



City of Omaha  
Jim Suttle, Mayor

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**Paul D. Kratz**  
City Attorney

Honorable President

and Members of the City Council,

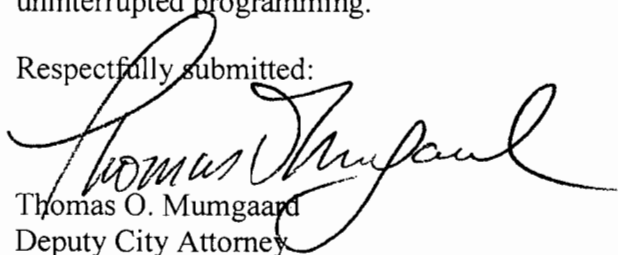
The attached Ordinance is submitted at the request of the Council Law Committee. The Ordinance authorizes creation of a nonprofit corporation to organize and administer the cable television channels that the new Cox Cable franchise agreement dedicates for public, educational, and governmental (PEG) programming.

In the past Cox has been obligated to operate the PEG system and provide studio space, equipment, and personnel to assist public access program producers. The new franchise agreement transfers that responsibility to the City and allows Cox to close its studio. Cox will only be a conduit through which PEG programming gets into the cable system. The City now has to organize and administer the PEG programming and, if it wishes, provide a studio for use by public access program producers.

This ordinance establishes the organizational structure for the City's PEG responsibilities. It creates a nonprofit corporation incorporated by the City and governed by a board of directors appointed by the City Council. That corporation, currently known as the Omaha Cable Television Access Corporation, will receive funding through the budget process and can hire staff to operate the access programming system, including the live and taped telecasting of City Council and other governmental bodies' meetings. The corporation's board of directors will replace the current Cable Television Advisory Committee, which will no longer exist.

The corporation's board of directors will be appointed by the Council after this ordinance is adopted and a more detailed Articles of Incorporation and bylaws will be presented for Council review and approval. The newly adopted franchise agreement allows Cox to discontinue its administration of PEG in mid-November and this new process needs to be in place by then to allow uninterrupted programming.

Respectfully submitted:



Thomas O. Mumgaard  
Deputy City Attorney

ORDINANCE NO. \_\_\_\_\_

1 AN ORDINANCE to provide for public, educational, and governmental programming on the  
2 cable television systems offering service to Omaha citizens; to authorize and create a  
3 non-profit corporation to organize and supervise the dedicated public, educational, and  
4 governmental programming cable television channels; to provide for the governing board  
5 of the corporation and its powers and functions; to repeal portions of current ordinances  
6 providing for the Cable Television Advisory Committee; and to provide an effective date  
7 hereof.

8 BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OMAHA:

9 Section 1. WHEREAS, the City of Omaha has awarded franchises for the operation of  
10 cable television systems within the City which require the dedication of channels for use by the  
11 City to offer public, educational, and governmental programming created by the citizens of  
12 Omaha and their representatives; and,

13 Section 2. WHEREAS, to fulfill the purposes of the dedicated channels it is proper and  
14 necessary to create an entity responsible for the organization, supervision, and promotion of the  
15 channels.

16 Section 3. Chapter 27, Article XII, Division 2, pertaining to cable television systems, is  
17 hereby amended as follows:

18 **Sec. 19-431. Policy.**

19 The nature of cable television communications is that of a complex, competitive and  
20 highly technological industry. While the grant of a franchise for a cable television  
21 communications system is of great community benefit, such a grant carries with it the  
22 burdensome duty to provide the best service and use of the system at the best cost/benefit ratio.  
23 The city is firmly committed to meeting that duty in the most effective manner. It is with this  
24 intent that the city determines there exists the need for the creation of a cable television access  
25 corporation advisory committee for the express purpose of organizing, supervising, and  
26 operating the dedicated public, educational, and governmental programming channels as

provided by franchise agreements between the city and its cable television franchise holders and advising the council on matters related to cable television.

**Sec. 19-432. Creation and Governing Body Membership.**

(a) There is hereby created the Omaha Cable Television Access Corporation ~~Advisory Committee~~ (hereinafter referred to as "the corporation") ~~whose members shall serve without pay, and whose members shall be appointed by the council~~ a corporation subject to the provisions of the Nebraska Nonprofit Corporations Act, Neb. Rev. Stat. §21-1901 et seq. The City of Omaha shall be the incorporator. The City Attorney or his designee shall be the corporation's registered agent and is authorized to take all steps necessary to create the corporation and perform the duties of the incorporator required by that Act. The corporation shall operate exclusively for charitable, scientific, literary and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code (or the corresponding provision of any future United States Internal Revenue Law). The corporation shall operate exclusively within the framework and limitations of its Articles of Incorporation and bylaws, which shall be consistent with the provisions of this Division and shall be approved, and may be amended, by resolution of the City Council.

(b) The ~~corporation committee~~ shall be managed and controlled by a board of directors ("the board") consisting ~~consist~~ of nine ~~seven~~ members appointed by the city council. All members shall serve without pay. There shall be a member in each of the following categories:

- (1) One ~~with one~~ resident from each council district being ~~appointed~~ nominated by the district's councilmember. Every effort shall be made to select individuals knowledgeable in the cable television industry.
- (2) Two members at-large who need not be residents of the city but who are either subscribers to a franchised cable television system or employed by a producer of educational or governmental programming presented on the cable television system.
- (3) At least one member shall be actively engaged as a producer of public or educational programming presented on the cable television system, either individually or as a representative of an organization.

(c) No member of the board ~~committee~~ may ~~shall~~ be employed by or have an interest in the grantee of any cable television franchise.

(d) The initially appointed board ~~Lay~~ members shall serve a one-year term and any reappointed or subsequently appointed members shall serve three-year terms. Any vacancy shall be filled by the council for the remainder of the term.

(e) All subsequent terms shall be filled by appointment or reappointment by majority vote of the city council; provided that, at all times, the membership categories set out herein shall be met ~~at least one resident from each council district shall fill a term on the committee.~~

(f) The ~~board~~ committee shall, prior to conducting any business, first select from among its members a ~~chair~~ president, vice president and secretary by majority vote. These officers shall perform the duties required or permitted by the Articles of Incorporation or bylaws.

~~(1) — It shall be the function of the chair to preside over all meetings and public hearings held by the committee and to designate a member to so act in his absence.~~

~~(2) — It shall be the function of the secretary to duly record the minutes of any meeting held by the committee and transmit the same, together with any other record, to the city clerk.~~

**Sec. 19-433. Records.**

All records and accounts of the corporation ~~committee~~ are hereby declared to be public records, which shall be maintained in the office of the city clerk. Records shall be open for inspection during regular working hours of the city.

**Sec. 19-434. Powers and duties.**

(a) The powers, duties, and function of the corporation ~~committee~~ shall be as follows: set out in the Articles of Incorporation and bylaws, including the ability to receive and expend funds.

~~(1) — To advise the council, after diligent study, on matters which might constitute grounds for revocation of the franchise in accordance with the provisions of division 1 of this article or the agreement between the city and the grantee of any franchise.~~

~~(2) — To resolve disagreements between any franchisee and subscribers or users of the cable television system when the franchisee and the subscriber or user are not able to resolve their dispute or disagreement. Any decision of the committee shall be appealable to the city council.~~

~~(3) — To advise the council on the regulation of rates in accordance with the provisions of division 1 of this article.~~

~~(4) — To advise the council regarding general policy relating to the services provided subscribers and the operation and use of access and leased access channels with a view to maximizing the diversity of programs and services to subscribers.~~

~~(5) — To cooperate with the franchisee in drafting rules governing use of any public access channels and access production equipment.~~

1       ~~(6) — To encourage use of access and leased access channels among the widest range of~~  
2       ~~institutions, groups, including minorities, and individuals within the city in~~  
3       ~~cooperation with the franchisee's full time staff person assigned to facilitate~~  
4       ~~access channel usage.~~

5       ~~(7) — To cooperate with the franchisee to develop public service affairs programming~~  
6       ~~and appropriate novel uses of the cable system.~~

7       ~~(8) — To maintain lines of communication with the communications industry and~~  
8       ~~parties, both public and private, to promote long range planning, assess the future~~  
9       ~~of cable TV in the city and promote the rapid and harmonious development of~~  
10       ~~such services.~~

11       ~~(9) — Upon request of the council, to review and audit all required franchisee records~~  
12       ~~and such other correspondence as submitted to the city concerning the operation~~  
13       ~~of the cable television system so as to ensure that the necessary reports are~~  
14       ~~completed and fulfilled pursuant to the terms of this article.~~

15       ~~(10) — To make an annual report to the council, including:~~

16             ~~a. — The total number of hours of utilization of access and leased access~~  
17             ~~channels and hourly subtotals for various programming categories;~~

18             ~~b. — A review of any plans submitted during the year by the franchisee for~~  
19             ~~development of new services; and~~

20             ~~c. — The adequacy of the franchisee's service, including the effectiveness of the~~  
21             ~~franchisee in responding to and regarding complaints from subscribers and~~  
22             ~~users, or residents of the city.~~

23       ~~(11) — To review and evaluate the system at least every five years, in cooperation with~~  
24       ~~the franchisee, and, pursuant thereto, make recommendations to the council for~~  
25       ~~amendments to division 1 of this article.~~

26       ~~(12) — To perform such other duties as the council may assign to the committee.~~

27       ~~(b) — The committee shall have such powers as are necessarily incidental to the~~  
28       ~~accomplishment and performance of the functions recited herein, including the development of~~  
29       ~~rules and procedures. All powers are subject to the requirements and conditions hereof. Rules~~  
30       ~~and procedures shall be developed prior to any action by the committee, and shall be approved~~  
31       ~~by the council. Any rules and procedures may include the imposition of reasonable time~~  
32       ~~limitations on the presentation by any party, which may be waived in the discretion of the~~  
33       ~~chairman where appropriate.~~

34       ~~(c) — No action may be taken by the committee without the concurrence of four members.~~

**Sec. 19-435. Meetings.**

(a) The board committee shall meet at least once every second month in the Omaha/Douglas County Civic Center and at such other times in those locations deemed appropriate or necessary by the board committee, provided that at all times such meetings and locations shall comply with applicable law or agreement.

~~(b) A quorum of four members shall be necessary in order to convene any meeting. Notice of meetings shall be posted by the council in a conspicuous place in the civic center sufficient to comply with applicable law at least ten days prior to any regularly scheduled meeting. The chair shall duly advise the council of the time, date and location of any meeting, including special meetings. Nothing herein shall abrogate any obligation imposed by law or agreement for a cable television franchisee to provide prescribed notices.~~

**Sec. 19-436. Financial responsibility Funding.**

~~(a) No funds of the city of any type or kind shall be expended or obligated by the committee without prior approval by majority of five councilmembers. In the event moneys are budgeted or expenditures are otherwise approved, a detailed account of each expenditure by the committee shall be maintained by the secretary. —~~The city may appropriate such funds as it deems necessary for the proper administration and functioning of the corporation. The board may employ personnel for the operation of the public, educational, and governmental programming channels. The City Attorney or his designee shall be the legal advisor for the corporation. Additional staff support shall be provided from city employees as required by the board. All income, revenue, receipts, donations, retained earnings, or other moneys of the corporation shall be paid to the city treasurer as treasurer of the corporation and shall be held in segregated accounts and shall not be commingled with any other money under the treasurer's control.

~~(b) The corporation shall prepare an annual budget and submit it to the City treasurer and shall request that the Mayor include in the recommended city annual budget for a given year an item or items providing for appropriation to the corporation.~~

Section 4. Omaha Municipal Code Sections 19-431 through 19-436, as heretofore existing, are repealed.

Section 5. This Ordinance shall be in full force and effect fifteen days from and after its passage.

ORDINANCE NO. \_\_\_\_\_

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INTRODUCED BY COUNCILMEMBER

\_\_\_\_\_

APPROVED BY:

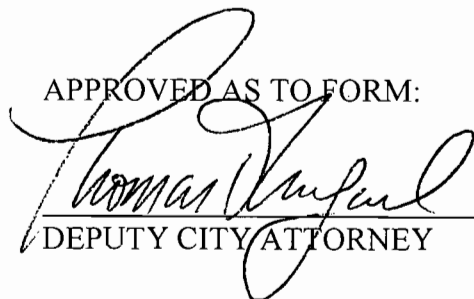
PASSED \_\_\_\_\_

\_\_\_\_\_  
MAYOR OF THE CITY OF OMAHA    DATE

ATTEST:

\_\_\_\_\_  
CITY CLERK OF THE CITY OF OMAHA    DATE

APPROVED AS TO FORM:

  
\_\_\_\_\_  
DEPUTY CITY ATTORNEY    8-15-12  
DATE