirty (30) days, beginning the day next following the date of the public hearing at which the termination of the franchise is considered, within which to file an appeal with

the Board, pursuant to Minnesota Statutes 238.14. During such thirty(30) day period and until the Board determines the appeal, if an appeal is taken, the franchise shall remain in full force and effect, unless the term thereof sooner expires. If the Board approves of the action of the municipality, the franchise shall terminate immediately; if the Board disapproves of the action of the municipality, the franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law or Board Rules. Any such appeal to the Board is a contested case to which the Board is not a party.

Section XXIX: Abandonment

The franchisee may not abandon any portion of the Jaguar Communications service provided hereunder without having given (3) three months prior written notice to the franchising authority and the Board. No Jaguar Communications company may abandon any Jaguar Communications service or any portion thereof without compensating the franchising authority for damages resulting to it from such abandonment.

Section XXX: Procedure After Termination or Revocation

Upon the revocation of this franchise by the council, or at the end of the term of this franchise the franchisor shall have the right to determine whether this franchise shall continue to operate and maintain its distribution system pending the decision of the franchisor, the franchisee shall, within a reasonable time, remove its cables, wires and appliances from the street, alleys and other public places within the City. In the event of the failure of the franchisee to remove its cables, wires and appliances as above required, the franchisor shall have the right to make a written demand on the franchisee to commence the removal of such equipment within thirty (30) days from the date of such demand and to proceed with such removal expeditiously, the franchisor shall have the right to remove the same and to recover the expense of such removal from the franchisee. The franchisor shall also have the right to dispose of any equipment so removed without in any way accounting to the franchisee for the same.

Section XXXI: Municipal Right to Purchase System

If the franchise or cable system is offered for sale, the franchising authority shall have the right to purchase the system.

Section XXXII: Access Channels

The franchisee shall provide to each of its subscribers who receive some or all of the services offered on the system, reception on at least one specially designated access channel. The specially designated access channel may be used by local educational

authorities, local government, and the public on a first come, first served nondiscriminatory basis. During those hours that the specially designated access channel is not being used by the local educational authorities or local government, the franchisee shall lease time to commercial or noncommercial users on a first come, first served nondiscriminatory basis if the demand for that time arises. The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by local educational authorities, local government, or commercial or noncommercial users who have leased time. The VHF spectrum (Channels 2-13) must be used for the specially designated access channel required in 4 M C A R S 4. 202DD.

(A) The franchisee shall establish rules for the administration of the specially designated access channel. The operating rules governing the specially designated access channel shall be filed by the franchisee with the Minnesota Jaguar Communications Board within 90 days after any access channel is put into use.

(B) Franchisees providing only alarm services or only data transmission services for computer operated functions do not need to provide access channel reception to alarm and data service subscribers.

Section XXXIII: Franchise of License Fee

During each of the years subsequent to the effective date of this ordinance, the Franchisee shall pay an annual franchise or license fee of three percent (3%) of the annual gross revenues (basic cable vice, premium services and installation costs) of the franchise.