

ORDINANCE NO. 46-1998

AN ORDINANCE GRANTING TO TCA CABLE PARTNERS II d/b/a TCA CABLE TV OF ABILENE, THE RIGHT, PRIVILEGE AND FRANCHISE TO CONDUCT WITHIN THE BOUNDARIES OF THE CITY OF ABILENE A CABLE TELEVISION BUSINESS; AND PROVIDING THEREIN FOR SERVICES, EQUIPMENT AND FACILITIES; A TERM; FRANCHISE FEES; CONNECTION TO CERTAIN PUBLIC BUILDINGS; INSURANCE; OTHER DUTIES; AMENDMENT; ACCEPTANCE OF FRANCHISE; RATES; PUBLICATION; AN EFFECTIVE DATE; A SAVINGS CLAUSE; NOTICE TO PARTIES; AND CALLING A PUBLIC HEARING.

WHEREAS, TCA Cable Partners II, a Delaware general partnership, doing business in Abilene as TCA Cable TV of Abilene, hereinafter referred to as "Grantee", has applied for an extension of its existing cable television franchise pursuant to Section 7 of City of Abilene Ordinance No. 9-1987; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ABILENE, TEXAS:

SECTION 1: GRANTING CLAUSE. That subject to the terms, conditions, and provisions of this Ordinance and of the City of Abilene Ordinances No. 9-1987 and No. 11-1987 previously extended by Ordinance No. 6-1997, which said Ordinances are hereby incorporated herein by reference and which shall be a part hereof for all intents and purposes as if said Ordinances No. 9-1987 and No. 11-1987 were copied herein in its entirety, the City of Abilene does hereby grant upon TCA Cable Partners II, a company doing business in Abilene as TCA Cable TV of Abilene, the right, privilege, and franchise to conduct within the boundaries of the City of Abilene, as such boundaries now exist or may be hereafter extended, a cable television business with the right to enter upon and erect, construct, maintain, extend, repair, replace, and remove in, under, upon, within, over, above, across, and along any and all present and future public streets, alleys, and rights-of-way of the City of Abilene such equipment and appurtenances thereto as are necessary, proper, and reasonably needed for said cable television business, to the extent that the City is authorized to grant such right.

SECTION 2: SERVICES, EQUIPMENT AND FACILITIES.

- (a) The Grantee shall construct, maintain, and/or rebuild such services, equipment, and facilities as are set out in the City of Abilene Ordinance No. 9-1987.
- (b) Grantee shall provide a detailed map indicating all areas currently served and all areas proposed to be served.
- (c) An emergency alert system capable of interrupting all channels shall be maintained at the sole expense of the Grantee. This system shall enable the City or its designee to provide immediate, current information to all

subscribers from an origination point designated by the City Manager or his designee. The system shall be available at all times and located in a facility approved by the City Manager or his designee.

SECTION 3: TERM. The term of this agreement shall be for four (4) months from the effective date of this franchise ordinance, at the end of which time this franchise shall come to an end and be terminated.

SECTION 4: FRANCHISE FEE. The Grantee hereby agrees that it will initially pay a franchise fee of five percent (5%) of its gross revenues, as that term is defined in Ordinance No. 9-1987 and clarified therein, from its cable television business within the corporate limits of the City of Abilene and that such franchise fee may be increased to the extent permitted by law.

SECTION 5: PUBLIC BUILDINGS. The Grantee shall provide at its own expense one free television outlet providing basic cable service to each of the following buildings within its service area: hospital, fire station, police station, public and church school, college or university. Each building so provided shall be responsible for all internal wiring from the connection.

SECTION 6: INSURANCE. By virtue of the authority retained under Section 18 of City Ordinance No. 9-1987, the City Council authorized the City Manager or his designee to set the minimum amount and terms of public liability insurance to be maintained by Grantee during the term of this agreement. The Grantee shall provide evidence to the City Secretary of public liability insurance covering all of its operations in the required amounts before commencing operations under this agreement.

SECTION 7: OTHER DUTIES. The Grantee shall pay to the City all other monies, install all other services, and perform all other terms and conditions to be performed by the Grantee pursuant to this Ordinance and Ordinance No. 9-1987.

SECTION 8: AMENDMENT. The City shall have the right to amend this Ordinance, except that such amendment shall not materially alter the terms of this Agreement without Grantee's approval.

If additional cable franchises are granted by the City which convey upon persons, corporations, or entities, other than Grantee, privileges or benefits greater than those enjoyed by Grantee hereunder, or obligations less than those required of Grantee hereunder, the City and Grantee shall negotiate in good faith to amend this Ordinance accordingly.

SECTION 9: ACCEPTANCE OF FRANCHISE. The Grantee shall, within thirty (30) days from the date of final passage of this Ordinance by the City Council of the City of Abilene, file with the City Secretary of the City of Abilene, a written statement signed in its name and behalf by officers of TCA Cable TV of Abilene, all of whom hereby represent that they are duly authorized to sign and make such an agreement, in the following form:

The Honorable Mayor and the City Council of the City of Abilene:

TCA Cable Partners II, a Delaware General Partnership, d/b/a TCA Cable TV of Abilene, for themselves, their successors and assigns, hereby accepts the attached Cable Television Franchise Ordinances, (9-1987 and 11-1987) and this extension (#-1998) as finally passed by the City Council of the City of Abilene on March 12 and 19, 1987 and August 27, 1998, and hereby agrees to be bound by all of its terms and provisions.

TCA CABLE PARTNERS II
d/b/a/ TCA CABLE TV OF ABILENE

By: 

Title: General Manager

Date: 9/2/98

SECTION 10: RATES. Rates to be charged for cable television service furnished within the City of Abilene shall be in accordance with orders or resolutions of the City Council establishing such rates as permitted by law. The Grantee may, by written request, petition the City Council for changes in said rates in accordance with the terms of Ordinances No. 9-1987 and No. 11-1987 and all such rate changes as are approved by the City Council by order or resolution shall be placed on file with the City Secretary of the City of Abilene.

SECTION 11: PUBLICATION. The City Secretary shall cause this Ordinance to be published at least one time within twenty (20) days after final passage in the official newspaper of the City.

SECTION 12: EFFECTIVE DATE. In accordance with the Charter of the City of Abilene, this Ordinance shall become effective thirty (30) days after the final passage of this Ordinance.

SECTION 13: SAVINGS CLAUSE. That should any section, paragraph, sentence, clause, phrase, or work of this Ordinance be declared unconstitutional or invalid for any reason, the remainder of this Ordinance shall not be affected thereby.

SECTION 14: NOTICES. All notices herein provided for shall be sent prepaid registered or certified mail addressed to the parties as follows:

TO THE GRANTEE:

TCA Cable TV of Abilene
Attention: System Leader
1441 Woodard Street
Abilene, Texas 79605

TO THE CITY:

City of Abilene
Attention: City Manager
P.O. Box 60
Abilene, Texas 79604

PASSED ON FIRST READING this 13 day of August, 1998.

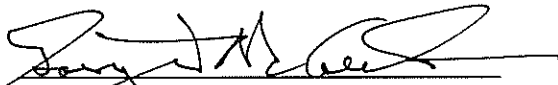
After said passage on first reading, a notice of time and place, where and when said ordinance would be given a public hearing and considered for second and final passage, was published in the Abilene Reporter-News, a daily newspaper of general circulation in the City of Abilene, said publication being on the day of n/a ~~at~~ ^{8/13/98}, 19 , the same being more than twenty-four (24) hours prior to the time designated for said hearing. After such opportunity for the public to be heard, said ordinance was passed on second and final reading.

PASSED ON SECOND AND FINAL READING this 27 day of August, 1998.

ATTEST:



CITY SECRETARY



MAYOR

APPROVED:



CITY ATTORNEY