

# FRANCHISE ORDINANCE

Lake Elmo

dated: SEPTEMBER 19, 1995

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ORDINANCE NO. 8124

AN ORDINANCE GRANTING A FRANCHISE TO GROUP W CABLE OF RAMSEY/WASHINGTON, INC., TO OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE MUNICIPALITY OF LAKE ELMO; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE; DEFINING THE MEANING OF FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM; AND INCLUDING PENALTIES FOR VIOLATIONS THEREOF.

PREAMBLE

The Ramsey/Washington Counties Suburban Cable Communications Commission ("Commission") and the Municipality of Lake Elmo ("Grantor") does ordain that it is in the public interest to permit the use of public rights-of-way and easements for the construction, maintenance and operation of a Cable Communications System ("System") under the terms of a Franchise; said public purpose being specifically the enhancement of communications within the municipal limits of Grantor, the expansion of communications opportunities outside Grantor, and the provision of programming of a truly local interest.

ARTICLE 1. STATEMENT OF INTENT AND PURPOSE, AUTHORITY, FRANCHISE APPLICATIONS.

1.01 Statement of Intent and Purpose. Grantor intends by the adoption of this Ordinance, to bring about the development and operation of a System. Such a development can contribute significantly to the communication needs and desires of citizens of Grantor, the surrounding area and the member municipalities of Commission. Further, the development and operation of a System may help achieve better utilization and improvement of public services. Studies participated in by Grantor and Commission have led the way for organizing this means of procuring and securing a System deemed best

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suited to Grantor and the member municipalities of Commission. This has resulted in the preparation and adoption of this Ordinance and Franchise as defined herein, in compliance with all requirements of the State of Minnesota.

1.02 Authority. The original Ramsey/Washington Counties Suburban Cable Communications Commission, under federal and state authority, granted a Franchise for a System operating within the Commission's territorial boundaries and prohibited operation of a System without a Franchise, and Commission carried out the ongoing administration and enforcement of the Franchise. The original Commission is to be dissolved, a successor Commission is to be created pursuant to Minnesota Statutes § 471, and the individual member municipalities comprising Commission, including Grantor, must therefore enter into a franchise relationship with Group W Cable of Ramsey/Washington, Inc. d/b/a Meredith Cable ("Company") pursuant to the same substantive terms and conditions of the original Commission's Franchise.

1.03 Franchise Processing Fee. Company shall be required to reimburse Grantor for all costs incurred including attorneys' fees in soliciting and evaluating applications, and processing the franchise award, and any other ongoing expenses connected with the franchise award, to the extent that such costs are not recovered from application fees.

1.04 Franchise Agreement. Grantor and Company are hereby authorized to, at the time of acceptance, enter into a Franchise Agreement, consistent with this Ordinance, governing the relationship between Grantor and Company; providing for regulation and use of the System; and prescribing liquidated damages for the violation of its provisions. The

terms and conditions of the Agreement are incorporated herein by reference. The Agreement is attached hereto as Exhibit I.

## ARTICLE 2. SHORT TITLE

This ordinance shall be known and cited as the "Cable Communications Franchise Ordinance", hereinafter in this document referred to as "Ordinance".

## ARTICLE 3. 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 words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

3.01 "Channel" shall mean a six Megahertz (MHz) frequency band, which is capable of carrying either one standard video signal, a number of audio, digital or other non-video signals, or some combination of such signals.

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

3.03 "Community Access Corporation" shall mean the non-profit, public corporation whose duties may include the financing, management and programming of the community access and public access channels.

3.04 "Community Programming" shall mean the programming that will be the responsibility of the Commission or its designee, pursuant to the Franchise Agreement.

3.05 "Community Programming Channels" shall mean all of the Channels on the System designated for Community Programming in the Franchise Agreement.

3.06 "Company" shall mean Group W Cable of Ramsey/Washington, Inc., its agents, employees, lawful predecessors, successors, transferees or assignees.

3.07 "Converter" shall mean an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel selector also permits a subscriber to view all appropriate subscriber signals included in that level of service delivered at designated converter dial locations.

3.08 "FCC" shall mean the Federal Communications Commission or a designated representative.

3.09 "Franchise" means the rights and obligations extended by Grantor to Company to own, operate and maintain a System within the Municipality and the Ramsey/Washington Service Territory and manifested by the following:

- A. This Ordinance No. 8124 adopted by the Grantor on the 19<sup>th</sup> day of September, 1995; and
- B. A Franchise Agreement entered into between Grantor and Company based on the authority and grant of a cable communications franchise extended by this Ordinance and any and all acceptance agreements related thereto.

3.10 "Franchise Agreement" means the agreement entitled "Cable Communications Franchise Agreement" between Grantor and Company which is incorporated herein by reference and which is enforceable by Grantor and Company and which sets forth the rights and obligations between Grantor and Company arising out of the Franchise.

3.11 "Grantor" or "Municipality" shall mean the Municipality of Lake Elmo, Minnesota, its governing body, and its lawful assigns or designees, including specifically the Commission.

3.12 "Institutional Network" or "I/Net" shall mean the 440 MHz capacity, single cable network, more particularly described in Section 4.02 of the Franchise Agreement.

3.13 "Member Municipality" shall mean any municipality which enters into the Joint and Cooperative Agreement and is, at the time involved, a member in good standing.

3.14 "Non-Voice Return Communications" shall mean the result of appropriate System design techniques which incorporate installation of cable and amplifiers suitable for the subsequent insertion of necessary non-voice communications electronic modules.

3.15 "Offering of Company" or "Offering" shall mean that certain document entitled "Offering of Company" and signed by Company and the Commission, and any amendments thereto, which document is on file with Grantor. Further, to the extent that the Franchise Agreement may conflict with the Offering, the provisions of the Franchise Agreement shall supersede those of the Offering, only where such terms are in direct and irreconcilable conflict.

3.16 "Ordinance" means this Ordinance No. 8124 of the Municipality.

3.17 "Ramsey/Washington Counties Suburban Cable Communications Commission" or "Commission" shall mean the joint powers commission established by the cities of Birchwood Village, Dellwood, Lake Elmo, Mahtomedi, Maplewood, North St. Paul, Oakdale, Vadnais Heights, White Bear Lake, and Willernie, and the townships of Grant and White Bear, Minnesota, as reorganized under Minnesota Statutes § 471.

3.18 "Person" shall mean any corporation, partnership, proprietorship, individual or organization authorized to do business in the State of Minnesota, or any natural person.

3.19 "Public Property" shall mean any real property owned by Grantor or any other governmental unit, other than a Street.

3.20 "Street" shall mean the surface of and the space above and below any public street, road, cartway, highway, freeway, lane, path, public way, alley, court, sidewalk, boulevard, parkway, drive or any easement or right-of-way now or hereafter held by Grantor which shall, within its proper use and meaning in the sole opinion of Grantor, entitle Company to the use thereof for the purpose of installing or transmitting over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments and other property as may be ordinarily necessary and pertinent to System.

3.21 "System" shall mean a broadband telecommunications system of antennas, cables, wires, lines, towers, waveguides or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing audio, video and other forms of electronic or electrical signals, located in Grantor.

3.22 "Subscriber" shall mean any Person or entity who lawfully subscribes to a service provided by Company by means of or in connection with the System and pays a fee unless such fee is lawfully waived.

3.23 "Two-Way System" means a distribution system that has amplifiers that can pass video, voice and/or data signals in both directions simultaneously.

#### ARTICLE 4. GRANT OF AUTHORITY AND GENERAL PROVISIONS

4.01 Grant of Franchise. The Franchise is granted pursuant to the terms and conditions contained herein and the accompanying agreements constituting the Franchise. Such terms and conditions shall be subordinate to all applicable provisions of state and federal laws, rules and regulations. Grantor hereby intends to adopt a replacement Franchise and enter into a franchise relationship on substantially the same terms and conditions as previously existed between the original Commission and Company. In the event any term or condition herein differs in any substantive respect from a term or condition in the prior Franchise, such prior Franchise term or condition shall continue in full force and effect, and shall supersede such term or condition.

4.02 Criteria of Selection. Company's technical ability, financial condition and legal qualifications were considered and approved by the original Commission, including Grantor, in a full public proceeding which afforded reasonable notice and a reasonable opportunity to be heard. By adoption of this Franchise, Grantor accepts the review of the original Commission and approves Company's qualifications for the purposes contemplated herein.



#### 4.03 Authority for Use of Streets.

- A. For the purposes of operating and maintaining System in Grantor, Company may erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the Streets within Grantor 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 System, provided that all applicable permits are applied for and granted, all fees paid and all other City codes and ordinances are otherwise complied with. Prior to construction or alteration, Company shall in each case file plans with Grantor, all appropriate agencies and utility companies and receive written approval of such plans. Company shall provide a monthly progress report to Grantor through the completion of construction.
- B. Company shall construct and maintain System so as not to interfere with other uses of Streets. Company shall make use of existing poles and other facilities available to Company. Company shall make reasonable efforts to individually notify all residents affected by proposed construction prior to the commencement of that work.
- C. Notwithstanding the above grant to use Streets, no Street shall be used by Company if Grantor 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 presently used.

4.04 Franchise Term. This Franchise shall commence upon the date this Ordinance becomes effective and shall expire on May 13, 1998, unless renewed or terminated sooner as hereinafter provided.

4.05 Franchise Non-Exclusive. The Franchise granted herein is non-exclusive.

4.06 Cable Communications Franchise Required. No System shall be allowed to occupy or use the Streets or other Public Property of Grantor or be allowed to operate without a Franchise.

#### ARTICLE 5. DESIGN PROVISIONS

##### 5.01 Initial Channel Capacity.

- A. System shall be a single trunk 450 MHz cable activated immediately with sixty-four (64) downstream Channels and four (4) return (upstream) Channels. FM music service shall be available through System. Notwithstanding anything to the contrary, Company shall install dual 450 MHz cable in all underground locations, provided, however, that Company is not required to install dual 450 MHz cable or dual conduit in any new build locations meeting the line extension criteria contained herein.
- B. System shall have initially a separate Institutional Network with a capacity of 56 video Channels, 31 activated downstream Channels, and 25 activated upstream Channels.
- C. Both Subscriber and Institutional Networks shall be capable of passing signals upstream and downstream simultaneously and have the technical capacity for non-voice return communications.

5.02 Interconnection. System shall be designed to be interconnected with other cable communications system(s). The standard VHF Channel 6 is hereby designated for uniform regional channel usage; provided, however, that until the uniform regional channel becomes operational, the standard VHF Channel 6 may be utilized by Company as it deems appropriate. Subject to approval by Grantor, the designated uniform regional channel may be shared with the government access channel as may be required until such time as Grantor requests a separate channel or until combined usage of the channel expands to such point as it is in use during eighty percent (80%) of the time between 8:00 a.m. and 10:00 p.m. during any consecutive six-week period.

5.03 Technical Performance Standards. At a minimum, System technical and performance standards promulgated by the FCC relating to cable communications systems contained in sub-part K of part 76 of the FCC's rules in effect at the time of application submission are incorporated herein by reference. Company shall further abide by standards agreed upon by Grantor and Company and set forth in the Franchise Agreement. The results of any tests required by the FCC shall be filed within ten (10) days of the conduct of such tests with Grantor.

5.04 Special Testing. The following procedures shall apply to any special testing required by Grantor:

- A. If special testing required by Grantor establishes that System is not in compliance with prescribed technical standards, Company shall bear all costs of the special testing.

B. If special testing required by Grantor establishes that System is in compliance with prescribed technical standards, Grantor shall bear all costs of the special testing.

C. Grantor shall bear all costs of any other special testing required by Grantor.

#### ARTICLE 6. CONSTRUCTION PROVISIONS

6.01 Construction Timetable. Company's construction timetable (submitted in conjunction with a map for the initial service area and made a part of the Franchise) reflects the method and schedule of construction of System. The plan of Company will reflect at a minimum the following:

- A. Within 90 days of the granting of the Franchise, Company shall apply for all necessary governmental permits, licenses, certificates and authorizations.
- B. All engineering and design shall be completed within one year after the granting of the Franchise.
- C. A significant amount of construction shall be completed within one year after Company's receipt of all necessary governmental permits, licenses, certificates and authorizations.
- D. Energized trunk cable shall be extended substantially throughout the authorized area within five years after commencement of construction. Persons along the route of the energized cable will have individual "drops" within the same period of time, if the same is desired.
- E. Construction of the initial service area shall be completed within three (3) years of certification by Board.

F. The requirements of this section may be waived by Grantor only upon occurrence of unforeseen events or acts of God.

6.02 Permits. Company shall obtain a permit from Grantor before commencing construction of System, including the opening or disturbance of any Street, sidewalk, driveway or public place. Any and all Streets which are disturbed or damaged during the construction, operation, maintenance or reconstruction of System shall be promptly repaired by Company, at its expense and to the satisfaction of Grantor. There shall be imposed a daily fine of Fifty Dollars (\$50.00) per incident should Company not meet the conditions of any applicable city permit not to disturb the Streets.

6.03 Construction Codes. All wires, conduits, cable and other property and facilities of Company shall be located, constructed, installed and maintained in compliance with applicable codes. Company shall keep and maintain all of its property so as not to unnecessarily interfere with the usual and customary trade, traffic or travel upon the Streets and public places of the Franchise area or endanger the lives or property of any Person. In the event of such interference, Grantor may require the removal of Company's lines, cables and appurtenances from the Street or property in question. Grantor shall have the right to inspect all construction or installation work performed subject to the provisions of the Franchise and to make such tests as it shall find necessary to ensure compliance with the terms of the Franchise and pertinent provisions of law and ordinances that are applicable.

6.04 Reservation of Street Rights. Nothing in the Franchise shall be construed to prevent Grantor from constructing sewers, grading, paving, repairing and/or altering any Street, or laying down, repairing or removing water mains, or constructing or establishing

any other public work. All such work shall be done, insofar as practicable, in such manner as not to obstruct, injure or prevent the free use and operation of the poles, wires, conduits, conductors, pipes or appurtenances of Company. If any such property of Company herein shall interfere with the construction or repair of any Street or improvement, thirty (30) days' notice shall be given to Company by Grantor and all such poles, wires, conduits or other appliances and facilities shall be removed or replaced by Company in such manner as shall be directed by the Grantor so that the same shall not interfere with the said public work of City, and such removal or replacement shall be at the expense of Company herein.

#### ARTICLE 7. OPERATION AND MAINTENANCE

7.01 Annual Reports. Grantor shall have the authority to collect a use fee and to audit Company's accounting and financial records upon reasonable notice as set forth in the Franchise Agreement. Company shall file with Grantor annually reports of gross revenues and other information as set forth in the Franchise Agreement. ..

7.02 Maintenance and Complaints. A toll-free or collect telephone number for the reception of complaints shall be provided to Subscribers and Company shall maintain a repair service capable of responding to Subscriber complaints or requests for service within 24 hours after receipt of the complaint or request. Company shall investigate and resolve all complaints regarding quality of service, equipment malfunction, billing disputes and other matters pursuant to the procedure set forth in the Franchise Agreement. Company will bear the costs included in making such repairs, adjustments or installations unless Company deems such repairs necessary due to neglect or abuse of Subscriber. All costs for repairs necessary due to neglect or abuse of Subscriber shall be borne by the Subscriber.

7.03 Rates and Other Charges.

- A. All regulatable rates and charges shall be subject to regulations by Grantor, in a manner to be provided by it. In the absence of any Grantor action taken to exercise rate regulation, Company shall be subject to the rate regulation provisions provided herein, and of the state or its agencies that may from time to time be applicable.
- B. Rates and charges charged by Company for monthly service and installation and all other charges hereunder shall be uniform, fair and reasonable and designed to meet all necessary costs of service, including a fair rate of return on the original cost, less depreciation, of the properties devoted to such service.
- C. Standard installation rates shall apply to installations that are two hundred (200) feet or less from the distribution plant. For aerial and underground installation of service drops longer than two hundred (200) feet, Subscribers will be charged an additional amount for the installation equal to the incremental increase of the cost of time and materials for the portion of the drop over two hundred (200) feet.
- D. Service requests for maintenance or repair of System shall be performed at no charge to a Subscriber. If such maintenance or repair is required as a result of damage caused by Subscriber, Company may charge according to its actual cost for time and material.

- E. Company may offer both its initial and additional installation services to Subscribers at uniformly applied reduced rates.

7.04 Rate Changes. A change in any regulatable rate shall require approval of Grantor and shall be effectuated pursuant to terms of the Franchise Agreement.

7.05 Service Contract. The length and terms of the service contract shall be as set forth in the Franchise Agreement.

#### ARTICLE 8. GENERAL FINANCIAL AND INSURANCE PROVISIONS

8.01 Performance Bond. At the time the Franchise becomes effective and at all times thereafter until Company has liquidated all of its obligations with Grantor, Company shall furnish a performance bond approved by Grantor in such amount as Grantor deems to be adequate compensation for damages resulting from Company's nonperformance. Grantor may, from year to year, in its sole discretion, reduce the amount of the performance bond. The amount of the performance bond shall be as set forth in the Franchise Agreement.

8.02 Liability Insurance and Indemnification. Company shall indemnify and hold harmless Grantor at all times during the term of the Franchise, and maintain throughout the term of the Franchise, liability insurance in such amount as Grantor may require insuring both Grantor and Company with regard to all damages and penalties which they may legally be required to pay as a result of the exercise of the Franchise. Company shall initially maintain insurance in such amounts as set forth in the Franchise Agreement.

8.03 Duty to Company. Nothing contained in the Franchise shall relieve any Person from liability arising out of the failure to exercise reasonable care to avoid injuring



Company's facilities while performing any work connected with grading or changing the line of any Street or public place or with the construction or reconstruction of any sewer or water system.

ARTICLE 9. REVOCATION, ABANDONMENT, PURCHASE AND REMOVAL OF SYSTEM.

9.01 Grantor's Right to Revoke. Grantor reserves the right, in its sole discretion, to terminate and cancel the Franchise and all rights and privileges of the Franchise in the event: (1) Company substantially violates any provision of the Franchise, (2) Company attempts to evade any of the provisions of the Franchise, (3) Company practices any fraud or deceit upon Grantor, (4) Company becomes insolvent, unable or unwilling to pay its debts, (5) Company is adjudged bankrupt, (6) Company materially misrepresents a fact in the application for or negotiation of the Franchise, or (7) upon the conviction of any director, officer, employee or agent of Company of the offense of bribery or fraud connected with or resulting from the awarding of the Franchise. Nothing in the Franchise granted by this Ordinance shall preclude termination of it at any time by mutual agreement of both Grantor and Company.

9.02 Procedures. Grantor shall provide Company with a written notice of the cause for termination and its intention to terminate the Franchise and shall allow the Company a minimum of thirty (30) days after service of the notice in which to correct the violation. Company shall be provided with an opportunity to be heard at a public hearing before Grantor prior to the termination of the Franchise. In the event Grantor determines to terminate the Franchise, Company shall have a period of thirty (30) days, from the date of the conclusion of the public hearing at which the termination of the Franchise was

considered, within which to file an appeal. During the thirty (30) day period and until the appeal is decided, the Franchise shall remain in full force and effect, unless the term of the Franchise ends sooner.

9.03 Removal of System. Upon termination, forfeiture or expiration of the Franchise, if not renewed, Company shall remove its cables, wires and appliances from the Streets and other public and private property within Grantor, if Grantor so requests, and Grantor shall follow procedures set forth in the Franchise Agreement in the event Company fails to remove its cable, wires and appliances from the Streets and other public and private property within Member Municipalities.

9.04 Purchase. When System or the Franchise is offered for sale or at the termination of the Franchise, Grantor shall have the right to purchase System in the manner set forth in the Franchise Agreement.

9.05 Abandonment. Company may not abandon any cable communications service or any portion thereof without having given three (3) months prior written notice to Grantor and Board. Further, Company may not abandon any cable communications service or any portion thereof without compensating Grantor for damages resulting from the abandonment. The amount of damages resulting from abandonment shall be determined by Grantor.

9.06 Damage Due to Abandonment or Other Non-Performance. In the event Company abandons System for any reason or if Company files or has filed against it a petition in bankruptcy, a petition for the appointment of a receiver for all or part of its assets, or a levy of execution against all or part of its assets or makes an assignment for the benefit of its creditors, then any credit on future franchise fees Company may then be

entitled, due to the advance payment of franchise fees, shall be retained by Grantor for application towards the damages incurred by Grantor, provided no additional revenues are received which are subject to the franchise fee. The rights reserved to Grantor above shall be in addition to all of the rights of Grantor, whether reserved by the Franchise or authorized by law, and no action authorized by this Section 9.06 shall affect any other right Grantor may have.

#### ARTICLE 10. RIGHTS OF INDIVIDUALS PROTECTED

10.01 Monitoring Subscriber Viewing. No signals of a Class IV Cable Communications 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. 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 the 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 cable communications activity planned for the purpose.

10.02 Sale of Subscriber Lists Prohibited. No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, or by 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 Company and its employees for internal business use, and also to the Subscriber who is a subject of that information, unless Company has received specific written authorization from Subscriber to make such data available. The sale of any Subscriber list, however generated, is also prohibited.

10.03 Protection of System Integrity. 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 billings. Confidentiality of such information shall be subject to the provision set forth above in paragraph 10.02.

10.04 Subscriber Access to Information. Upon written request by a Subscriber, Company shall within ten (10) days of receiving such request provide the Subscriber with copies of all individually identifiable information relating to the Subscriber, Subscriber household, or user of a Subscriber terminal currently maintained by Company. Company shall make the disclosures required under this paragraph to the Subscriber in person, by mail, or in any combination of these ways at the option of the Subscriber.

10.05 Procedure for Disputing Accuracy. The following shall apply where a Subscriber disputes the accuracy or completeness of any item of information disclosed to a Subscriber by Company under Section 10.04.

- A. The Subscriber must convey the dispute within sixty (60) days of receipt of the disputed information directly to Company. The dispute may be conveyed in writing or in person by the Subscriber.

- B. Company shall within thirty (30) days reinvestigate and record the current status of the disputed information. Such reinvestigation shall be completed within thirty (30) days of its commencement. If after such reinvestigation the information is found to be inaccurate, incomplete, or can no longer be verified, Company shall within ten (10) days delete or correct the information. Company may not require the appearance of a Subscriber at its office as a precondition to the right of a Subscriber to a reinvestigation under this Section.
- C. After completion of any reinvestigation pursuant to subdivision B of this Section, Company shall within ten (10) days notify the Subscriber of the result of the reinvestigation or of its decision regarding deletion or inclusion of information and shall clearly and conspicuously disclose to the Subscriber his or her rights under this Section.
- D. If the reinvestigation does not resolve the dispute, the Subscriber may file a statement with Company setting forth the nature of the dispute. Company may limit such statements to not more than five hundred (500) words if it provides the Subscriber with assistance in writing a clear summary of the dispute.
- E. Whenever a statement of a dispute is filed, Company shall, in any subsequent disclosure containing the information in question, clearly note that it is disputed by the Subscriber and provide the recipient with a copy of the statement filed by the Subscriber. A mere reference to the fact that a disputed

statement is in the record and may be obtained on request does not comply with this Section.

ARTICLE 11. COMMUNITY PROGRAMMING, COMMUNITY PROGRAMMING CHANNELS AND INSTITUTIONAL NETWORK REQUIREMENTS.

11.01 Minimum Required Community Programming Channels. Company shall provide to each of its Subscribers who receives some or all of the total services offered on System reception, without charge, Community Programming on the Community Programming Channels, pursuant to the joint responsibilities between Grantor and Company described in the Franchise Agreement. The Grantor shall provide through the Community Programming Channels at least one specially designated noncommercial public access channel available for use by the general public on a first-come, first-served, nondiscriminatory basis; at least one specially designated access channel for use by local educational authorities; at least one specially designated access channel available for local government use; and at least one specially designated access channel available for lease on a first-come, first-served, nondiscriminatory basis by commercial and noncommercial users. The VHF spectrum shall be used for at least one of the specially designated noncommercial public access channels required in this paragraph unless specifically waived by Grantor or its designee. No charges may be made by Grantor for channel time or playback of prerecorded programming on at least one of the specially designated noncommercial public access channels required by this subdivision, provided, however, that personnel, equipment, and production costs may be assessed for live studio presentations exceeding five minutes in length. Charges for such production costs and any fees for use of other public access

channels must be consistent with the goal of affording the public a low-cost means of television access.

11.02 Additional Community Programming Channels. Whenever the specially designated noncommercial public access channel, the specially designated education access channel, the specially designated local government access channel, or the specially designated leased access channel required in this section is in use during 80% of the weekdays (Monday-Friday), for 80% of the time during any consecutive 3 hour period for six weeks running, and there is demand for use of an additional channel for the same purpose, Company shall then have six months in which to provide a new specially designated access channel for the same purpose, provided that provision of such additional channel or channels shall not require Company to install converters. However, nothing in this section shall be construed so as to preclude the installation of converters by Company on a voluntary basis, or as a result of an agreement arrived at through negotiation between the parties or by a potential access user who wishes to install converters in order to make use of an additional channel or channels.

11.03 Operating Rules. Grantor, and/or its designee, may establish rules pertaining to the administration of the Community Programming Channels.

11.04 Alarm Service/Data Transmission Services. To the extent Company provides only alarm services or only data transmission services for computer operated functions, Company need not Community Programming reception to alarm and data service Subscribers.

11.05 Community Programming Equipment. Grantor or its designee will make readily available for public use at least the minimal equipment necessary for the production of programming and playback of prerecorded programs for the specially designated noncommercial public access channel(s).

11.06 Institutional Network Requirements. Grantor will assume responsibility for the I/Net, which is part of the System, in accordance with the provisions of the Franchise Agreement.

11.07 Access to Community Programming Channels And The I/Net. The Grantor and its designee shall have complete and unrestricted access to the Community Programming Channels and the I/Net, however, the Company shall have full responsibility for the maintenance, repair, and technical performance of the cable and related active and passive electronics which carry said Community Programming Channels and the services provided by Company on this I/Net (excluding all equipment owned and operated by the Grantor or its designee).

## ARTICLE 12. MISCELLANEOUS PROVISIONS

12.01 Compliance with Laws. Company shall conform with all the state laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated. Company shall conform with all federal laws and regulations regarding cable communications as they become effective. Company shall also conform with all City ordinances, resolutions, rules and regulations heretofore or hereafter adopted or established during the entire term of the Franchise.



12.02 Sale or Transfer of Franchise. The sale or transfer of the Franchise or sale or transfer of stock so as to create a new controlling interest pursuant to Chapter 12 of Board's rules and regulations is prohibited, except at the approval of Grantor, which approval shall not be unreasonably withheld, and that such sale or transfer is completed pursuant to Chapter 12 of Board's rules and regulations and as agreed upon in the Franchise Agreement.

12.03 Amendment of Franchise Ordinance and Variance Procedure.

- A. After published notice, public hearings and deliberations of Grantor, this Ordinance may be amended upon a weighted majority vote of the Commission and the written consent of Company.
- B. When the Commission Franchise administrator determines that a proposed change, alteration or substitution in Company's Offering will be noncontroversial in nature, the following procedure may be utilized rather than the provisions of paragraph A above.
  - 1. The Franchise administrator shall give notice of the intention to change, alter, or substitute a provision of the Offering without public hearing. The notice shall be given by publication in the official newspapers of each City. The notice shall include a summary of the proposed change, alteration or substitution. The notice shall include a statement advising the public:
    - a. That they have ten (10) days in which to submit comment on the proposed change, alteration or substitution;

- b. That no public hearing will be held unless seven (7) or more persons make a written request for a hearing within the ten (10) day comment period; and
  - c. Of the manner in which persons shall request a hearing on changes proposed pursuant to this subdivision.
- 2. Applications for variance shall be filed with the Commission Franchise administrator and subject to the following procedures:
  - a. An application fee of Fifty Dollars (\$50.00) plus actual costs incurred by Grantor, including costs of outside consultants, shall be paid to Grantor by applicant at the time of approval of a request for variance. An application for variance may include more than one (1) variance request if the Franchise administrator or Grantor determines that there is sufficient similarity or relationships between issues to warrant the use of only one (1) application.
  - b. The Commission Franchise administrator shall give notice of the application to Grantor and Company of the date, time and place for review of the application.
  - c. The Franchise administrator shall review the application within fourteen (14) calendar days of publication of the notice unless a public hearing is required.

- d. In the event a public hearing is required, the hearing shall be held within ten (10) calendar days after demand for such a hearing has been met. The Commission Franchise administrator shall review the application within seven (7) calendar days of the conclusion of the public hearing.
  - e. Grantor shall receive a report of the findings of the Franchise administrator at its next meeting following the date of review by the Franchise administrator.
  - f. The variance will be deemed approved by majority vote of Grantor.
3. Before a variance is granted, the following findings shall be made by the Commission Franchise administrator and shall be included in the report to Grantor:
- a. The requested variance is a minor deviation from the Offering and is consistent with the Franchise in the sole judgment of Grantor.
  - b. Application of the provisions of the Franchise may result in a hardship to the applicant and to grant a variance would not be detrimental to other affected parties.
  - c. Due to expense or delay, it would be unreasonable to perfect such changes by Ordinance amendment.

- d. Undue delay, expense of other adverse results will not occur by approval of the required variance.
- e. If a variance is because of technical or cost reasons, the variance will result in equal or better technical standards of cost efficiency.

12.04 Franchise Renewal.

- A. Company may apply for renewal or renegotiation of the Franchise by making application to do so not later than eighteen (18) months prior to the expiration of the Franchise on forms provided by Grantor, unless Grantor determines not to reissue the Franchise to Company or desires to consider additional applicants for a Franchise.
- B. Company may be approved, and the Franchise or modification to it may be renewed or extended by Grantor in accordance with the then existing rules of the FCC, the Board, the Cities and all other applicable laws, ordinances, rules or regulations.
- C. Nothing in the Franchise shall be construed to require renewal or extension of this Franchise.
- D. Renewal of the Franchise may not be for more than 15 years, unless otherwise permitted by federal or state law.

12.05 Administration of Franchise.

- A. Grantor, and/or its designee, shall be responsible for the continued administration of the Franchise.

- B. Grantor shall have continuing regulatory jurisdiction and supervision over System and Company's operation under the Franchise. Grantor may issue such reasonable rules and regulations concerning the construction, operation and maintenance of System as are consistent with the provisions of the Franchise.
- C. Company shall construct, operate and maintain the System subject to the supervision of Grantor and other affected Member Municipalities who have jurisdiction in such matters and in strict compliance with all laws, ordinances, departmental rules and regulations affecting System.
- D. System and all parts thereof shall be subject to the right of periodic inspection by Grantor.

12.06 Penalties. Exclusive of contractual damages or other rights in law or equity, a violation of any provision of this Ordinance is a misdemeanor and is enforceable by Grantor.

- A. From and after the effective date of the Franchise, it shall be unlawful for any Person to establish, operate or to carry on the business of distributing to any Persons in Grantor any television signals or radio signals by means of a cable communications system unless a franchise therefor has first been obtained pursuant to the provisions of the Ordinance, and unless such franchise is in full force and effect.
- B. From and after the effective date of the Franchise, it shall be unlawful for any Person to construct, install or maintain within any public Street in Grantor, or within any other Public Property of Grantor, or within any privately owned

area within Grantor which has not yet become a public Street but is designated or delineated as a proposed public Street on any tentative subdivision map approved by Grantor, any equipment or facilities for distributing any television signals or radio signals through a cable communications system, unless a franchise authorizing such use of such Street or property or area has first been obtained and unless such franchise is in full force and effect.

- C. It shall be unlawful for any Person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised System within Grantor for the purpose of taking or receiving television signals, radio signals, pictures, programs, sound, or data transmission.
- D. It shall be unlawful for any Person, firm or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised System within Grantor for the purpose of enabling himself or others to receive any television signal, radio signal, picture, program, sound, or data transmission, without payment to the owner of said System.
- E. It shall be unlawful for any Person, without the consent of the owner, to willfully tamper with, remove or injure any cables, wires or equipment used for distribution of television signals, radio signals, pictures, programs, sound, or data transmissions.

### ARTICLE 13. EFFECTIVE DATE: PUBLICATION: DISSOLUTION

13.01 Publication; Effective Date. This Ordinance shall be properly executed by the Grantor in accordance with local rules. This Ordinance shall take effect upon publication within fifteen (15) days after adoption. This Ordinance may incorporate by reference, without publication in full, a statute of Minnesota or a rule of the Board or the FCC and the Offering of Company.

#### 13.02 Dissolution of Commission.

- A. Method. Commission shall continue for an indefinite term up to and including fifteen (15) years. The Commission may be terminated only upon the expiration the Joint Powers Agreement or by the operation of state or federal law.
- B. Distribution of Assets. Upon dissolution of Commission, all remaining assets of Commission, after payment of obligations, shall be distributed among the Member Municipalities, including Grantor, in proportion to their contributions and in accordance with procedures established by Commission. Commission shall continue to exist after dissolution for such period, no longer than six (6) months, as is necessary to wind up its affairs, but for no other purpose.
- C. Effectiveness of Ordinance after Dissolution. Upon the dissolution of Commission by operation of state or federal law, the Franchise shall remain effective and enforceable by Grantor within its territorial limits.

13.03 Acceptance Procedure.

- A. Company shall accept the Franchise, in form and substance acceptable to Grantor. Upon acceptance of the Franchise, Company shall be bound by all its terms and conditions.
- B. The Offering shall be permanently kept and filed in the Office of the Commission and the originals or reproductions thereof shall be available for inspection by the public during normal business hours.
- C. Company shall have continuing responsibility for the Franchise, and if Company be a subsidiary or wholly owned corporate entity of a parent corporation, performance of the Franchise shall be secured by guarantees of the parent corporation in form and substance acceptable to Grantor, which shall be delivered at time of, and as part of, acceptance of the Franchise.
- D. With its acceptance, Company shall deliver to Commission true and correct copies of documents creating Company and evidencing its power and authority to accept the Franchise. Further, such documents shall describe officers authorized to accept on behalf of Company.
- E. With its acceptance, Company shall also pay all costs and expenses incurred by Grantor in connection with the franchising process. Grantor shall provide an itemized statement to Company. Costs or expenses of Grantor not identified at that time shall be paid promptly by Company upon receipt of an itemized statement from Grantor. It is the intent of Grantor and Company that Grantor be reimbursed for all costs and expenses in connection with the



granting of the Franchise including any subsequent expenses due to delays or litigation pertaining to the grant of the Franchise. In order to accomplish these activities, Company shall arrange a time and place satisfactory to both Company and Grantor.

- F. All security deposits, insurance contracts, bonds and guarantees required by Company by the Franchise shall be delivered with the acceptance.
- G. Upon the delivery of the above described documents, Grantor and Company shall execute the Franchise Agreement. The execution of the Franchise Agreement shall be deemed the completion of the franchising process.
- H. The commitment of Company is contained in the Offering. Company shall perform all services or offerings set forth in its Offering including all promises, offers, representations and inducements contained therein. Company's Offering and specific understandings and agreements with Grantor shall be embodied in and incorporated into a Franchise Agreement to be entered into between Grantor and Company based upon the authority granted pursuant to this Ordinance. The Franchise Agreement is set forth as Exhibit I, a separate document, incorporated herein by reference. The failure to refer to the Offering in any specific provision in the Franchise shall not be a limitation on the obligation of Company to fully comply with the Offering. In the event of conflict or discrepancies between any parts of the Offering or the Agreement entered into between Grantor and Company or this Ordinance, those provisions which provide the greatest benefit for Grantor, in the opinion of

Grantor, shall prevail. In the event the Agreement is not entered into and executed by both the City and Company or for any other failure to complete the acceptance as provided for in this section, the Franchise granted by this Ordinance shall be void, and Grantor shall have no further obligations to Company and Company shall have no claim in law or equity against Grantor.

- I. The Exhibit and Offering are a part of this Ordinance and each is specifically incorporated herein by reference. To the extent any provision of the Offering or Exhibit I are not specifically set out in this Ordinance or not validly incorporated herein by reference, Grantor, from time to time, may amend this Ordinance to include such provision effective as of the date of commencement of this Ordinance or any such rule effective as of the date of the commencement of this Ordinance or adoption of the rule, whichever is later. Company, by acceptance of this Ordinance and the Franchise authorized by it, consents to and agrees to be bound by any such amendment.

CITY OF LAKE ELMO  
WASHINGTON COUNTY, MINNESOTA

ORDINANCE 81- 21

AN ORDINANCE RELATING TO  
NO PARKING ZONES

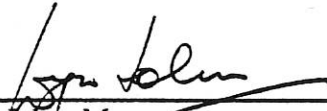
The Lake Elmo City Council ordains that Section 1002.040 of the Lake Elmo city Code is hereby amended; and Section 1002.050 is hereby added to the Lake Elmo City Code to read as follows:

**1002.040 Parking Prohibited:** No vehicle shall be parked in the following posted "No Parking" zones, unless a Temporary Parking Permit has been issued by the City Administrator as provided in Section 1002.050:

**1002.050 Temporary Parking Permit.** A person who resides adjacent to a posted no parking zone may obtain a Temporary Parking Permit for a special event by making application to the City Administrator at least three (3) days prior to the date of special event. A Temporary Parking Permit shall allow for parking of residential passenger vehicles within a No Parking zone for a period not to exceed twenty-four (24) consecutive hours. The City Administrator shall notify the County Sheriff before issuing a Temporary Parking Permit and shall arrange to have the posted No Parking Signs covered during the period described in the permit.

**Effective Date:** This ordinance shall become effective upon its passage and publication according to law.

Adopted by the Lake Elmo City Council the 20th day of June, 1995.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest

  
\_\_\_\_\_  
Mary Kueffner, City Clerk/Administrator

Published in the Stillwater Gazette on the 23rd day of June, 1995.

Motion	<u>John</u>
Second	<u>DeLapp</u>
Ayes	<u>5</u>
Nays	<u>0</u>



Passed and adopted this 19th day of September, 1995.

ATTEST:

By Mary Kueffer *all*  
City Administrator

By [Signature]  
Mayor, City of Lake Elmo



**City of Lake Elmo**  
**Washington County, Minnesota**  
**Special Ordinance 81- 24**  
**A Summary of Special Ordinance 81- 24**

AN ORDINANCE GRANTING A FRANCHISE TO GROUP W CABLE OF RAMSEY/WASHINGTON, INC.,  
TO OPERATE AND MAINTAIN A CABLE COMMUNICATIONS SYSTEM IN THE MUNICIPALITY  
OF LAKE ELMO; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE;  
DEFINING THE MEANING OF FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM;  
AND INCLUDING PENALTIES FOR VIOLATIONS THEREOF.

On September 19, 1995, the Lake Elmo City Council adopted Special Ordinance 81-24  
relating to Cable Franchise.

On September 19, 1995, the Lake Elmo City Council received a summary of Special Ordinance  
81- 24 and by 5 affirmative votes, approved the publication of a summary of this  
ordinance, to wit:

Preamble

Article 1. Statement of Intent and Purpose, Authority, Franchise, Applications

- 1.01 Statement of Intent and Purpose
- 1.02 Authority
- 1.03 Franchise Processing Fee
- 1.04 Franchise Agreement

Article 2. Short Title

Article 3. Definitions

- 3.01 Channel
- 3.02 Class IV Cable Communications Channel
- 3.03 Community Access Corporation
- 3.04 Community Programming
- 3.05 Community Programming Channels
- 3.06 Company
- 3.07 Converter
- 3.08 FCC
- 3.09 Franchise
- 3.10 Franchise Agreement
- 3.11 Grantor or Municipality
- 3.12 Institutional Network or I/Net
- 3.13 Member Municipality
- 3.14 Non-Voice Return Communications
- 3.15 Offering of Company or Offering
- 3.16 Ordinance
- 3.17 Ramsey/Washington Counties Suburban Cable Communications Commission or  
Commission
- 3.18 Person
- 3.19 Public Property
- 3.20 Street





- 3.21 System
- 3.22 Subscriber
- 3.23 Two-Way System

Article 4. Grant of Authority and General Provisions

- 4.01 Grant of Franchise
- 4.02 Criteria of Selection
- 4.03 Authority for Use of Streets
- 4.04 Franchise Term
- 4.05 Franchise Non-Exclusive
- 4.06 Cable Communications Franchise Required

Article 5. Design Provisions

- 5.01 Initial Channel Capacity
- 5.02 Interconnection
- 5.03 Technical Performance Standards
- 5.04 Special Testing

Article 6. Construction Provisions

- 6.01 Construction Timetable
- 6.02 Permits
- 6.03 Construction Codes
- 6.04 Reservation of Street Rights

Article 7. Operation and Maintenance

- 7.01 Annual Reports
- 7.02 Maintenance and Complaints
- 7.03 Rates and Other Charges
- 7.04 Rate Changes
- 7.05 Service Contract

Article 8. General Financial and Insurance Provisions

- 8.01 Performance Bond
- 8.02 Liability Insurance and Indemnification
- 8.03 Duty to Company

Article 9. Revocation, Abandonment, Purchase and Removal of System

- 9.01 Grantor's Right to Revoke
- 9.02 Procedures
- 9.03 Removal of System
- 9.04 Purchase
- 9.05 Abandonment
- 9.06 Damage Due to Abandonment or Other Non-Performance

Article 10. Rights of Individuals Protected

- 10.01 Monitoring Subscriber Viewing
- 10.02 Sale of Subscriber Lists Prohibited
- 10.03 Protection of System Integrity
- 10.04 Subscriber Access to Information
- 10.05 Procedure for Disputing Accuracy

Article 11. Community Programming, Community Programming Channels and Institutional Network Requirements

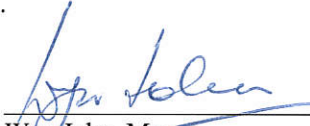
- 11.01 Minimum Required Community Channels
- 11.02 Additional Community Programming Channels
- 11.03 Operating Rules
- 11.04 alarm Service/Data Transmission Services



- 11.05 Community Programming Equipment
- 11.06 Institutional Network Requirements
- 11.07 Access to Community Programming Channels and the I/Net
- Article 12. Miscellaneous Provisions
  - 12.01 Compliance with Laws
  - 12.02 Sale or Transfer of Franchise
  - 12.03 Amendment of Franchise Ordinance and Variance Procedure
  - 12.04 Franchise Renewal
  - 12.05 Administration of Franchise
  - 12.06 Penalties
- Article 13. Effective Date: Publication; Dissolution
  - 13.01 Publication; Effective Date
  - 13.02 Dissolution of Commission
  - 13.03 Acceptance Procedure

A complete copy of Ordinance 81- 24 "Cable Franchise Ordinance" is on file in the office of the City Administrator/Clerk and can be viewed by the public during normal business hours.

Passed and adopted this 19th day of September, 1995.

  
\_\_\_\_\_  
Wyn John, Mayor

Attest:  
  
\_\_\_\_\_  
Mary Kueffner, City Administrator

