

ORDINANCE NO. 3723

AN ORDINANCE to repeal Article J (ECONOMIC REGULATIONS) of, and to add a new Article J (RATE REGULATION) to, Chapter 3 (CABLE TELEVISION REGULATION), Title 9 (LICENSING AND REGULATION) of The Code of the City of Alexandria, Virginia, 1981, as amended.

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Article J of Chapter 3, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is repealed.

Section 2. That Chapter 3, Title 9 of The Code of the City of Alexandria, Virginia, 1981, as amended, be and the same hereby is amended by adding a new Article J to read as follows:

ARTICLE J

Rate Regulation

Sec. 9-3-21 Scope and applicability.

(a) This article governs the regulation of rates and charges for basic cable service and equipment within the city for any franchisee which has been notified that (a) the city has been certified by the FCC to regulate its basic cable service and equipment rates and charges, and (b) the city has adopted regulations governing the regulation of basic cable service and equipment rates and charges. The provisions set forth in this article are intended to be consistent with all regulations of the FCC governing the regulation of basic cable service rates and equipment charges, and the city will regulate and interpret the provisions of this article so that they are consistent with such regulations, as if the regulations were set forth herein. A franchisee is prohibited from engaging in any activity which it is prohibited from engaging in under the regulations of the FCC.

(b) For purposes of this article, the following terms shall have the meanings given below:

(1) the term "Administrator" means the cable television administrator of the City of Alexandria; and

(2) the terms "basic service" and "basic cable service" have the same meaning as the term "basic service" in 47 C.F.R. § 76.901;

(3) the term "cable service" shall mean (i) the one-way transmission to subscribers of video programming or other programming services, and (ii) subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

(4) the term "equipment" means all equipment and services subject to regulation under 47 C.F.R. § 76.923; and

(5) the term "Person" shall mean a natural person, partnership, association, joint stock company, organization, corporation, limited liability corporation or any other legal entity, and any lawful successor thereto or transferee thereof, but such term does not include the city.

Sec. 9-3-122 Local regulatory framework.

(a) The city shall regulate all rates and charges for cable service imposed on subscribers by a franchisee, except to the extent the city is prohibited from doing so by law, and no such rate or charge may be imposed or increased without the prior approval of the city except such rates and charges that the city is prohibited from regulating. Subject to the foregoing, the imposition of any rate or charge for cable service, or the increase in any such rate or charge, without the prior approval of the city shall be illegal. A franchisee is prohibited from requesting or requiring a subscriber to pay an illegal rate or charge as a condition of providing cable service.

(b) All rates and charges that are subject to regulation by the city must be reasonable. The city may, by ordinance or by regulation proposed by the city manager and approved by council, adopt such rules, procedures and standards as it deems necessary to implement rate regulation.

(c) A franchisee shall pay the reasonable costs incurred by the city in conducting rate regulation for that franchisee, including but not limited to consultant fees and costs. By its acceptance of a franchise under this chapter, a franchisee agrees that such fees and costs are not franchise fees, but fall within one of the exceptions in 47 U.S.C. § 542(g)(2).

Sec. 9-3-123 Schedule of rates, rules and regulations.

A franchisee shall prepare and file with the Administrator a schedule of rates and charges for all services offered to the subscribing public under its franchise. The schedule shall state the cost of each offered service or combination of offered services, together with all rules and requirements affecting the installation, maintenance and provision of service or which otherwise affect the quality or cost of service to a subscriber. The schedule shall be printed and filed in the form and manner specified by the Administrator and within the time periods set out in section 9-3-127. The schedule shall be made available for public inspection during normal business hours, in an accessible and convenient place in the offices of the franchisee. Copies of the schedule shall be provided to subscribers in accordance with section 9-3-124.

Sec. 9-3-124 Notice to subscribers.

(a) A franchisee shall provide each subscriber, at the time cable service is installed and at least once a year thereafter, written instructions for placing a service call, filing a complaint or requesting a billing adjustment. As part of the notice provided at installation, a franchisee shall provide the telephone number of the city officer responsible for receiving customer complaints, a schedule of rates and charges for cable service and equipment, a statement of channel positions, a description of programming services, a copy of the service contract between franchisee and the subscriber, a description of delinquent subscriber disconnect and reconnect procedures, and a description of other franchisee policies and procedures that may affect its subscribers. Copies of the installation and the annual notices shall be provided to the Administrator.

(b) A franchisee shall maintain a file containing a copy of each notice provided to subscribers under this section. This file shall be available for inspection upon the request of the Administrator.

Sec. 9-3-125 Departure from schedules prohibited.

No rate or charge shall be made or billed to a subscriber, nor shall any service be provided, by or on behalf of a franchisee unless the franchisee has prepared and filed the schedule as required by section 9-3-123. Except under circumstances as may be specified in its schedule, a franchisee shall not impose, collect or receive any rates or charges other than those specified in its schedule. Nor shall a franchisee refund or remit, in any manner or by any device, any portion of compensation received from a subscriber or confer any special privilege or concession upon a subscriber, except as may be specified in its schedule.

Sec. 9-3-126 Discrimination and preferences prohibited.

A franchisee shall not, by a special rate schedule, rebate, concession or any other device or practice, impose upon or collect from any subscriber, directly or indirectly, rates or charges that differ from the rates and charges that the franchisee imposes upon and collects from other subscribers for a like and contemporaneous service under substantially similar circumstances or conditions; provided, that this section shall not be construed to prohibit the establishment of special rates or charges for subscribers who are 65 years of age or older or are handicapped persons, or the establishment of other special rates or charges that are permitted by law.

Sec. 9-3-127 Establishment of rates, charges and rules.

(a) A franchisee's initial schedule of rates, charges and other matters, required by section 9-3-123, shall be filed with the Administrator within 60 days of the commencement of service by the franchisee. If a franchisee is providing services on the effective date of this section, it shall file the required schedule with the Administrator within 30 days after the effective date of this section.

(b) No change shall be made in the rates, charges and other matters set out in a schedule required by section 9-3-123 and filed with the Administrator, except upon not less than 60 days notice to the Administrator and each subscriber; provided, that the Administrator may, by general regulation or in particular instances, permit changes to be made on lesser notice to correct errors, to provide special or new service, or to address special emergency conditions. Notice of a proposed change in the rates, charges or other matters set out in a schedule shall consist of a statement which shall describes each matter as to which a change is proposed, the manner in which the current schedule treats the matter, the change that is proposed and the reason for the proposed change.

(c) Any proposed change in a schedule of rates, charges and other matters filed with the Administrator shall be examined by the Administrator for compliance with the requirements of the franchise, this chapter, applicable federal law and FCC regulations, and any specifications established by the Administrator governing form. The Administrator shall inform the franchisee filing the proposed change, no later than 20 days prior to the effective date of the proposed change, that it is or is not in compliance with such requirements. If found to be not in compliance, the proposed change in the schedule of rates, charges and other matters shall be rejected and returned to the franchisee with a statement of the reasons for the rejection, and thereafter any action implementing the proposed change shall be unlawful, null and void. Any such rejection may be appealed to city council pursuant to section 9-3-136.

Sec. 9-3-128 Filing and review of rates and charges.

(a) Rate filings by franchisee.

(1) If a franchisee is notified by the city that its basic service and equipment rates and charges are subject to regulation, it shall file a submission ("rate filing") within 30 days of the notification, justifying its then-existing basic service and equipment rates and charges. All such rates and charges, for all customer classifications, shall be justified. Once a franchisee has been notified by the city that its basic service and equipment rates and charges are subject to regulation, it may not thereafter increase any such rates or

charges without the prior approval of the city. This prohibition applies in all cases, including rate and charge increases announced but not implemented prior to the date of the city notice informing the franchisee that its rates and charges are subject to regulation. In addition to its initial rate filing, franchisee shall file a rate filing for any increase in basic service or equipment rates and charges, and for any new basic service or equipment rate or charge (collectively, a "rate increase"). An "increase" occurs when there is an increase in rates or charges without a corresponding increase in program or customer services, or a decrease in program or customer services without a corresponding decrease in rates or charges. Rate filings proposing a rate or charge increase shall be filed at least 30 days in advance of the proposed effective date of the increase. This requirement does not alter or eliminate any other notice requirement.

(2) Every rate filing shall be filed with the city's office of citizen assistance, and shall be considered filed on the date that the original and three copies of the filing (including all supporting materials) are received by that office. Information that the franchisee claims is proprietary under section 9-3-133 must be clearly identified and segregated from the remainder of the filing so that the city may determine the manner in which it was used by the franchisee in setting rates.

(3) Subject to any FCC rules governing the burden of proof, a rate filing submitted by a franchisee shall demonstrate that the rates and charges being proposed for basic service and equipment are reasonable. Except as inconsistent with FCC rules:

(i) The rate filing shall state in a cover letter whether it addresses the existing rates and charges of the franchisee or a proposed increase in the franchisee's rates and charges, and shall contain a brief, narrative description of the existing or the proposed increase in rates and charges. The letter shall also identify any rate that is based, in whole or in part, upon cost of service, and identify any pages of the rate filing that contain information that the franchisee claims is proprietary. If the filing proposes an increase in rates or charges, the cover letter shall also state whether any part of the proposed increase is based on an inflation adjustment or an increase in external costs.

(ii) The pages of the rate filing shall be numbered sequentially.

(iii) The rate filing shall contain all applicable FCC forms which shall be correctly completed.

(iv) If the rate filing proposes, for different classes of customers, different rates or charges for basic service, it shall demonstrate that the classifications of

customers and the differences in rates or charges are reasonable and consistent with federal law.

(4) Except as inconsistent with FCC rules:

(i) If a franchisee seeks to support a rate or charge based upon the cost of providing cable service, the city will establish a rate of return that provides the franchisee an opportunity to recover the reasonable costs associated with providing basic cable service, including a reasonable profit. An expense or investment shall not be presumed to be reasonable merely because the franchisee has incurred or made it.

(ii) If a franchisee seeks to justify all or any part of its rates or charges based upon the cost of providing cable service, then, in addition to information the city requires the franchisee to provide, and unless the city grants a waiver of this provision, the franchisee shall also submit a complete cost of service analysis that shows all expenses it incurs and all revenues derived from its cable system, directly or indirectly, by the franchisee or any Person that constitutes a cable operator of the system within the meaning of 47 U.S.C. § 522(5). This cost of service analysis shall identify the accounting level (as that term is used in the FCC regulations) at which each expense or revenue identified was aggregated, and shall show how the expense or revenue was allocated. The franchisee may not include costs at an accounting level unless it also includes the revenues from that same level that are attributable to the system or to a group of systems of which the system serving the city is a part. The cost of service analysis shall also identify the replacement cost of a comparable cable system and contain a justification for the identified figure. Further, the analysis shall identify the name and address of any Person with which the franchisee has a contract, other than a programmer, and which derives revenues from the system, and shall state whether and how the revenues and costs of that Person are included in the analysis. In addition, the analysis shall show the rate that is being proposed by the franchisee for each channel on the system and, for each such rate, the derivation of the rate and the application of the rate to yield a basic service rate. The analysis shall also show, for each of the items listed below, the manner in which the item was used in the derivation of the basic service rate:

- (A) operation and maintenance expenses;
- (B) administrative and general expenses;
- (C) programming expenses (identifying retransmission consent costs and copyright fees separately);
- (D) costs for public, educational and governmental access channel programming;

- (E) franchise fee expenses;
- (F) investment in the system and associated depreciation;
- (G) other expenses, including federal, state and local taxes, itemized; and
- (H) the proposed return on equity and the actual interest expense paid by the franchisee.

(iii) Notwithstanding the foregoing, a franchisee seeking to base its rates and charges upon the cost of providing cable service is not required to submit the cost of service analysis described in subsubsection (ii) of this section for equipment rates, and instead may complete, submit and support the costs of equipment using applicable FCC forms and presenting any other information the city deems necessary or appropriate, consistent with FCC regulations. The cost of service analysis submitted to justify basic service rates must show that it does not include equipment costs.

(b) City review.

(1) After receiving a rate filing, the office of citizen assistance shall publish a notice in a newspaper having general circulation in the city that the filing has been received and that, except for those parts which may be withheld as proprietary, it is available for public review. The notice shall state that interested parties may comment on the filing, and shall provide such parties at least ten calendar days from the date of the notice to submit written comments on the filing to the office. The office shall submit any comments it has received, along with its recommendations on the filing to the city council, and shall provide a copy of those comments and recommendations to the franchisee at least ten calendar days before the consideration of the filing by council. The franchisee may submit a response to the comments and recommendations no later than four calendar days before the date scheduled for consideration of the filing by council. The response shall be filed with the office of citizen assistance and, if submitted in a timely fashion, shall be forwarded to the council.

(2) After conducting a public hearing on the filing and within 30 days of the date of the rate filing, the city council shall issue a written order, which may be in any lawful form, approving the rates and charges proposed in the filing in whole or in part, denying the rates and charges in whole or in part, or tolling the rates and charges in whole or part. If the council takes the latter action, its order shall explain that it requires additional time to review the rate filing, shall identify the deficiencies in the franchisee's filing and shall state that the

franchisee may cure the deficiencies by submitting a supplemental filing as provided in subsection (c) of this section. With respect to a filing that addresses franchisee's existing rates and charges, tolling means that the rates and charges may remain in effect, subject to refund. With respect to a filing that proposes an increase in rates and charges, tolling means that the increase, or the portion thereof, that is tolled may not go into effect. If the council issues an order allowing the rates to go into effect subject to refund, the franchisee shall thereafter maintain an accounting in accordance with 47 C.F.R. § 76.933.

(c) Supplemental filing.

(1) If the city council tolls a rate filing in whole or in part, the franchisee shall file a supplemental filing within 20 days from the date the tolling order issues, containing corrections, if any, to its filing (including any required supplement to its cost of service analysis) and containing, at the option of the franchisee, a response to information and comments presented by interested parties or to the recommendations of the office of citizen assistance, or any additional information necessary to support the filing. A supplemental filing shall be filed in accordance with section 9-3-128(a)(2).

(2) A supplemental filing shall also contain such information, reasonably related to the issues addressed by the filing, as the city directs the franchisee to provide.

(3) In addition to information the city requires the franchisee to provide, unless the city grants a waiver of this provision, and except to the extent inconsistent with FCC rules, a franchisee seeking approval of a rate based, in whole or in part, upon the adjustments for inflation and external costs contemplated by 47 C.F.R. § 76.922(d)(1)-(2) shall submit, as part of its supplemental filing, the following:

(i) as to the adjustment for inflation, a statement relating it to the rates and charges for which the franchisee is seeking approval, and a calculation showing how the adjustment was made;

(ii) as to the adjustment for external costs, a statement relating it to the rates and charges for which the franchisee is seeking approval, and a calculation showing how the adjustment was made;

(iii) as to each external cost (as defined by FCC rules) for which the franchisee seeks an adjustment, a statement describing the make-up of the cost, and the amount of the cost for the two calendar years prior to the year in which the supplemental filing is made and for the portion of such year prior to the date of the filing, and the projected amount of the

cost for the remainder of such year and for the following calendar year;

(iv) if the filing seeks approval of rates and charges based, at least in part, upon one or more increases in programming service costs, the contract for each programming service whose cost has increased, a sworn statement identifying each programming service whose costs increased where the programmer is an affiliate of the franchisee (as defined by FCC regulations), the contract for each programming service whose cost has decreased over the two calendar years prior to the year in which the supplemental filing is made, and, for any contract for programming services that has been in effect less than 12 months, the prior contract for the services; and

(v) a sworn statement by the franchisee's chief financial officer or an independent, certified accountant that:

(A) states that the individual has examined all of the franchisee's external costs (including all programming costs) for the two years immediately prior to the supplemental filing and has offset against the claimed increase in those costs both the amount of any decreases in external costs incurred during such period and the amount by which the increase in external costs (net of such decreases) was below the Gross National Produce Fixed Weight Price Index (GNP-PI), as required by 47 C.F.R. § 76.922(d)(2);

(B) affirms that the franchisee is only seeking to recover external costs to the extent that such costs exceed the GNP-PI; and

(C) affirms that the franchisee has not attempted to recover any increase in the cost of programming purchased by an affiliate, except as authorized in 47 C.F.R. § 76.922(d)(2)(vi).

(4) Upon receipt of a supplemental filing, the office of citizen assistance shall promptly publish a notice in a newspaper with general circulation in the city that the filing has been received and that it is available for public review, except those parts which may be withheld as proprietary. The notice shall state that interested parties may comment on the filing, and shall provide interested parties twenty days to submit written comments on the filing to the office. The office shall submit the comments it receives, along with its recommendations on the filing to the city council, and shall provide a copy of those comments and recommendations to the franchisee at least twenty business days before the consideration of the filing by council. The franchisee may submit a response to the comments and recommendations no later than ten business days before the date scheduled for the council consideration of the filing. The response shall be filed with the office of

citizen assistance and, if timely, shall be forwarded to the council.

(5) After conducting a public hearing on the supplemental filing, the city council shall, within the periods identified in subsection (6), issue a written order, which may be in any lawful form, approving the proposed rate in whole or in part, or denying the proposed rate in whole or in part.

(6) The order specified in subsection (5) shall be issued within 90 days after the tolling order for any rate the franchisee justifies based on the benchmark rates set out in the FCC regulations. The order shall be issued within 150 days of the tolling order for any rate the franchisee justifies on the basis of a cost of service analysis.

Sec. 9-3-129 Provisions generally applicable to rate orders.

(a) Any rate order of the city council shall be effective upon the date and upon such terms and conditions as specified by the council. A rate order shall be released to the public and the franchisee. In any case where the council approves, denies or tolls a rate or charge, orders that a rate or charge may go into effect subject to refund, orders refunds or establishes a rate or charge, a public notice shall be published in a newspaper with general circulation in the city stating that the order has been issued and is available for review in the office of citizen assistance. Any such order shall be in writing, and explain the basis for the city's decision.

(b) Except as prohibited by federal law, the city council may, as part of a rate order, impose terms and conditions on a franchisee that, it concludes, reasonably advance the public interest. Any order establishing rates or charges other than those proposed by the franchisee shall explain why the franchisee's proposed rates or charges were unreasonable and why the rates and charges established by the order are reasonable. In no event may an order establishing rates or charges other than those proposed by the franchisee or requiring a franchisee to make refunds to subscribers be issued by the city council unless and until the franchisee has been given notice of, and an opportunity to comment upon, the order.

Sec. 9-3-130 Obligations of franchisee.

(a) A franchisee shall implement remedial requirements, including refunds and prospective rate reductions, within 60 days of the date on which the city council issues the order imposing the requirements.

(b) Within 90 days of the date on which an order mandating a remedy is issued, a franchisee must file a certification, signed by an authorized representative, stating:

(1) whether the franchisee has complied with all provisions of the council order;

(2) describing the measures taken to implement the council order; and

(3) showing how any refunds (including interest thereon) were calculated and distributed.

(c) It is the franchisee's obligation to maintain books and records of account so that it can make proper refunds.

(d) It is the franchisee's obligation to submit as complete a rate filing as possible.

(e) Information requests.

(1) A franchisee and any other Person having records showing revenues or expenses that are allocated to the franchisee's cable system in the city shall respond to requests for information from the Administrator within reasonable deadlines established by the Administrator. A franchisee is responsible for ensuring that such other entity responds to the city's requests.

(2) Because federal law limits the time available to the city to provide an initial response to a rate filing, a franchisee shall be prepared to respond to a request for information from the Administrator, made prior to the issuance of an order under section 9-3-128(b), within five days of the date it receives the request; provided, that a franchisee may decline to respond to such a request if it consents to the issuance of a tolling order by the council, pursuant to section 9-3-128(b), and to providing the requested information as part of its supplemental filing pursuant to section 9-3-128(c). Information requests made under this section may include a request for information that the franchisee would be required to provide as part of a supplemental filing.

Sec. 9-3-131 Duties of the office of citizen assistance and administrator.

(a) The office of citizen assistance and the Administrator shall be responsible for administering the provisions of this article, as provided below. Without limitation and by way of illustration, and except as inconsistent with FCC regulations:

(1) The office shall ensure that notices are given to the public and the franchisee as required by this article and by FCC regulations.

(2) The Administrator may submit requests for information to a franchisee and establish deadlines for the franchisee's response to them.

(3) For good cause, the Administrator may extend any filing or response deadline except as to matters that are mandatory under FCC regulations.

(4) The Administrator shall rule on any request for confidentiality.

(5) The office shall prepare the recommendations to the city council under section 9-3-128. If the office recommends that a proposed increase in rates and charges be denied in whole or in part, it shall:

(i) recommend other rates and charges, which may be the franchisee's existing rates and charges, and explain the basis for its recommendation;

(ii) determine whether the franchisee shall make refunds and, if so, recommend an amount of refunds and explain the basis for its determination and recommendation; and

(iii) notify the franchisee of its recommendations and determinations at the time they are submitted to the council.

Sec. 9-3-132 Penalties and forfeitures.

Except as prohibited by federal law, a request by a franchisee for approval of rates and charges may be denied, if the franchisee:

(a) knowingly submits false or fraudulent information to the city in connection with any request; or

(b) fails to comply with any lawful order or request of the city, including, but not limited to, a request for information and an order setting rates.

Sec. 9-3-133 Proprietary information.

(a) If any provision of this article, or if any request for information properly made pursuant to this article, requires a franchisee to produce for the city what the franchisee considers to be proprietary information, the franchisee shall produce the information. However, at the time such information is produced, the franchisee may request that all or specific, identified portions of the information be treated as confidential and withheld from public disclosure. Such a request shall state the reasons why the identified information should be treated as proprietary and the facts that support those reasons. Requests for the confidential treatment of proprietary information will be

reviewed by the Administrator based upon FCC regulations and state and local law, as applicable. Any determination by the Administrator that information is proprietary and is to be withheld from public disclosure shall be made in writing, and such information shall be placed in a file for inspection by the public when permitted by the Administrator in accordance with subsection (c). If a franchisee's request for the confidential treatment of proprietary information is denied, the franchisee may seek review of the denial by filing a request for review with the city attorney within five working days of the denial, in which case disclosure of the alleged proprietary material shall be stayed pending review. Notwithstanding any provision of this section to the contrary, where a franchisee which is proposing an increase in its rates or charges has submitted what it considers to be proprietary information and has requested the confidential treatment of that information, the city shall, upon the franchisee's withdrawal of its rate filing, immediately return the information.

(b) Information that a franchisee claims is proprietary must be clearly identified. If it is part of a larger submission, such as a rate filing, the proprietary information must be segregated from the remainder of the submission. It must also be clearly marked so that the city may determine where the proprietary information belongs within the submission and how it relates to the remainder of the submission.

(c) Any interested person may file with the Administrator a request to inspect material that is being withheld as proprietary. In determining such requests, the Administrator shall weigh the considerations favoring non-disclosure against the reasons given for permitting inspection in light of the facts of the particular case. The Administrator may grant, deny or conditionally grant a request. The Administrator shall promptly notify the requesting person and the franchisee as to the disposition of the request. The party aggrieved by such disposition may seek review of the disposition by filing a request for review with the city attorney. Disclosure will be stayed pending review. Notwithstanding any provision of this subsection to the contrary, the Administrator shall deny any request to inspect proprietary material whenever such inspection is prohibited by federal or state law.

Sec. 9-3-134 Petition for change in effective competition status.

A franchisee may petition for a change in effective competition status, and the city shall consider that petition, in accordance with 47 C.F.R. § 76.915. The petition and three copies shall be filed with the office of citizen assistance.

Sec. 9-3-135 Regulation of rates; complaints.

(a) Whenever, including following receipt of a complaint from any subscriber or other Person or receipt of an inquiry from the city council, the Administrator has reason to believe that any provision of this article or any term, condition or provision of a franchise or franchise agreement pertaining to rates and charges that are subject to this article, has been, is being or will be violated, the Administrator shall promptly undertake to investigate the matter. Notice of the investigation shall be given to the franchisee, and the Administrator shall undertake to mediate or otherwise adjust informally the matter raised in the complaint or inquiry. If the matter cannot be adjusted informally, the Administrator shall, upon notice to the franchisee and the complainant or the city council, as the case may be, set the matter for public hearing in accordance with the provisions of subsection (b).

(b) In any public hearing under this section, the hearing officer shall be the Administrator, unless the council designates otherwise. The hearing officer shall provide the franchisee and the complaining party or city council, whichever is applicable, with written notice of the date, time and place of the hearing by first-class mail at least 10 days in advance of the hearing. The hearing officer shall conduct the hearing in such a manner as will expeditiously and accurately ascertain the facts at issue. As far as reasonably possible, the hearing shall be informal and free from technical rules of evidence. The franchisee and complainant shall have the right to be represented by counsel at the hearing, to present evidence and testimony, and to cross-examine witnesses. The hearing officer shall receive and consider such evidence and testimony at the hearing as is deemed relevant. The franchisee shall furnish all books, papers or other records requested for review and consideration by the hearing officer, and shall make employees or agents available for testimony at the hearing. A taped or stenographic record of the proceeding shall be made.

(c) Not more than 60 days following the hearing, the hearing officer shall issue a written decision which shall be final and binding unless appealed. Within 20 days of the date that the written decision is issued, the franchisee, the complainant or any subscriber to the franchisee's system who is aggrieved by the decision may appeal it to the city council. The decision may be appealed by filing with the city clerk a petition which describes the hearing officer's decision, sets forth the reasons why the decision is erroneous, and requests the council to review the decision. If an appeal is taken, the decision of the hearing officer shall be stayed until the council issues a decision on the appeal.

(d) The Administrator shall give public notice of the hearing officer's written decision, and the text of the decision shall be made available to the public.

Section 3. That this ordinance shall become effective upon the date and at the time of its final passage.

PATRICIA S. TICER
Mayor

Final Passage: May 14, 1994

