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Cable T.V.*

DILWORTH ORDINANCE NO. 80-1

GLYNDON ORDINANCE NO. 76

AN ORDINANCE CREATING AND AWARDING A CABLE
TELEVISION FRANCHISE IN DILWORTH/GLYNDON
AND RULES GOVERNING THE OPERATION OF SAME

- DEFINITIONS:
- 1) "Board" is the Minnesota Cable Communications Board.
 - 2) "Franchisor" is Dilworth/Glyndon/Glyndon Township Cable Service Territory.
 - 3) "Franchisee" is Spectrum Communication Services.
 - 4) "FCC" is the Federal Communications Commission, Inc., of the United States.
 - 5) "Class IV Channel" means a signaling path provided by a cable communications system to transmit signals of any type from a subscriber terminal to another point in the cable communications system.
 - 6) The word "shall" is always mandatory.
 - 7) The word "may" allows discretion.

RULE

1 A. GRANT OF AUTHORITY

WHEREAS, the franchisor has, following reasonable notice, conducted a full public hearing affording all persons reasonable opportunity to be heard, which proceeding was concerned with the analysis and consideration of the technical ability, financial condition, legal qualification and general character of the franchisee, and

WHEREAS, the franchisor, after such consideration, analysis and deliberation, has approved and found sufficient the technical ability, financial condition, legal qualification, and character of said franchisee, and

WHEREAS, the said franchisor has, at the said public hearing, also considered and analyzed the plans of the franchisee for the construction and operation of the cable communication system and found the same to be adequate and feasible in view of the needs and requirements of the entire area to be served by the said system, and

WHEREAS, to the knowledge and belief of the franchisor, this franchise and the procedure used in formulating and awarding the same in all things and in all ways complies with the franchise standards of the Board, and

WHEREAS, it is understood and agreed by the franchisor that this franchise is non-exclusive;

4.121 B. NOW, THEREFORE, the franchisor does ordain that there is hereby created, granted, and established a full and complete franchise for a period of fifteen (15) years for the installation, operation, and maintenance of a cable communications system within the Dilworth/Glyndon/Glyndon Township to the Spectrum Communication Services,

Provided, however, that the said franchise shall be subject to the following terms and performance conditions:

1. RENEGOTIATION OF FRANCHISE TERMS

Any renewal of this franchise shall be for a period of not more than fifteen (15) years. Renegotiation of any or all of the terms of the franchise shall occur at the end of the first two (2) years and at such times as may be mutually agreed upon by the franchisor and franchisee. Such renegotiation shall occur at least at the end of the franchise term, unless the franchisor determines not to reissue the franchise to the franchisee or desires to consider additional applicants for a franchise.

4.121 C. 2. SUBSCRIBER PRIVACY

No signals of a Class IV cable communications channel shall 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 provision. Such written permission shall be for a limited period of time not to exceed one (1) year, which shall be renewable at the option of the subscriber. No penalty shall be invoked for a subscriber's failure to provide or renew such an authorization. The authorization shall be revokable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type or classification of Class IV cable communications activity planned for the purpose.

21 D. 3. SUBSCRIBER RATES

a) The franchisee shall establish and adhere to the following rate schedule:

Basic Service Charge	\$7.00 per month for one set, single family dwelling
Senior Citizens	\$5.95 per month (15% disc.)
Second Set	\$1.50 per month for each additional set
FM Connection	\$1.50 per month (charge as second set)
Premium Service Charge	\$8.00 per month
Second Set (Premium)	\$1.50 per month
Basic Installation Charge	\$14.95 waived during 30-day initial promotion
Additional Set	\$7.50 per extra set
FM Radio Service	\$7.50 per connection
Premium Service Installation	\$14.95
Deposit	None required for Basic Cable or FM Service
Disconnect Fee	No charge
Reconnect Fee	\$10.00 to re-establish service after disconnect
Transfer Fee	\$10.00 applies to customer move within service area
Relocation Fee	\$10.00 applies to moving an outlet within the subscriber residence.

Custom or special installations will be quoted on a time and material quote request.

b) Residential subscriber contracts, if any, may not exceed 12 months duration.

c) The procedure to change any subscriber rates shall be as follows: If the franchisee desires a change in rates, it will make such request in writing to the Dilworth/Glyndon Citizens Advisory Board. Such request shall include all substantiating information which the franchisee feels supports the requested rate change.

Within thirty (30) days after receipt of such request, the said Advisory Board will forward the requested rate change to the Dilworth/Glyndon Joint Powers Committee for a hearing and recommendation to the respective City Councils. It is agreed that the franchisee's books may be reviewed by the Joint Powers Committee in considering the requested rate change.

4. REPAIRS AND COMPLAINTS

a) The franchisee shall provide a toll-free telephone number for subscriber complaints and 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.

b) Whenever it is necessary to shut off or interrupt services for the purpose of making repairs, adjustments or installation, the franchisee shall do so during periods of minimum use by subscribers. Unless such interruption is unforeseen, the franchisee shall give reasonable notice thereof to the subscribers affected. All costs incurred in making such repairs, adjustments or installation shall be borne by the franchisee unless otherwise provided for in this ordinance or subscriber contract.

c) 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 cable television system shall be investigated by the franchisee within 24 hours. The franchisee shall rectify the cause of the complaint if reasonably possible. If a subscriber or citizen complaint cannot be resolved within three (3) days, the complainant may then file the complaint with the respective City Clerks who shall inform the Dilworth/Glyndon Citizen Advisory Board that the franchisee and complainant have been unable to resolve the complaint. The franchisor or complainant may file a written complaint with the Board in accordance with Board rules governing subscriber complaints.

4.121 G. 15. CHANNEL CAPACITY

The franchisee shall provide a cable communication system having a minimum 72 MHz of bandwidth (the equivalent of 12 television broadcast channels).

4.121 H. 26. COMMUNITY ACCESS CHANNELS

a) The franchisee shall provide to each of its subscribers who receive all, or any part of, the total services offered on the system, reception on one specially designated access channel available for use by the general public on a first come, non-discriminatory basis. Channel time and playback of pre-recorded programming on this specially designated access channel shall be provided without charge to the general public, provided, however, that personnel, equipment, and production costs may be assessed for live studio presentations

exceeding five (5) minutes in length. Charges for such production costs shall be consistent with the goal of affording the public a low-cost means of television access. The VHF spectrum shall be used for the specially designated access channel.

b) The specially designated access channel may be used by local educational authorities and local government on a first come, non-discriminatory basis during those hours when the channel is not in use by the general public. During those hours when the channel is not being used by the general public, local educational authorities or local government, the franchisee shall lease time to commercial or non-commercial users on a first come, non-discriminatory basis if the demand for such time arises.

c) The franchisee may also use this specially designated access channel for local origination during those hours when the channel is not in use by the general public, local educational authorities, local government or commercial and non-commercial users who have leased time on this specially designated access channel.

d) Whenever the specially designated access channel is in use during 80 per cent of the weekdays (Mon-Fri) for 80 per cent of the time during any consecutive 3-hour period for six weeks running, and there is a demand for use of an additional channel for the same purpose, the franchisee shall have six (6) months in which to provide a new specially designated access channel, provided that provision of such an additional channel shall not require the cable system to install converters. However, nothing in this provision shall be construed to preclude the installation of converters by the system on a voluntary basis or as a result of an agreement arrived at through negotiation between parties of this franchise or by a potential access user who wishes to install converters in order to make use of an additional channel or channels.

e) The franchisee shall establish rules pertaining to the administration of the specially designated access channel. The rules shall be consistent with the requirements of the FCC's rules and regulations relating to access channel operating rules. The operating rules shall be filed with the Board within 90 days after the specially designated access channel is put into use.

1.121 I.

37. PROGRAM EQUIPMENT

The franchisee shall make readily available for public use upon

need being shown at least the minimal equipment necessary to perform good quality playback of pre-recorded programming, and to make it possible to record programs at remote locations with battery-operated portable equipment. Need shall be determined by subscriber petition. The petition must contain the signatures of at least 10 per cent of the subscribers of the system, but in no case more than 350 nor fewer than 100 signatures.

4.121 J. 8. TWO-WAY CAPABILITY

The franchisee shall provide a cable communications system having the technical capacity for the incorporation of non-voice return communications capability which for the purposes of this requirement shall mean the provision of system design features suitable for subsequent insertion of necessary non-voice return communications components.

4.121 K. 9. COMPLIANCE WITH STATE AND FEDERAL LAWS

The franchisee shall conform with all federal and state laws, rules and regulations regarding cable communications not later than one (1) year after their promulgation.

4.121 L. 10. OPERATING STANDARDS

a) The system shall deliver to the subscriber's terminal a signal that is capable of producing a black-and-white or colored picture without visual material degradation in quality within the limitations imposed by the technical state of the art.

b) The system shall transmit or distribute signals without causing objectionable cross-modulation in the cables or interfering with other electrical or electronic networks or with the reception of other television or radio receivers in the area not connected to the network.

4.121 M. & AA. 11. LIABILITY

a) The franchisee shall indemnify and hold harmless the franchisor with regard to all legal damages and penalties which may result from the exercise of this franchise at all times during the term of the franchise and shall maintain throughout the term of the franchise liability insurance in an amount of at least \$100,000.00 damages per person, and \$300,000.00 total damages per occurrence.

b) Nothing contained in the franchise shall relieve any person from liability arising out of the failure to exercise reasonable care

to avoid injury to the franchisee's facilities while performing any work connected with grading, regrading, or changing the line of any street or public place or with the construction or reconstruction of any sewer or water system.

4.121 N. 12. ACCESS TO FINANCIAL RECORDS

The franchisor shall have the authority to audit the franchisee's accounting and financial records upon reasonable notice. The franchisee shall file with the franchisor annually, reports of gross subscriber revenues and such other information as the franchisor may deem appropriate.

4.121 O. 13. MUNICIPAL RIGHT TO PURCHASE

Upon expiration of the franchise term, or upon revocation of the franchise or upon other termination of the franchise as provided for in Board rules or upon receipt of an application from the franchisee for approval of an assignment or transfer of the franchise, the franchisor shall have the non-exclusive right to purchase the system.

4.121 O. 14. TRANSFERABILITY

This franchise shall be deemed non-transferable, provided that any assignment or transfer of the same may take place with the consent of the franchisor, which consent shall not be unreasonably withheld.

4.121 R. 15. TERMINATION

The franchisor may terminate and cancel the franchise and all rights and privileges of the franchise in the event that the franchisee substantially violates any provision of the franchise ordinance or any rule, order or determination of the franchisor or attempts to evade any of the provisions of the franchise ordinance or practices any fraud or deceit upon the municipality. Conditions or circumstances for the municipality's termination of the franchise shall include but not necessarily be limited to the following:

a) If the franchisee should default in the performance of any of its obligations under the franchise, and shall fail to act on the default within 30 days after receiving written notice of default.

b) If a petition is filed by the franchisee under the Bankruptcy Act, or other insolvency or creditor's rights law, state or federal, or the franchisee is adjudged a bankrupt or insolvent under any insolvency or creditor's rights law, state or federal.

The franchisor 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 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 franchisor prior to the termination of the franchise. In the event that the franchisor determines to terminate the franchise, the franchisee shall have a period of thirty days beginning the day next following the date of the conclusion 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 Statute 238.14 (1976) as same may be from time to time amended. During such thirty-day waiting 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 franchisor, the franchise shall terminate immediately; if the Board disapproves of the action of the franchisor, the franchise shall remain in full force and effect during the term thereof unless sooner terminated in accordance with law or the Board's rules. Any such appeal to the Board is a contested case to which the Board is not a party.

4.121 P. 16. PROCEDURE UPON TERMINATION

Upon termination or forfeiture of the franchise, franchisee shall, upon request of franchisor, remove its cable, wires, and all other appliances relating to the cable communications system from the streets, alleys and other public places within the franchise area, and in the event of failure to do so, the following procedure shall be followed: the franchisor may remove or have removed the cable, wires and all other appliances relating to the cable communications system, the cost of such removal to be charged to the franchisee. Franchisee shall also pay to franchisor the cost of attorney's fees incurred in the cost of the enforcement of this provision.

4.121 S. 17. PERFORMANCE BOND

Prior to the exercise of this franchise, franchisee shall furnish a bond to the franchisor in the amount of \$10,000.00 to remain in full force for the full term of the franchise with acceptable surety, conditioned upon the faithful performance by the franchisee according to the terms of the franchise and upon the further condition

that in the event the franchisee shall fail to comply with any law, ordinance or regulation governing this franchise, there shall be recoverable jointly and severally from the franchisee and surety of the bond, any damages or loss suffered by the franchisor, including the full amount of any compensation, indemnification or cost of removal or abandonment of any property of the franchisee plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, and further guaranteeing payment by franchisee of claims, liens and taxes due to the franchisor which arise by reason of the construction, operation or maintenance of the system. The rights reserved by the franchisor with respect to the bond are in addition to all other rights the franchisor may have under the franchise or any other law. The municipality may, from year to year, in its sole discretion, reduce the amount of the bond.

4.121 T. 418. CONSTRUCTION SCHEDULE

a) Within 90 days of the granting of the franchise, the franchisee shall apply for all necessary governmental permits, licenses, certificates and authorizations.

b) Energized trunk cable shall be extended substantially throughout the authorized area by a one-year franchise acceptance. 5persons along the route of the energized cable will have individual "drops" as desired during the same period of time.

c) The time limit requirement of this rule may be waived by the franchisor only upon occurrence of unforeseen events or acts of God.

4.121 U. 19. AUTHORIZATION TO COMMENCE CONSTRUCTION

Permission by franchisor for commencement of construction of the cable communications system authorized herein is granted herewith, subject to franchisee giving franchisor reasonable notice of the proposed construction thereof, so as to coordinate all work between franchisor and franchisee.

1.121 620. CONSTRUCTION STANDARDS

J. W.
K. Y.

a) Franchisee shall not open or disturb the surface of any street, sidewalk, driveway or public place without first obtaining a permit from the proper authority, for which permit the franchisor may impose a reasonable fee to be paid by the franchisee. The lines, conduits, cables and other property placed in the streets and public

places pursuant to such permit shall be located in the streets or portions of the streets and public places as shall be determined by the proper authority. The franchisee shall, upon completion of any work requiring the opening of any street or public place, restore the same including the pavement and its foundations to as good a condition as formerly, and in a manner and quality approved by the proper municipal authority, and shall exercise reasonable care to maintain the same thereafter in good condition. Such work shall be performed with due diligence and, if the franchisee shall fail to perform the work promptly, to remove all dirt and rubbish and to put the street or public place back into good condition, the franchisor shall have the right to put the street or public place back into good condition at the expense of the franchisee and the franchisee shall, upon demand, pay to the franchisor the cost of such work done or performed, together with an additional sum as liquidated damages to be determined by the franchisor.

b. All wires, conduits, cable, and other property and facilities of the franchisee shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with the usual and customary trade, traffic, and travel upon the streets and public places of the franchise area. The franchisee shall keep and maintain all of its property in good condition, order and repair so that the same shall not menace or endanger the life or property of any person. The franchisor shall have the right to inspect and examine at any reasonable time and upon reasonable notice the property owned or used, in part or in whole, by the franchisee. The franchisee shall keep accurate maps and records of all of its facilities and furnish copies of such maps and records as requested by the franchisor.

c) All wires, cables, amplifiers and other property of the franchisee shall be constructed and installed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.

- d) Franchisee shall at all times comply with:
- 1) National Electric Safety Code (National Bureau of Standards)
 - 2) National Electrical Code (National Bureau of Fire Underwriters)
 - 3) Bell System Code of Pole Line Construction
 - 4) Applicable FCC or other Federal, State and Local Regulations

In any event, the system shall not endanger or interfere with the safety of persons or property in the franchise area or other areas where the franchisee may have equipment located.

4.121 Z. 721. PUBLIC IMPROVEMENTS

Whenever the franchisor shall undertake any public improvement which affects cable communications equipment, it shall, with due regard to reasonable working conditions, direct the franchisee to remove or relocate its wires, conduits, cables and other property located in said street, right-of-way or public place. The franchisee shall relocate or protect its facilities at its own expense. The franchisor shall give the franchisee reasonable notice of the undertaking of public improvements which affect the franchisee's cable communication equipment.

4.121 BB. 22. CITIZENS ADVISORY BODY

The franchisor shall appoint a citizen advisory body to monitor the performance of the franchisee in executing the provision of the franchise. It is understood that the advisory body may be a joint undertaking by every municipality now served by the franchisee or that eventually is served by the franchisee from a single-headed as long as at least one citizen from each municipality is represented on the committee.

The advisory body shall perform at least the following functions:

a) The advisory body shall submit an annual report to the franchisor, the franchisee, and to the Board, assessing the franchisee's performance according to the terms of the franchise and make recommendations to the franchisor regarding the apparent or likely need for upgrading the system to meet the current state of the art.

b) The advisory body shall submit a report to the franchisor three (3) months prior to the expiration of a franchise and to the expiration of a certificate of confirmation. The report shall

include a written appraisal of the performance of the franchisee over the entire length of the franchise with regard to the provisions of the franchise. The report shall also include recommendations for revised or additional provisions of the franchise, considering at least the following items:

- 1) channel capacity;
- 2) channel for access cablecasting;
- 3) facilities and staff assistance available for access cablecasting;
- 4) two-way capability; and
- 5) the need for further service to be extended within the franchised area. Need is to be determined by a reassessment of the communications needs of the municipality in relation to the services generally offered by the cable industry.

A copy of the report shall be sent within ten (10) days of its submission to the franchisor, the franchisee and to the Board.

4.121 23. FRANCHISE ADMINISTRATOR

CC. The Chairperson of the Dilworth/Glyndon Joint Powers Board shall be responsible for the continuing administration of this franchise.

1 24. TECHNICAL STANDARDS

DD. The franchisee shall, as a minimum, adhere to the applicable technical standards promulgated by the FCC relating to cable communications systems contained in subpart K of part 76 of the FCC rules and regulations relating to cable communications systems as the same now provide and may from time to time be amended. The results of any tests required by the FCC shall be filed within ten (10) days of the conducting of such tests with the franchisor and the Board.

4.121 25. ABANDONMENT

EE. The franchisee may not abandon any portion of the cable communications service provided hereunder, without having given three (3) months prior notice to the franchisor and the Board. Further, franchisee may not abandon any portion of the distribution system without compensating the franchisor for damages resulting from the abandonment.

21 26. CERTIFICATE OF CONFIRMATION

FF. 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 cable communications system while the Board is considering the application for the renewal of his certificate of confirmation.

⁸27. SPECIAL TESTING

In the event that special testing is required by the franchisor to determine the source of technical difficulties, the cost of said testing shall be borne by the franchisee if the testing reveals the cable company to be responsible. If the testing reveals the difficulties to be caused by factors which are beyond the cable company's control, the cost of testing shall be borne by the franchisor.


(Signature of Franchisor Representative)

ATTEST:


Dilworth City Clerk

The undersigned, Spectrum Communication Services, Inc., herewith accepts the terms and conditions of Dilworth Ordinance No. 80-1 and Glyndon Ordinance No. 76, relative to the conditions and operations of a cable communications system in Dilworth/Glyndon/Glyndon Township Cable Service Territory, dated this _____ day of _____, 1980.

SPECTRUM COMMUNICATIONS SERVICES, INC.

By _____
Its