



**CITY OF TYLER
CITY COUNCIL COMMUNICATION**

Agenda Number: O-2

Date: April 11, 2007

Subject: Request that the City Council consider adopting an ordinance amending Tyler City Code Chapter 15 to update the television franchise provisions to reflect that Northland Cable Ventures LLC has obtained a State-Issued Certificate of Franchise Authority for cable television and video services.

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Item Reference: Texas Public Utility Regulatory Act, Texas Utilities Code Chapter 66; Tyler City Code Chapter 15, Article II.

Tyler City Code Chapter 15 contains provisions relating to various kinds of franchises. The franchise requirements for cable television are located in City Code Chapter 15, Article II., and contain sections relating to both Cox Cable and Northland Cable Ventures LLC. Northland has for many years served cable television customers in the areas east and south of Tyler. Due to past annexations by the City, some Northland customers came into the City limits. Over the years, the City of Tyler has approved various franchises and renewals with Northland.

On January 27, 2006, Northland Cable Ventures LLC filed applications under Section 66.003 of the Public Utility Regulatory Act, Texas Utilities Code Sections 66.003 through 66.015, for the approval of State-Issued Certificates of Franchise Authority to be a cable service provider within the municipal boundaries of Hillsboro, Lamesa, and Tyler, Texas, in the unincorporated area of Smith County, Texas known as the Lake Tyler area, and within the municipal boundaries of the City of Llano, Texas and surrounding areas. Notice of Approval from the Public Utility Commission was dated February 21, 2006. Due to the fact that Northland has obtained a State-issued franchise, the current provisions relating to Northland in City Code Sections 15-77 through 15-79 are no longer applicable and need to be amended accordingly.

RECOMMENDATION:

It is recommended that the City Council adopt the attached ordinance amending Tyler City Code Chapter 15 to reflect that Northland Cable Ventures LLC has obtained a State-Issued Certificate of Franchise Authority for providing cable television and video services.

Gary C. Landers

Drafted/Recommended By:
Department Leader

Gary C. Landers, City Attorney

Edited/Submitted By:
City Manager

ORDINANCE NO. O-2007-48

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS, AMENDING CHAPTER 15, "FRANCHISES", ARTICLE II., "CABLE TELEVISION", DIVISION 4., "MISCELLANEOUS PROVISIONS", OF THE CODE OF ORDINANCES OF THE CITY OF TYLER, TEXAS, BY AMENDING THE TELEVISION FRANCHISE REQUIREMENTS TO REFLECT THAT NORTHLAND CABLE VENTURES LLC HAS OBTAINED A STATE-ISSUED CERTIFICATE OF FRANCHISE AUTHORITY FOR PROVIDING CABLE TELEVISION AND VIDEO SERVICES; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY CLAUSE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, Tyler City Code Chapter 15 contains provisions related to various franchises; and

WHEREAS, City Code Chapter 15, Article II., contains provisions related to television cable franchises; and

WHEREAS, City Code Sections 15-77 through 15-79 currently contain television cable franchise requirements related to Northland Cable Ventures, LLC; and

WHEREAS, as authorized by the Public Utility Regulatory Act, Texas Utilities Code Sections 66.003 through 66.015, Northland Cable Ventures LLC sought and obtained from the Public Utility Commission a State-Issued Certificate of Authority to provide television cable and video services; and

WHEREAS, Notice of Approval of the State-Issued Certificate of Authority for Northland Cable Ventures LLC by the Public Utility Commission was dated February 21, 2006; and

WHEREAS, it is now necessary to amend the Tyler City Code to reflect the fact that Northland Cable Ventures LLC has obtained a State-Issued Certificate of Authority;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF TYLER, TEXAS:

PART 1: That Tyler City Code Chapter 15, "Franchises", Article II., "Cable Television", Division 4., "Miscellaneous Provisions", is hereby amended by deleting Sections 15-78 and 15-79 in their entirety, and amending Section 15-77 to read as follows:

Sec. 15-77. Northland Cable

Pursuant to State law, Northland Cable Ventures LLC obtained a State-Issued Certificate of Authority for television cable and video services from the Public Utility Commission, dated February 21, 2006 (SICFA No. 90018). Such State-Issued Certificate of Authority governs services by Northland Cable Ventures LLC within the Tyler City limits in the public rights-of-way. The State-Issued Certificate of Authority also governs services by Northland Cable Ventures LLC within the unincorporated area of Smith County known as Lake Tyler, in the public rights-of-way. (Ord. No. 0-2007-48; 4/25/07)

PART 2: That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PART 3: That any person, firm, or corporation violating any of the provisions of this ordinance shall be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine as provided in Section 1-4 of the Tyler Code. Each day such violation shall continue, or be permitted to continue, shall be deemed a separate offense. Since this ordinance has a penalty for violation, it shall not become effective until after its publication in the newspaper as provided by Section 85 of the Charter of the City of Tyler, Texas, which date is expected to be April 27, 2007.

PASSED AND APPROVED this 25th day of April, A. D., 2007.

JOSEPH O. SEEBER, MAYOR OF THE
CITY OF TYLER, TEXAS

ATTEST:

APPROVED:

CASSANDRA BRAGER, CITY CLERK

CITY ATTORNEY