

## **CHAPTER 22: CABLE TELEVISION**

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**ARTICLE 1: GENERAL PROVISIONS**

**§ 22-1 DEFINITIONS.**

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

***BASIC CABLE RATES.*** The monthly charges for a subscription to the basic service tier and the associated equipment.

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**BASIC SERVICE TIER.** A separately available service tier to which subscription is required for access to any other tier of service, including as a minimum, but not limited to all must-carry signals, all PEG channels and all domestic television signals other than superstations.

**BENCH MARK.** A per channel rate of charge for cable television service and associated equipment which the FCC has determined is reasonable.

**CABLE ACT OF 1992.** The Cable Television Consumer Protection and Competition Act of 1992.

**CABLE OPERATOR.** Any person or group of persons:

(1) Who provide cable television service over a cable system and directly or through one or more affiliates owns a significant interest in a cable system; or

(2) Who otherwise controls or is responsible for, through any arrangement, the management and operation of a cable system.

**CHANNEL.** A unit of cable television service identified and selected by a channel number or similar designation.

**COST OF SERVICE SHOWING.** A filing in which the cable operator attempts to show that the bench mark rate or the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.

**FCC.** The Federal Communications Commission.

**INITIAL BASIC CABLE RATES.** The rates that the cable operator is charging for the basic service tier, including charges for associated equipment, at the time the city notifies the cable operator of the city's qualification and intent to regulate basic cable rates.

**MUST-CARRY SIGNAL.** The signal of any local broadcast station, except superstations, which is required to be carried on the basic service tier.

**PEG CHANNEL.** The channel capacity designated for public, educational or governmental use and facilities and equipment for the use of that channel capacity.

**PRICE CAP.** The ceiling set by the FCC on future increases in basic cable rates regulated by the city, based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

**REASONABLE RATE STANDARD.** A per channel rate that is at, or below, the bench mark or price cap level.

***SUPERSTATION.*** Any non-local broadcast signal secondarily transmitted by satellite.  
(Ord. 2982, passed 2-1-94)

**ARTICLE 2: RATES AND CHARGES**

**§ 22-15 INITIAL REVIEW OF BASIC RATES.**

(A) *Notice.* Upon the adoption of this chapter and the certification of the city of the FCC, the city shall immediately notify all cable operators in the city, by certified mail, return receipt requested, that



the city intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the Cable Act of 1992.

(B) *Cable operator response.* Within 30 days of receiving notice from the city, a cable operator shall file with the city, its current rates for the basic service tier and associated equipment and any supporting material concerning the reasonableness of its rates.

(C) *Expedited determination and public hearing.*

(1) If the City Council is able to expeditiously determine that the cable operator's rates for the basic service tier and associated equipment are within the FCC's reasonable rate standard, as determined by the applicable bench mark, the City Council shall:

(a) Hold a public hearing at which interested persons may express their views; and

(b) Act to approve the rates within 30 days from the date the cable operator filed its basic cable rates with the city.

(2) If the City Council takes no action within 30 days from the date the cable operator filed its basic cable rates with the city, the proposed rates will continue in effect.

(D) *Extended review period.*

(1) If the City Council is unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the City Council shall, within 30 days from the date the cable operator filed its basic cable rates with the city and by adoption of a formal resolution, invoke the following additional, periods of time, as applicable, to make a final determination:

(a) 90 days if the City Council needs more time to ensure that a rate is within the FCC's reasonable rate standard; or

(b) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable bench mark.

(2) If the City Council has not made a decision within the 90 or 150 day period, the City Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate and on whose behalf the amounts are paid.

(E) *Public hearing.* During the extended review period and before taking action on the proposed rate, the City Council shall hold at least one public hearing at which interested persons may express their views and record objections.

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(F) *Objections.* An interested person who wishes to make an objection to the proposed initial basic rate may request the City Clerk to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

(G) *Bench mark analysis.* If a cable operator submits its current basic cable rate schedule as being in compliance with the FCC's reasonable rate standard, the City Council shall review the rates using the bench mark analysis in accordance with the standard form authorized by the FCC. Based on the City Council's findings, the initial basic cable rates shall be established as follows:

(1) If the current basic cable rates are below the bench mark, those rates shall become the initial basic cable rates and the cable operator's rates will be capped at that level.

(2) If the current basic cable rates exceed the bench mark, the rates shall be the greater of the cable operator's per channel rate on September 30, 1992, reduced by 10% or the applicable bench mark, adjusted for inflation and any change in the number of channels occurring between September 30, 1992, and the initial date of regulation.

(3) If the current basic cable rates exceed the bench mark, but the cable operator's per channel rate was below the bench mark on September 30, 1992, the initial basic cable rate shall be the bench mark, adjusted for inflation.

(H) *Cost-of-service showings.* If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing in an attempt to justify a initial basic cable rates above the FCC's reasonable rate standard. The City Council will review a cost-of-service submission pursuant to FCC standards for cost-of-service review. The City Council may approve initial basic cable rates above the bench mark if the cable operator makes the necessary showing. A cost-of-service determination resulting in rates below the bench mark or below the cable operator's September 30, 1992, rates minus 10%, will prescribe the cable operator's new rates.

(I) *City Council decision.*

(1) *Formal resolution.* After completion of its review of the cable operator's proposed rates, the City Council shall adopt its decision by formal resolution. The decision shall include one of the following.

(a) If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, the City Council shall approve the initial basic cable rates proposed by the cable operator; or

(b) If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the City Council shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that are justified by a cost-of-service analysis.

(2) *Rollbacks and refunds.* If the City Council determines that the initial basic cable rates as submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the City Council may order the rates reduced in accordance with divisions (G) and (H) above, as applicable. In addition, the City Council may order the cable operator to pay to subscribers, refunds of the excessive portion of the rates with interest, computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments, retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the City Council's decision resolution.

(3) *Statement of reasons for decision and public notice.* If rates proposed by a cable operator are disapproved in whole or in part, or if there were objections made by other parties to the proposed rates, the resolution must state the reasons for the decision and the City Council must give public notice of its decision. Public notice will be given by advertisement once in a newspaper of general circulation within the city.

(J) *Appeal.* The City Council's decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations. (Ord. 2982, passed 2-1-94)

## § 22-16 REVIEW OF REQUEST FOR INCREASE.

(A) *Notice.* A cable operator in the city who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the city and notify all subscribers at least 30 days before the cable operator desires the increase to take effect. This notice may not be given more often than annually and not until at least one year after the determination of the initial basic cable rates.

### (B) *Expedited determination and public hearing.*

(1) If the City Council is able to expeditiously determine that the cable operator's rate increase request for basic cable service is within the FCC's reasonable rate standard, as determined by the applicable price cap, the City Council shall hold a public hearing at which interested persons may express their views and act to approve the rate increase within 30 days from the date the cable operator filed its request with the city.

(2) If the City Council takes no action within 30 days from the date the cable operator filed its request with the city, the proposed rates will go into effect.

### (C) *Extended review period.*

(1) If the City Council is unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the City Council shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

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(a) 90 days if the City Council needs more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and

(b) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

(2) The proposed rate increase is tolled during the extended review period.

(3) If the City Council has not made a decision within the 90- or 150-day period, the City Council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate increase and on whose behalf the amounts are paid.

(D) *Public hearing.* During the extended review period and before taking action on the requested rate increase, the City Council shall hold at least one public hearing at which interested persons may express their views and record objections.

(E) *Objections.* An interested person who wishes to make an objection to the proposed rate increase may request the City Clerk to record the objection during the public hearing or may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the City Clerk with the objector's name and address.

(F) *Delayed determination.* If the City Council is unable to make a final determination concerning a requested rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the City Council later issues a decision disapproving any portion of the increase.

(G) *Price cap analysis.* If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the City Council shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based on the City Council's findings, the basic cable rates shall be established as follows:

(1) If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.

(2) If the proposed basic cable rate increase exceeds the price cap established by the FCC, the City Council shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

(H) *Cost-of-service showings.* If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the City Council will review the submission pursuant the FCC standards for cost-of-service review. The City Council may approve a rate increase above the price cap if the cable operator makes the necessary showing. A cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

(I) *City Council decision.* The City Council's decision concerning the requested rate increase, shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a persons requesting the City Clerk to record the objection or may be submitted in writing at anytime before the decision resolution is adopted.

(J) *Refunds.*

(1) The City Council may order refunds of subscribers' rate payments with interest if:

(a) The City Council was unable to make a decision within the extended time period as described in division (C) above; and

(b) The cable operator implemented the rate increase at the end of the extended review period; and

(c) The City Council determines that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing, and the City Council disapproves, any portion of the rate increase.

(2) The method for paying any refund and the interest rate will be in accordance with FCC regulations as directed in the City Council's decision resolution.

(K) *Appeal.* The City Council's decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations. (Ord. 2982, passed 2-1-94)

**§ 22-17 CABLE OPERATOR INFORMATION.**

(A) (1) In those cases when the cable operator has submitted initial rates or proposed an increase that exceeds the reasonable rate standard, the City Council may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed to make a rate determination. In these cases, a cable operator may request the information be kept confidential in accordance with this section.

(2) In cases where initial or proposed rates comply with the reasonable rate standard, the City Council may request additional information only in order to document that the cable operator's rates are in accord with the standard.

(B) (1) A cable operator submitting information to the City Council may request in writing that the information not be made routinely available for public inspection to the extent permissible under state law. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies to the extent permissible under state law.

(2) If feasible, the information to which the request applies shall be physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.

(3) Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts upon which those reasons are based.

(4) Casual requests which do not comply with the requirements of this section, shall not be considered.

(C) Requests which comply with the requirements of division (B) above, will be acted upon by the City Council. The City Council will grant the request if the cable operator presents by a preponderance of the evidence, a case for nondisclosure consistent with applicable federal regulations and state law. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from public inspection. If the request does not present a case for nondisclosure and the City Council denies the request, the City Council shall take one of the following actions:

(1) If the information has been submitted voluntarily without any direction from the city, the cable operator may request that the city return the information without considering it. Ordinarily, the city will comply with this request. Only in the unusual instance that the public interest so requires, will the information be made available for public inspection.

(2) If the information was required to be submitted by the City Council, the information will be made available for public inspection.

(D) If the City Council denies the request for confidentially, the cable operator may seek review of that decision from the FCC within five working days of the City Council's decision, and the release of the information will be stayed pending review.  
(Ord. 2982, passed 2-1-94)

## **§ 22-18 AUTOMATIC RATE ADJUSTMENTS.**

(A) Annual inflation adjustment in accordance with FCC regulations, the cable operator may adjust its capped base per channel rate for the basic service tier annually by the final GNP-PI index.

(B) (1) The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceeds the GNP-PI. These factors include retransmission consent fees, programming costs, state and local taxes applicable to the provision of cable television service and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per channel rate, without regard to its relation to the GNP-PI.

(2) For all categories of external costs other than retransmission consent and franchise fees, the starting date for measuring changes in external costs for which the basic service per channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 28, 1994, whichever occurs first. The permitted per channel charge may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

(C) The cable operator shall notify the city at least 30 days in advance of a rate increase based on automatic adjustment items. The city shall review the increase to determine whether the item or items qualify as automatic adjustments. If the city makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.  
(Ord. 2982, passed 2-1-94)

**§ 22-19 ENFORCEMENT; REFUNDS.**

The city may order the cable operator to refund to subscribers a portion of previously paid rates under the following circumstances:

(A) A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or

(B) The cable operator has failed to comply with a valid rate order issued by the city.  
(Ord. 2982, passed 2-1-94)

**ARTICLE 3: GOVERNMENT ACCESS CHANNEL**

**§ 22-30 SHORT TITLE.**

This article shall be known and may be cited as the “City of Guthrie Government Access Channel Ordinance.”  
(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

**§ 22-31 DEFINITIONS.**

For the purposes of this article, 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,” “will” and “must” are always mandatory and not merely directory.

**ACCESS PROGRAMMING.** A show or program that airs on the Government Access Channel.

**APPOINTED OFFICERS.** Those persons appointed by the City Council to serve in an advisory capacity on its boards, commissions, or committees.

**CABLECAST.** Programming (exclusive of broadcast signals) carried on a cable television system.

**CITY COUNCIL MEETINGS.** Consists of the scheduled meetings on the first and third Tuesdays of the month, including the Guthrie Public Works Authority, and any special City Council meeting.

**CITY OF GUTHRIE or CITY.** A municipal political subdivision of the State of Oklahoma.

**ELECTED OFFICIALS.** Those persons duly elected by the citizens of the city to serve as the local governing body.

**FEDERAL ACCESS STATUTE.** Section 531 of the Communications Act of 1934, as amended.

**GOVERNMENT ACCESS CHANNEL.** The municipal government access channel on the cable system which is reserved for city-approved uses.  
(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

## § 22-32 ACCESS POLICIES AND PROCEDURES.

(A) The city shall adopt and enforce policies and procedures for the use of the Government Access Channel that shall, at a minimum, include the standards specified herein and shall comply with CoxCom, Inc. and the Federal Access Statute. Failure to comply with these policies and procedures shall result in termination of access to the Government Access Channel.

(B) Presentation of the following materials, programs, events, or activities on the Government Access Channel shall be prohibited unless allowed by state or federal law and specifically approved by the city:

(1) Any material, program, event, or activity designed to promote the sale of products, trade, business, or persons for profit related to a commercial enterprise activity. Nothing in this section shall prohibit material being produced solely by the city as a documentary promoting economic development, general health, education, or the public safety and welfare of the community of the city.

(2) Any material, program, event, or activity designed to promote political, religious, or sectarian causes or purposes within or without the city.

(3) Any material, activity, program, or event designed to directly promote or solicit membership in any club, fraternal association, sorority, military, civic, non-profit organization, or religious or sectarian group in the community or county.

(4) Any material which is intended to defraud the viewer or designed to obtain money by false pretenses, representations, promotions, or promises.

(5) Libelous or slanderous material of a political or non-political nature.

(6) Material that is obscene or indecent according to federal, state, or local community standards, contains nudity, or is otherwise illegal.

(C) *Eligible users.* Access to municipal programming on the Government Access Channel shall be limited to city departments, county, public schools, state or federal government agencies, and non-profit community organizations or civic organizations having an interest in city, county, educational, and public activities which serve the overall public good and that are non-political, non-sectarian, or non-religious in nature. Organizations involved with fundraising activities or community promotions which serve charitable, community, or educational purposes within the city or county are permitted to have their activities and events listed on the Government Access Channel's community calendar of events when approved by the city. Display of material provided to the city by all such users shall be permitted at the discretion of the City Manager, his or her designee, or Council policy. Should city production services be requested for allowable activities under this section, the cost of production shall be negotiated by the City Manager and a fair value assessed to the user desiring to broadcast material, programs, activities, or events, or to have the city produce such material, programs, activities, and events. The city shall be notified 30 days in advance of any desire to broadcast material, programs, activities, or events not produced by the city or the desire to have the city produce such material, programs, activities, or events.

(D) *Channel operation.*

(1) The city exclusively operates the Government Access Channel and is solely responsible for everything related to the channel and its content. CoxCom, Inc. shall have no right to exercise editorial control in any manner whatsoever over the content of the Government Access Channel unless specifically allowed by federal law.

(2) Organizations other than the city shall not be allowed to produce "live" broadcasts outside the city facilities or utilize production companies other than the city for "live" production, unless approved by the City Manager, his or her designee, or Council policy.  
(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

## § 22-33 STANDARDS AND GUIDELINES.

(A) *Content guidelines.* All materials produced by the city will be copyrighted to the Government Access Channel under the banner of the city's Information Services Office. Putting the copyright date on the end of a tape will constitute copyright.

(B) *Quality guidelines.* Material provided to the city for broadcast shall be in Mini DV (16 bit) (48 Hz) format and be of professional quality.

(C) *Public meeting coverage standards.*

(1) Every effort must be made to cablecast the City Council/committee meetings in their entirety without editing.

(2) It shall be the policy of the city to retain a master copy of every public meeting cablecast on the Government Access Channel for a period of three years.

(3) A video recording of each meeting shall be maintained at the Guthrie Public Library for a period of one year.

(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

**§ 22-34 DUPLICATION OF VIDEOS.**

(A) Videotape duplication shall be available to citizens pursuant to the Open Records Act.

(B) Charges shall be assessed at \$10 per tape. If more than five tapes are requested, the city shall contact an outside vendor to perform requested duplications, the cost of which will be paid by the individual requesting the tapes.

(C) The city shall attempt to fill requests for tapes within five working days.

(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

**§ 22-35 PROGRAM SCHEDULE.**

A program schedule shall be determined by the City Manager or designee.

(Ord. 3099, passed 2-19-02; Am. Ord. 3130, passed 3-2-04)

**§ 22-50 PENALTY.**

If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$100, plus court costs for each day the cable operator fails to comply.

(Ord. 2982, passed 2-1-94)

***Cross-reference:***

*Arraignment; pleading, see § 12-24*