

**SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA**

851



FROM: Purchasing and Fleet Services Department

SUBMITTAL DATE:
October 17, 2006

SUBJECT: County Ordinance No. 503.11 Amending Ordinance No. 503.10 Regulating Cable, Video, and Telecommunications Service Providers.

RECOMMENDED MOTION: That the Board of Supervisors:

Introduce Ordinance No. 503.11 and set for a public hearing on October 31, 2006 at 9:30 a.m. for adoption.

BACKGROUND: At the Telecommunications Workshop conducted by the Board on May 15, 2006, County staff and special counsel made a presentation concerning the current status of Ordinance No. 503.10, which established a licensing procedure for the construction, operation, and maintenance of cable television systems within the County. Recommendations were made to create a new ordinance which would account for all the changes that have occurred and create a more dynamic and flexible framework for projected changes and new entrants into the cable, video, and telecommunications service.

(Continued on Page 2)

ROBERT J. HOWDYSHELL
Director, Purchasing and Fleet Services Dept.

FINANCIAL DATA	Current F.Y. Total Cost:	\$ 0	In Current Year Budget:	Yes
	Current F.Y. Net County Cost:	\$ 0	Budget Adjustment:	No
	Annual Net County Cost:	\$ 0	For Fiscal Year:	06/07

SOURCE OF FUNDS:

Positions To Be Deleted Per A-30:	<input type="checkbox"/>
Requires 4/5 Vote:	<input type="checkbox"/>

C.E.O. RECOMMENDATION:

APPROVE

County Executive Office Signature

MINUTES OF THE BOARD OF SUPERVISORS

On motion of Supervisor Ashley, seconded by Supervisor Stone and duly carried by unanimous vote, **IT WAS ORDERED** that the above ordinance is approved as introduced with waiver of the reading and setting the matter for public hearing on Tuesday, October 31, 2006 at 9:30 a.m.

Ayes: Buster, Tavaglione, Stone, Wilson and Ashley
 Nays: None
 Absent: None
 Date: October 17, 2006
 xc: Purchasing & Fleet, COB(2)

Nancy Romero
 Clerk of the Board
 By:
 Deputy

Prev. Agn. Ref.: District: ALL **Agenda Number:** 9.10

County Clerk
 OCT 03 2006
 Dept's Recomm.: Consent Policy
 Per Exec. Ofc.: Consent Policy

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TELECOMMUNICATIONS SERVICE PROVIDERS**

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BACKGROUND (Continued)

The County's original cable regulatory ordinance was adopted in 1965, over four decades ago. Several amendments have since been adopted, the most recent of which was in June 1994. In accordance with the provisions of the regulatory ordinance, the County has authorized cable operators to construct, operate, and maintain cable systems in the unincorporated areas by means of a nonexclusive license, the terms of which are specified in Section 6 of that ordinance.

During the past 40 years, significant new federal and state laws and regulations have been adopted relating to cable television franchises. There have also been substantial changes in the types of video service providers that may potentially use County rights-of-way or otherwise provide video services to County residents. For example, the Telecommunications Act of 1996 created the new concept of an "open video system," which was intended to foster competition between telephone companies and incumbent cable television operators. Additionally, new categories of multichannel video programming distributors have emerged, such as multichannel multipoint distribution service ("MMDS"), local multipoint distribution service ("LMDS"), and direct broadcast satellite ("DBS"). Although some of these newer video programming distributors do not use the County's rights-of-way, California law authorizes local franchising authorities to impose a registration process and to require the disclosure of policies and procedures relating to customer service standards and the processing of customer complaints.

Within the last three years, the dominant telephone companies have launched a major effort to upgrade their telecommunications facilities in order to provide video services in competition with incumbent cable operators. These telephone companies have been at the forefront of aggressive efforts in the U. S. Congress and in many state capitals, including Sacramento, to replace local cable television franchises with either statewide or national cable franchises.

Rapid changes in technology, the entry of telephone companies into the video service marketplace, and the burgeoning population in Riverside County that will require voice, data, and video service from service providers – all of these factors were deemed by the Board to justify the drafting of a completely new ordinance. The Board directed that the new ordinance comprehensively address the different categories of video service providers that now exist and incorporate the broad range of regulatory rights of local franchising authorities that are currently authorized under state and federal law.

Ordinance No. 503.11 establishes a regulatory framework that will replace the County's nonexclusive licensing procedures with nonexclusive franchising procedures. The new procedures are expected to provide greater flexibility for the County to address cable franchise-related matters that may differ from community to community and from cable operator to cable operator.

The proposed new cable regulatory ordinance addresses the technological and regulatory changes that have occurred over the last 40 years, and it eliminates the nonexclusive license procedures that were obsolete, in need of clarification, or inconsistent with current federal laws

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and regulations. This new ordinance contains six articles which, briefly summarized, relate to the following:

1. Article 1, titled "General Provisions," sets forth the title, purpose, and intent of the ordinance.
2. Article 2, titled "Cable Television Systems," relates to franchises for cable television systems. Subsection 2.110 of this Article 2 identifies in general terms the various subject matters that may be addressed in a cable television franchise agreement. This approach is believed to be preferable to incorporating into an ordinance extremely detailed provisions, which may be obsolete, irrelevant, or preempted by paramount law when a cable television franchise agreement, or a franchise renewal agreement, is negotiated and executed. Subsection 2.150 sets forth extensive consumer protection and service standards, the violation of which is subject to remedies that can be specified in the ordinance or in the franchise agreement. These consumer protection and service standards will become applicable to all cable operators that are now operating under County-issued licenses.
3. Article 3, titled "Open Video Systems," sets forth a regulatory scheme that relates to "open video systems." Virtually all of these provisions are contained in federal laws and regulations that were adopted in connection with the federal Telecommunications Act of 1996. There are now several "open video systems" operators that have been certified by the FCC to provide service in Southern California, including RCN Telecom Services of California, Inc., and Champion Broadband of California. These companies have requested and obtained franchise agreements in several communities in the Southern California area. The provisions of Article 3 should be helpful to County staff in informing representatives of open video system operators about the local regulatory requirements with which they must comply.
4. Article 4, titled "Other Video and Telecommunications Services and Systems," addresses video programming providers other than cable television systems and open video systems. Certain categories of video providers are required to register with the County and to provide specified information concerning customer protection and service standards. The ordinance adopts a schedule of monetary penalties for the material breach of those customer service obligations, as authorized by state law. Article 4 also sets forth the limited regulatory authority that the County may exercise over an ever-increasing number of telephone corporations that are being certified by the California Public Utilities Commission to provide local and long-distance telephone service.
5. Article 5 sets forth definitions for various terms and phrases that are used in the regulatory ordinance.
6. Article 6 sets forth sanctions for violations of the ordinance and a severability clause.

ORDINANCE NO. 503.11

AN ORDINANCE OF THE COUNTY OF RIVERSIDE
REGULATING CABLE, VIDEO, AND
TELECOMMUNICATIONS SERVICE PROVIDERS

THE BOARD OF SUPERVISORS OF THE COUNTY OF RIVERSIDE DOES
ORDAIN AS FOLLOWS:

Section 1. Ordinance No. 503.10 will, with the exception of the consumer protection and service standards specified therein, continue to be applicable to any renewals that currently licensed cable operators may elect to exercise under paragraph (23) of previously issued nonexclusive licenses. Ordinance No. 503.10 is subject to repeal by the Board of Supervisors at such time as all currently licensed cable operators have executed a cable television franchise renewal agreement, the terms of which subject those cable operators to this Ordinance No. 503.11.

Section 2. Ordinance No. 503.11 is adopted to read as follows:

"CABLE, VIDEO, AND TELECOMMUNICATIONS SERVICE PROVIDERS

ARTICLE 1. GENERAL PROVISIONS

1.100 Title

This ordinance is known and may be cited as the "Cable, Video, and Telecommunications Service Providers Ordinance" of the County of Riverside.

1.110 Purpose and Intent

A. The Board of Supervisors finds and determines as follows:

1. The development of cable, video, and telecommunications services and systems may provide significant benefits for, and have substantial impacts upon, the residents of the County.

2. Because of the complex and rapidly changing technology associated with cable, video, and telecommunications services and systems, the public convenience, safety, and general welfare is best served by the County's exercise of its regulatory powers.

3. This ordinance adopts provisions that authorize the County to regulate cable, video, and telecommunications service providers to the extent authorized by federal and state law, including but not limited to the federal Cable Communications Policy Act of 1984, the federal Cable Television Consumer Protection and Competition Act of 1992, the federal Telecommunications Act of 1996, applicable regulations of the Federal Communications Commission, and applicable California statutes and regulations.

4. The cable, video, and telecommunications services that are addressed in this ordinance include services provided by cable television systems, open video systems, master antenna television systems, satellite master antenna television systems, direct broadcast satellite systems, multichannel multipoint distribution systems, local multipoint distribution systems, and other providers of video programming, whatever their technology.

B. The purpose and intent of this ordinance is to provide for the attainment of the following objectives:

1. To enable the County to discharge its public trust in a manner consistent with rapidly evolving federal and state regulatory policies, industry competition, and technological development.

2. To authorize and to manage reasonable access to the County's public rights-of-way and public property for cable, video, and telecommunications purposes on a competitively neutral and nondiscriminatory basis, and in a manner consistent with all applicable federal and state statutes and regulations.

3. To obtain fair and reasonable compensation for the County and its residents for authorizing the private use of the public rights-of-way and public property.

4. To promote competition in cable, video, and telecommunications services, minimize unnecessary local regulation of cable, video, and telecommunications service providers, and encourage the delivery of advanced and competitive cable, video, and telecommunications services on the broadest possible basis to local government and to the businesses, institutions, and residents of the County.

5. To establish new guidelines, standards, and time frames for the exercise of local authority with respect to the regulation of cable, video, and telecommunications service providers, which regulation will be implemented in a fair and equitable manner that preserves the rights of existing providers that have served County residents over a period of many years.

6. To encourage the deployment of advanced cable, video, and telecommunications infrastructure that satisfies local needs, delivers enhanced government services, and provides informed consumer choices in an evolving cable, video, and telecommunications marketplace.

7. To maintain and to enhance public, educational, and governmental programming opportunities that will enable the County to communicate with its residents and to provide them with alternate means of disseminating information.

1.120 Defined Terms and Phrases

Various terms and phrases used in this ordinance are defined below in Section 5.100.

1.130 Suspension and Waiver of Application Fee Deposits

A. With regard to any application fee deposit for an initial franchise, or for the renewal of a franchise, or for the transfer or change in control of a franchise that is authorized by this ordinance, the Clerk of the Board or designee may suspend or waive that application fee deposit in accordance with this section.

B. The Clerk of the Board or designee, in consultation with the County Counsel, may, upon good cause shown by an applicant or a franchisee, waive or suspend the imposition of an application fee deposit.

ARTICLE 2. CABLE TELEVISION SYSTEMS

2.100 Authority and Findings

A. In accordance with applicable federal and state law, the County is authorized to grant nonexclusive franchises to construct, reconstruct, operate, and maintain cable television systems within the unincorporated territory of the County.

B. The Board of Supervisors finds that the development of cable television and related telecommunications services may provide significant benefits for, and substantial impacts upon, the residents of the County. Because of the complex and rapidly changing technology associated with cable television, the Board of Supervisors further finds that the public convenience, safety, and general welfare can best be served by the exercise of the County's regulatory powers. This Article 2 is intended to specify the means for providing to the public the best possible cable television services, and every franchise issued in accordance with this Article 2 is intended to achieve this primary objective. It is the further intent of this Article 2 to establish regulatory provisions that will enable the County to regulate cable television services to the maximum extent authorized by federal and state law.

2.110 Franchise Terms and Conditions

A. Franchise Purposes

A franchise granted by the County under the provisions of this Article 2 may authorize the Grantee to do the following:

1. To engage in the business of providing cable television services that are authorized by law and that the Grantee elects to provide to its subscribers within the designated franchise service area.

2. To erect, install, construct, repair, rebuild, reconstruct, replace, maintain, and retain, cable lines, related electronic equipment, supporting structures, appurtenances, and other property in connection with the operation of the cable system in, on, over, under, upon, along and across streets and public rights-of-way within the designated franchise service area, in accordance with all applicable ordinances and regulations.

3. To maintain and operate the franchise properties for the origination, reception, transmission, amplification, and distribution of television and radio signals, and for the delivery of cable services that are authorized by law.

B. Franchise Required

It is unlawful for any person to construct, install, or operate a cable television system within any street or public way in the County without first obtaining a franchise under the provisions of this Article 2; provided, however, that any cable operator authorized to provide cable service under a nonexclusive license previously issued pursuant to Ordinance No. 503.10 may continue to exercise that authority until expiration or termination of that nonexclusive license, but nothing will preclude a licensed cable operator from surrendering that nonexclusive license at any time in exchange for a cable television franchise issued in accordance with and subject to this ordinance.

C. Term of the Franchise

1. A franchise granted under this Article 2 will be for the term specified in the franchise agreement, not to exceed 15 years, commencing upon the effective date of approval by the Board of Supervisors.

2. A franchise granted under this Article 2 may be renewed upon application by the Grantee in accordance with the then-applicable provisions of state and federal law and this Article 2.

D. Franchise Service Area

A franchise is effective within that geographic area of unincorporated County territory in which Grantee is authorized to construct, install, or operate a cable television system, which geographic area is specifically designated in a franchise agreement with the County.

E. Federal or State Jurisdiction

This Article 2 will be construed in a manner consistent with all applicable federal and state laws, and it applies to all franchises granted after the effective date of this ordinance, to the extent authorized by applicable law.

F. Franchise Non-Transferable

1. Grantee may not sell, transfer, lease, assign, sublet, or dispose of, in whole or in part, either by forced or involuntary sale, or by ordinary sale, contract, consolidation, or otherwise, the franchise or any of the rights or privileges therein granted, without the prior written consent of the Board of Supervisors, which consent may not be unreasonably denied or delayed. Any attempt to sell, transfer, lease, assign, or otherwise dispose of the franchise without the written consent of the Board of Supervisors is null and void. The granting of a security interest in any assets of the Grantee, or any mortgage or other hypothecation, will not be deemed a transfer for the purposes of this subsection.

2. The requirements of subsection (1) apply to any change in control of Grantee. The word "control" as used herein is not limited to the ownership of major stockholder or partnership interests, but includes actual working control in whatever manner exercised. If Grantee is a partnership or a corporation, prior authorization of the Board of Supervisors is required where ownership or control of 25 percent or more of the partnership interests or of the voting stock of Grantee, or any company in the tier of companies controlling the Grantee, whether directly or indirectly, is acquired by a person or a group of persons acting in concert, none of whom, individually or collectively, owns or controls those partnership interests or that voting stock of the Grantee, or Grantee's upper tier of controlling companies, as of the effective date of the franchise.

3. Unless precluded by federal law, Grantee must give prior written notice to the County of any proposed foreclosure or judicial sale of all or a substantial part of the Grantee's franchise property. That notification will be considered by the County as notice that a change in control of ownership of the franchise will take place, and the provisions of this paragraph that require the prior written consent of the Board of Supervisors to that change in control of ownership will apply.

4. For the purpose of determining whether it will consent to an acquisition, transfer, or change in control, the County may inquire about the qualifications of the prospective transferee or controlling party, and Grantee must assist the County in that inquiry. In seeking the County's consent to any change of ownership or control, Grantee or the proposed transferee, or both, must complete Federal Communications Commission Form 394 or its equivalent. This application must be submitted to the County not less than 120 days prior to the proposed date of transfer. The transferee must establish that it possesses the legal, financial, and technical capability to remedy all then-existing defaults and deficiencies, and, during the remaining term of the franchise, to operate and maintain the cable system and to comply with all franchise requirements. If the legal, financial, and technical qualifications of the proposed transferee are determined to be satisfactory, then the County will consent to the transfer of the franchise.

5. Any financial institution holding a pledge of Grantee's assets to secure the advance of money for the construction or operation of the franchise property has the right to notify the County that it, or a designee satisfactory to the County, will take control of and operate the cable television system upon Grantee's default in its financial obligations. Further, that financial institution must also submit a plan for such operation within 90 days after assuming control. The plan must insure continued service and compliance with all franchise requirements during the period that the financial institution will exercise control over the system. The financial institution may not exercise control over the system for a period exceeding one year unless authorized by the County, in its sole discretion, and during that period it will have the right to petition the County to transfer the franchise to another Grantee.

6. Unless prohibited by applicable law, Grantee must reimburse the County for the County's reasonable review and processing expenses incurred in connection with any transfer or change in control of the franchise. These expenses may include, without limitation, costs of administrative review, financial, legal, and technical evaluation of the proposed transferee, consultants (including technical and legal experts and all costs incurred by

these experts), notice and publication costs, and document preparation expenses. The total amount of these reimbursable expenses may be subject to maximum limits that are specified in the franchise agreement between the County and Grantee. No reimbursement may be offset against any franchise fee payable to the County during the term of the franchise.

G. Geographical Coverage

1. Unless otherwise provided in the franchise agreement, Grantee must design, construct, and maintain the cable television system to have the capability to pass every dwelling unit and commercial building in the franchise service area, subject to any service-area line extension requirements or territorial restrictions set forth in the franchise agreement.

2. After service has been established by activating trunk or distribution cables for any service area, Grantee must provide standard installations to any requesting subscriber within that activated part of the service area within seven days from the date of request, or such longer time as may be requested by the subscriber, provided that the Grantee is able to secure on reasonable terms and conditions all rights-of-way and permits necessary to extend service to that subscriber within that period. Standard installations are defined as installations that are located up to 150 feet from the existing distribution system and do not require trenching to serve.

H. Nonexclusive Franchise

Every franchise granted is nonexclusive. The County specifically reserves the right to grant, at any time, such additional franchises for a cable television system that it deems appropriate, subject to applicable state and federal law. If an additional franchise within a designated franchise service area that is then served by an incumbent cable operator is proposed to be granted to a subsequent Grantee, a noticed public hearing must first be held if required by the provisions of Government Code § 53066.3.

I. Multiple Franchises

1. The County may grant any number of franchises, subject to applicable state and federal law. The County may limit the number of franchises granted, based upon, but not necessarily limited to, the requirements of applicable law and the following specific local considerations:

a. The capacity of the public rights-of-way to accommodate multiple cables in addition to the cables, conduits, and pipes of the existing utility systems, such as electrical power, telephone, gas, and sewerage.

b. The benefits that may accrue to subscribers as a result of cable system competition, such as lower rates and improved service.

c. The disadvantages that may result from cable system competition, such as the requirement for multiple pedestals on residents' property, and the disruption arising from numerous excavations within the public rights-of-way.

2. The County may require that any new Grantee be responsible for its own underground trenching and the associated costs if, in the County's opinion, the rights-of-way in any particular area cannot reasonably accommodate additional cables.

2.120 Franchise Applications and Renewal

A. Filing of Applications

Any person desiring an initial franchise for a cable television system must file an application with the County. An application fee deposit in an amount of \$15,000 must accompany the application. That application fee deposit will be in an amount that is estimated to cover all anticipated costs associated with reviewing and processing the application, including without limitation costs of administrative review, financial, legal, and technical evaluation of the applicant, consultants (including technical and legal experts and all costs reasonably incurred by those experts), notice and publication requirements, and document preparation expenses. If actual costs exceed the application fee deposit, the applicant must pay the difference to the County within 30 days following receipt of an itemized statement of those costs. If actual costs are less than the application fee deposit, the remaining balance will be refunded to the applicant.

B. Applications - Contents

An application for an initial franchise for a cable television system must contain, as applicable:

1. A detailed plan that describes the proposed franchise service area and an explanation whether this proposed service area is, or will be, part of a larger regional cluster of franchise service areas.

2. A resume of the applicant's prior history, including the applicant's experience and expertise in the cable television industry.

3. A list of the partners, general and limited, of the applicant, if a partnership, or the percentage of stock owned or controlled by each stockholder, if a closely-held corporation. If the applicant is a publicly-owned partnership or corporation, each owner of 10 percent or more of the partnership interests, or of the issued and outstanding capital stock, must be identified. If the applicant is a limited liability company, the following information must be provided: the address of its principal executive office; the name and business or residence address of each member and of each holder of an economic interest in the limited liability company, together with the contribution and the share in profits and losses of each member and holder of an economic interest; the name and business or residence address of any manager or managers and the chief executive officer, if any, appointed or elected in accordance with the articles of organization or operating agreement.

4. A list of officers, directors, and managing employees of the applicant, and a description of the background and qualifications of each such person.

5. A statement specifying the number of people employed by the applicant, whether on a full-time or part-time basis.

6. The names and addresses of any parent or subsidiary of the applicant, or any other business entity owning or controlling applicant in whole or in part, or that is owned or controlled in whole or in part by the applicant.

7. Financial statements prepared in accordance with generally accepted accounting principles that demonstrate the applicant's financial ability to:

a. Construct, operate, maintain and remove any new physical plant that is proposed to be constructed in the County.

b. Comply with the County's public, educational, and governmental access requirements.

c. Comply with the County's requirement that franchise fees be paid on the applicant's gross revenues derived from the operation of the cable system to provide cable services.

8. An accurate map showing the location of any existing telecommunications facilities in the County that the applicant intends to use, to purchase, or to lease.

9. A description of the cable services and any other services that will be offered by the applicant using existing or proposed facilities.

10. The proposed construction and service schedule, the proposed rate structure for cable services, and the proposed commitment to provide public, educational, and governmental access capacity, services, facilities, and equipment.

11. Any additional information that the County deems to be reasonably necessary to evaluate the applicant's qualifications.

C. Franchise Approval

A public hearing will be noticed prior to any initial franchise grant, at a time and date approved by the Board of Supervisors. Within 30 days after the close of the hearing, the Board of Supervisors will make a decision, based upon the documents and testimony received at the hearing, whether the franchise should be granted, and, if granted, subject to what conditions. The Board of Supervisors may grant one or more franchises, or may decline to grant any franchise.

D. Franchise Renewal

Franchise renewals will be processed in accordance with then-applicable law and with the renewal terms, if any, of the franchise agreement. The County and Grantee, by mutual consent, may enter into renewal negotiations at any time during the term of

the franchise. Unless prohibited by applicable law, a renewal application fee deposit in an amount of \$10,000 must accompany the renewal application or the renewal request. That renewal application fee deposit will be in an amount that is estimated to cover all anticipated costs associated with reviewing and processing the renewal application, including the review of Grantee's prior compliance with the franchise, the ascertainment of the community's cable-related needs and interests, the engagement of technical and legal consultants, and expenses related to negotiations and document preparation. If actual costs exceed the renewal application fee deposit, Grantee must pay the difference to the County within 30 days following receipt of an itemized statement of those costs. If actual costs are less than the renewal application fee deposit, the remaining balance will be refunded to Grantee. No renewal application fee may be offset against any franchise fee payable to the County during the term of the franchise. The renewal of a cable television franchise agreement is subject to approval by the Board of Supervisors.

2.130 Contents of Cable Television Franchise Agreements

A. The provisions of a franchise agreement for the operation of a cable television system may relate to or include, without limitation, the following subject matters:

1. The geographical area, duration, and nonexclusive nature of the franchise.
2. The applicable franchise fee to be paid to the County, including the percentage amount, the method of computation, and the time for payment.
3. Requirements relating to compliance with and implementation of state and federal laws and regulations pertaining to the operation of the cable television system.
4. Requirements relating to the construction, upgrade, or rebuild of the cable television system, as well as the provision of special services, such as outlets for public buildings, emergency alert capability, and parental control devices.
5. Requirements relating to the maintenance of a performance bond, a security fund, a letter of credit, or similar assurances to secure the performance of Grantee's obligations under the franchise agreement.
6. Requirements relating to comprehensive liability insurance, workers' compensation insurance, and indemnification.
7. Requirements relating to consumer protection and customer service standards, which requirements may include, without limitation, compliance with the statutes, rules and regulations set forth below in Section 2.150 of this Article 2.
8. Requirements relating to the Grantee's support of local cable usage, including the provision of public, educational, and governmental access channels, the coverage of public meetings and special events, and financial support for the required access channel facilities and activities that is consistent with Section 2.140.

9. Requirements relating to the Grantee's obligation to provide an institutional network, and channel capacity on that institutional network for educational or governmental use, subject to the County's rules and procedures for the use of such channel capacity and for compatibility with any telecommunications network that has been or may be developed by the County.

10. Requirements relating to construction, operation, and maintenance of the cable television system within the County's streets and public rights-of-way, including compliance with all applicable building codes and permit requirements of the County, the abandonment, removal, or relocation of facilities, and compliance with FCC technical standards.

11. Requirements relating to recordkeeping, accounting procedures, reporting, periodic audits, performance reviews, the inspection of Grantee's books and records, and reimbursement for technical audits and franchise fee audits under specified circumstances.

12. Acts or omissions constituting material breaches of or defaults under the franchise agreement, and the applicable penalties or remedies for such breaches or defaults, including fines, penalties, liquidated damages, suspension, revocation, and termination.

13. Requirements relating to the sale, assignment, or other transfer or change in control of the franchise.

14. Grantee's obligation to maintain continuity of service and to authorize, under certain specified circumstances, the County's operation and management of the cable system.

15. Such additional requirements, conditions, policies, and procedures as may be mutually agreed upon by the parties to the franchise agreement and that will, in the judgment of County staff and the Board of Supervisors, best serve the public interest and protect the public health, welfare, and safety.

B. If there is any conflict or inconsistency between the provisions of a franchise agreement authorized by the Board of Supervisors and provisions of this Article 2, the provisions of the franchise agreement will control.

2.140 Fee for Support of Local Cable Usage

A fee paid to the County is hereby established for the support of public, educational, and governmental access facilities and activities within the County. Unless a higher percentage is authorized by applicable state or federal law, this fee shall not exceed one percent (1%) of a Grantee's gross revenues, as the term "gross revenues" is defined in the Grantee's franchise agreement or in applicable provisions of state or federal law.

2.150 Consumer Protection and Service Standards

A. Operational Standards

1. Grantee must maintain the necessary facilities, equipment, and personnel to comply with the following consumer protection and service standards under normal operating conditions:

a. Sufficient toll-free telephone line capacity during normal business hours to ensure that telephone calls are answered promptly. Telephone answer time by a customer service representative, including wait time, may not exceed 30 seconds when the connection is made. If the call needs to be transferred, transfer time must not exceed 30 seconds.

b. A caller must receive a busy signal less than three percent of the time, measured quarterly.

c. Emergency toll-free telephone line capacity on a 24-hour basis, including weekends and holidays. After normal business hours, the telephone calls may be answered by a service or an automated response system, including an answering machine. Calls received after normal business hours must be responded to by a trained company representative on the next business day.

d. A conveniently-located local business and service or payment office open during normal business hours at least eight hours daily on weekdays, and at least four hours weekly on evenings or weekends, and adequately staffed with trained customer service representatives to accept subscriber payments and to respond to service requests, inquiries, and complaints.

e. An emergency system maintenance and repair staff, capable of responding to and repairing major system malfunctions on a 24-hour per day basis.

f. A trained installation staff must provide service to any subscriber requiring a standard installation within seven days after receipt of a request, or such longer time as may be requested by the subscriber, in all areas where trunk and feeder cable have been activated.

g. Grantee must schedule, within a specified four-hour time period Monday through Saturday (legal holidays excluded), all appointments with subscribers for installation of service, service calls, and other activities at the subscriber's location. Grantee may schedule installation and service calls outside of normal business hours for the convenience of the subscriber. Grantee may not cancel an appointment with a subscriber after the close of business on the business day prior to the scheduled appointment. If a Grantee representative is delayed in keeping an appointment with a subscriber and will not be able to honor the scheduled appointment, the subscriber must be contacted prior to the time of the scheduled appointment, and the appointment must be rescheduled, as necessary, at a time that is convenient for the subscriber. Grantee must undertake appropriate quality control measures to ensure that the customer is satisfied with the work.

h. Subscribers who have experienced a late or a missed appointment due to the fault of Grantee will receive either a free installation or a \$20 credit.

i. Upon a subscriber's request, Grantee will arrange for pickup or replacement of converters or other equipment provided by the Grantee at the subscriber's address within 14 days after the request is made if the subscriber is mobility-limited.

2. Under normal operating conditions, the standards of subparagraphs (a), (c), (f) and (g) above must be met not less than ninety percent of the time, measured on a quarterly basis.

B. Service Standards

1. Grantee will render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Except in emergency situations, scheduled interruptions will occur during a period of minimum use of the cable system, preferably between midnight and 6:00 a.m. Unless the scheduled interruption lasts for no more than two hours and occurs between midnight and 6:00 a.m. (in which event 24-hours prior notice must be given to the County), 48-hours prior notice must be given to subscribers.

2. Grantee will maintain a repair force of technicians who will respond to subscriber requests for service within the following time frames:

a. For a system outage: Within two hours, including weekends, after receiving subscriber calls or requests for service that by number identify a system outage of sound or picture on one or more channels, affecting five or more subscribers to the system.

b. For an isolated outage: Within 24 hours, including weekends, after receiving requests for service identifying an isolated outage of sound or picture on one or more channels.

c. For inferior signal quality: No later than the following business day, excluding Sundays and holidays, after a request for service identifying a problem concerning picture or sound quality.

3. Grantee will be deemed to have responded to a request for service under the provisions of this paragraph (B) when a technician arrives at the service location and begins work on the problem if the problem cannot be corrected remotely. If a subscriber is not home when the technician arrives, the technician must leave written notification of arrival.

4. Grantee may not charge for the repair or replacement of defective or malfunctioning equipment provided by Grantee to subscribers, unless the defect or malfunction was caused by the subscriber.

5. Grantee must determine the nature of the problem within 24 hours after commencing work and resolve all cable system related problems within three business days, unless technically infeasible.

C. Billing and Information Standards

1. Subscriber bills must be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills also must clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

2. The first billing to a subscriber after a new installation or service change must be prorated based upon when the new or changed service commenced. Subscribers must not be charged a late fee or otherwise penalized for any failure attributable to Grantee, including the failure to timely or correctly bill the subscriber.

3. In case of a billing dispute, Grantee must respond in writing to a written complaint from a subscriber within 30 days after receiving the complaint at the office specified on the billing statement for receiving that complaint.

4. Upon request by a subscriber, credits or refunds must be provided by Grantee to subscribers who experience an outage, interruption, or disconnection of service of four or more consecutive hours, provided that such loss of service is neither caused by the subscriber nor attributable to scheduled repairs, maintenance, or construction in circumstances where Grantee has provided advance written notice to subscriber, and the loss of service does not exceed the time period specified by Grantee. For subscribers terminating service, credits or refunds must be issued promptly, but no later than 30 days after the return of any Grantee-supplied equipment.

5. Grantee must provide written information on each of the following matters at the time of the installation of service, at least annually to all subscribers, and at any time upon request:

- a. Products and services offered.
- b. Prices and options for programming services and conditions of subscription to programming and other services.
- c. Installation and service maintenance policies.
- d. Instructions on the use of the cable service.
- e. Channel positions of programming carried on the system.
- f. Billing and complaint procedures, including the address and telephone number of the County's office designated for dealing with cable-related issues.

g. Consumer protection and service standards and penalties for noncompliance.

6. Subscribers must be notified in writing of any changes in rates, programming services, or channel positions as soon as possible. Notice must be given to subscribers a minimum of 30 days in advance of those changes if the change is within Grantee's control. In addition, Grantee will endeavor to notify County of those changes at least five working days before subscribers are notified.

7. Grantee must maintain a public file containing all written notices provided to subscribers under these consumer protection and service standards and all published promotional offers made by Grantee to subscribers. These documents must be maintained for a minimum period of two years.

D. Verification of Compliance with Standards

1. Upon 30 days prior written notice by the County, Grantee shall provide a written report demonstrating its compliance with any of the consumer service standards specified in this section. Grantee must provide sufficient documentation to enable the County to verify compliance.

2. A repeated and verifiable pattern of noncompliance with the consumer protection and service standards of this section, after Grantee's receipt of written notice and an opportunity to cure, may be deemed a material breach of the franchise agreement.

E. Subscriber Complaints and Disputes

1. Grantee must establish written procedures for receiving, acting upon, and resolving subscriber complaints without intervention by the County. The written procedures must prescribe the manner in which a subscriber may submit a complaint, either orally or in writing, specifying the subscriber's grounds for dissatisfaction. Grantee must file a copy of these procedures with the County. These procedures must include a requirement consistent with Section 2.150(C)(3).

2. Upon request, and subject to applicable law protecting subscriber privacy rights, the County has the right to review Grantee's response to subscriber complaints.

3. All subscribers have the right to continue receiving service so long as their financial and other obligations to Grantee are honored. If Grantee elects to rebuild, modify, or sell the system, or if the County gives notice of intent to terminate or not to renew the franchise, Grantee must act to ensure that all subscribers receive service while the franchise remains in force.

4. Upon a change of control of Grantee, or if a new operator acquires the cable system, the original Grantee must cooperate with the County, the new Grantee, or the new operator in maintaining continuity of service to all subscribers. During that

transition period, Grantee is entitled to the revenues derived from its operation of the cable system.

F. Disconnection and Downgrades

1. A subscriber may terminate or downgrade service at any time, and Grantee must promptly comply with the subscriber's request within seven days or at any later time requested by the subscriber. No period of notice prior to voluntary termination or downgrade of service may be required of subscribers. Grantee will impose no charges for the voluntary termination of all services unless a visit to the subscriber's premises is required to remove a converter box or other equipment or property owned by Grantee. Grantee may, in accordance with applicable law, charge a fee to downgrade service if a service call is required.

2. Grantee may disconnect a subscriber's service in compliance with paragraphs (i), (j), and (k) of Section 53088.2 of the California Government Code. If service is disconnected for nonpayment of past due fees or charges, Grantee must promptly reinstate service upon payment in full by the subscriber of all such fees and charges, including late charges.

3. Notwithstanding the requirements of subsection (2) above, Grantee may immediately disconnect service to a subscriber if the subscriber is damaging or destroying Grantee's cable system or equipment.

4. Grantee may also disconnect service to a subscriber when service causes signal leakage exceeding federal limits. If service is disconnected, Grantee will immediately resume service without charge upon the satisfactory correction of the signal leakage problem if the signal leakage problem is attributable to Grantee.

5. Grantee may also disconnect service in cases where customers are stealing service or have threatened Grantee's personnel with physical violence.

6. Upon termination of service to a subscriber, the Grantee will endeavor to remove its equipment from the subscriber's premises within 30 days.

G. Negative Option Billing Prohibited

No charge may be imposed for any service or equipment that the subscriber has not affirmatively selected. Payment of the regular monthly bill will not by itself constitute an affirmative selection.

H. Deposits

Grantee may require a reasonable, nondiscriminatory deposit on equipment provided to subscribers. Such deposits must be placed in an interest-bearing account. The deposit must be returned, with interest earned to the date of repayment, within 30 days after the equipment is returned to Grantee.

I. Parental Control Option

Grantee must provide parental control devices at no charge to all subscribers who desire to block the video or audio portion of any pay channels providing adult programming that the subscriber finds objectionable. For other programming, such devices will be provided at a reasonable charge to the subscriber.

J. Additional Requirements

1. All officers, agents, and employees of Grantee, or of its contractors or subcontractors, who, in the normal course of work come into contact with members of the public, or who require entry onto subscribers' premises, must display a photo-identification card. Grantee must account for all identification cards at all times. All vehicles of Grantee or its subcontractors must be clearly identified as vehicles engaged in providing services for Grantee.

2. In addition to the consumer protection and service standards specified in this Section 2.150, Grantee must comply with all applicable consumer protection and service standards that are imposed upon cable operators by the following:

a. Federal statutes, and the rules, regulations, and orders of the Federal Communications Commission, including the following:

(i) The provisions of Section 76.630 of Title 47 of the Code of Federal Regulations, as it now exists or may later be amended, which relate to compatibility with consumer electronics equipment.

(ii) The provisions of Section 551 of Title 47, United States Code, as it now exists or may later be amended, which relate to the protection of subscriber privacy.

b. The provisions of California Government Code Sections 53054, et seq., titled the "Cable Television and Video Provider Customer Service and Information Act."

c. The provisions of California Government Code Section 53088, et seq., titled the "Video Customer Service Act."

d. The provisions of California Civil Code Section 1722(b)(1)-(6), which relate to service or repair transactions between cable television companies and their subscribers.

e. The provisions of California Penal Code Section 637.5, which relate to subscribers' rights to privacy protection.

3. If there is any conflict or inconsistency between a consumer protection and service standard specified in this Section 2.150, and a standard set forth in the statutes, rules, regulations, and orders that are referenced above in subsection (2), then the

standard that is specified in this Section 2.150 will apply to the extent authorized by applicable law.

K. Penalties for Noncompliance

1. Purpose

The purpose of this paragraph is to authorize monetary penalties for the violation of the customer service standards established by this section in a manner consistent with the Video Customer Service Act (Government Code Sections 53088 et seq.) and pursuant to the County's inherent police powers. The imposition of penalties authorized by this paragraph (K) will not prevent the County or any other affected party from exercising any other remedy to the extent permitted by law.

2. Administration and Appeals

a. The Clerk of the Board or designee is authorized to administer this paragraph (K). Decisions by the Clerk of the Board or designee to assess monetary penalties against Grantee must be in writing and must contain findings supporting the decisions. Decisions by the Clerk of the Board are final, unless appealed to the Board of Supervisors.

b. If Grantee or any interested person is aggrieved by a decision of the Clerk of the Board or designee, the aggrieved party may, within 10 days of the written decision, appeal that decision in writing to the Board of Supervisors. The appeal letter must be accompanied by the fee amount of \$250 for processing the appeal. The Board of Supervisors may affirm, modify, or reverse the decision of the Clerk of the Board or designee.

c. Schedule of Penalties. The following schedule of monetary penalties may be assessed against the Grantee for the material breach of the provisions of the customer service standards set forth in this section, provided that the breach is within Grantee's reasonable control:

(i) For a first material breach: the maximum penalty is \$200 for each day of material breach, but not to exceed a cumulative total of \$600 for each occurrence of the material breach.

(ii) For a second material breach of the same nature within a 12-month period for which the County has provided notice and a penalty has been assessed, the maximum penalty is \$400 for each day of the material breach, but not to exceed a cumulative total of \$1200 for each occurrence of the material breach.

(iii) For a third or further material breach of the same nature within a 12-month period for which the County has provided notice and a penalty has been assessed, the maximum penalty is \$1000 for each day of the material breach, but not to exceed a cumulative total of \$3000 for each occurrence of the material breach.

(iv) The maximum penalties referenced above may be increased by any additional amount authorized by state law.

d. Judicial Remedy. This paragraph does not preclude any affected party from pursuing any judicial remedy available to that party without regard to this paragraph (K).

e. Notification of Breach. The County must give Grantee written notice of any alleged breach of the consumer service standards and allow the Grantee at least 30 days, or such longer time as may be reasonably necessary to cure, from receipt of the notice to remedy the specified breach. For the purpose of assessing penalties, a material breach is deemed to have occurred for each day, following the expiration of the period for cure specified herein, that any breach has not been remedied by Grantee, irrespective of the number of subscribers affected.

f. Limitations. With respect to any Grantee that operates under a franchise or license agreement with the County, any monetary penalties assessed under this paragraph (K) must be reduced dollar for dollar to the extent that any liquidated damage or penalty provision of the franchise or license agreement imposes a monetary obligation on Grantee for the same customer service failure, and no other monetary damages may be assessed for that customer service failure.

g. Applicability of Section 2.150. This Section 2.150 will apply to all video providers that are providing cable service under nonexclusive licenses issued by the County prior to the effective date of this ordinance. To the extent that any consumer protection and service standard referenced in a previously issued nonexclusive license is inconsistent or in conflict with any provision of this Section 2.150, said standard in the nonexclusive license is repealed and superseded.

ARTICLE 3. OPEN VIDEO SYSTEMS

3.100 Applicability

The provisions of this Article 3 apply to an open video system operator, as defined below in Section 5.100 that intends to deliver video programming to consumers in the County over an open video system.

3.110 Application Required

A. Before commencing the delivery of video programming services to consumers in the County over an open video system, the open video system operator must file an application with the County. That application must include or be accompanied by the following, as applicable:

1. The identity of the applicant, including all affiliates of the applicant.

2. Copies of FCC Form 1275, all "Notices of Intent" filed under 47 CFR 76.1503(b)(1), and the Order of the FCC, all of which relate to certification of the applicant to operate an open video system in the County in accordance with Section 653(a)(1) of the Communications Act and the FCC's rules.

3. The area or areas of the County that the applicant desires to serve.

4. A description of the open video system services that will be offered by the applicant over its existing or proposed facilities.

5. A description of the transmission medium that will be used by the applicant to deliver the open video system services.

6. Information in sufficient detail to establish the applicant's technical qualifications, experience, and expertise regarding the ownership and operation of the open video system described in the application.

7. Financial statements prepared in accordance with generally accepted accounting principles that demonstrate the applicant's financial ability to:

a. Construct, operate, maintain and remove any new physical plant that is proposed to be constructed in the County.

b. Comply with the County's public, educational, and governmental access requirements as specified below in Section 3.130(B)(4).

c. Comply with the County's requirement that gross revenue fees be paid in the maximum amount authorized under federal law, as specified below in Section 3.130(B)(2).

8. An accurate map showing the location of any existing telecommunications facilities in the County that the applicant intends to use, to purchase, or to lease.

9. If the applicant's operation of the open video system will require the construction of new physical plant and facilities in the County, the following additional information must be provided:

a. A construction schedule and completion dates.

b. Engineering plans, specifications, and a network map of any new facilities to be constructed in the County, in sufficient detail to identify:

(i) The location and route requested for the applicant's proposed facilities.

(ii) The locations, if any, for interconnection with the facilities of other telecommunications service providers.

(iii) The specific structures, improvements, facilities, and obstructions, if any, that the applicant proposes to add, remove, or relocate on a temporary or permanent basis.

c. The applicant's statement that, in constructing any new physical plant, the applicant will comply with all applicable ordinances, rules, and regulations of the County, including the payment of all required permit and processing fees.

10. The information and documentation that is required to be submitted to the County by a video provider, as specified below in Section 4.110(B).

11. Such additional information as may be requested by the County.

12. An application fee deposit in an amount of \$15,000 must accompany the application. That application fee deposit will be in an amount that is estimated to cover all anticipated costs associated with reviewing and processing the application, including without limitation costs of administrative review, financial, legal, and technical evaluation of the applicant, consultants (including technical and legal experts and all costs reasonably incurred by those experts), notice and publication requirements, and document preparation expenses. If actual costs exceed the application fee deposit, the applicant must pay the difference to the County within 30 days following receipt of an itemized statement of those costs. If actual costs are less than the application fee deposit, the remaining balance will be refunded to the applicant.

B. If any item of information specified above in paragraph (A) is determined under federal or state law to be unlawful, the Clerk of the Board or designee is authorized to waive the requirement that such information be included in the application.

3.120 Review of the Application

Within 30 days after receipt of an application filed under Section 3.110 that is deemed to be complete, the Clerk of the Board or designee will give written notice to the applicant of the County's intent to negotiate an agreement setting forth the terms and conditions under which the operation of the proposed open video system will be authorized by the County. The commencement of those negotiations will be on a date that is mutually acceptable to the County and to the applicant.

3.130 Agreement Required

A. No video programming services may be provided in the County by an open video system operator unless the operator and the County have executed a written agreement, which may be designated as a franchise, setting forth the terms and conditions under which the operation of the proposed open video system will be authorized by the County. That agreement must be authorized and approved by the Board of Supervisors.

B. The agreement between the County and the open video system operator may contain provisions that relate to the following subject matters, to the extent that such provisions and subject matters are not preempted by federal law or regulations:

1. The nature, scope, and duration of the agreement, including provisions for its renewal or extension.

2. The obligation of the open video system operator to pay to the County, at specified times and in lieu of the franchise fees permitted under Section 622 of the Communications Act, fees on the gross revenue received by the operator, as authorized by 47 CFR 76.1511, in accordance with the following standards and procedures:

a. The amount of the fees on the gross revenue will be the maximum amount authorized by Section 653(c) 2)(B) of the Communications Act, which is the rate imposed by the County on existing cable operators.

b. The term "gross revenue" means (i) all gross revenue received by an open video system operator or its affiliates, including all revenue received from subscribers and all carriage revenue received from unaffiliated video programming providers; and (ii) all advertising revenue received by the operator or its affiliates in connection with the provision of video programming, where such revenue is included in the calculation of cable franchise fees paid to the County by incumbent cable operators. The term "gross revenue" does not include revenue, such as subscriber or advertising revenue, collected by unaffiliated video programming providers.

3. The obligation of the open video system operator to comply with requirements relating to information collection and recordkeeping, accounting procedures, reporting, periodic audits, and inspection of records in order to ensure the accuracy of the fees on gross revenue that are required to be paid as specified above in Subsection (2).

4. The obligation of the open video system operator to meet the County's requirements with respect to public, educational, and governmental access channel capacity, services, facilities, and equipment, as provided for in 47 CFR 76.1505. In this regard, the following standards and procedures are applicable:

a. The open video system operator is subject to the same public, educational, and governmental access requirements that apply within the cable television franchise service area with which its system overlaps.

b. The open video system operator must ensure that all subscribers receive all public, educational, and governmental access channels that are provided by an incumbent cable operator within the designated franchise service area.

c. The open video system operator may negotiate with the County to establish the operator's obligations within the designated franchise service area with respect to public, educational, and governmental access channel capacity, services, facilities, and equipment. These negotiations may include the County's franchised cable

operator within the designated franchise service area if the County, the open video system operator, and the franchised cable operator so desire.

d. If the open video system operator and the County are unable to reach an agreement regarding the operator's obligations with respect to public, educational, and governmental access channel capacity, services, facilities, and equipment within the designated franchise service area, then the following obligations will be imposed:

(i) The open video system operator must satisfy the same public, educational, and governmental access obligations as the County's franchised cable operator within the designated franchise service area by providing the same amount of channel capacity for public, educational, and governmental access and by matching the County's franchised cable operator's annual financial contributions in support of public, educational, and governmental access services, facilities, and equipment that are actually used by the County. For in-kind contributions, such as cameras or production studios, the open video system operator may satisfy its statutory obligation by negotiating mutually agreeable terms with the County's franchised cable operator, so that public, educational, and governmental access services to the County are improved or increased. If such terms cannot be agreed upon, the open video system operator must pay to the County the monetary equivalent of the franchised cable operator's depreciated in-kind contribution, or, in the case of facilities, the annual amortization value. Any matching contributions provided by the open video system operator must be used to fund activities arising under Section 611 of the Communications Act.

(ii) The County will impose upon the open video system operator within the designated franchise service area the same rules and procedures that it imposes upon the franchised cable operator with regard to the open video system operator's use of channel capacity designated for public, educational, and governmental access use when that capacity is not being used for such purposes.

e. The County's franchised cable operator within the designated franchise service area is required under federal law to permit the open video system operator to connect with its public, educational, and governmental access channel feeds. The open video system operator and the franchised cable operator may decide how to accomplish this connection, taking into consideration the physical and technical characteristics of the cable and the open video systems involved. If the franchised cable operator and the open video system operator cannot agree on how to accomplish the connection, the County has the right to decide. The County may require that the connection occur on County-owned property or on public rights-of-way.

f. All costs of connection to the franchised cable operator's public, educational, and governmental access channel feed must be borne by the open video system operator. These costs will be counted towards the open video system operator's matching financial contributions set forth above in subparagraph (d)(i).

g. The County will not impose upon the open video system operator any public, educational, or governmental access obligations that are greater than those imposed upon the incumbent franchised cable operator.

h. If there is no incumbent franchised cable operator within the designated franchise service area, the provisions of 47 CFR 76.1505(d)(6) will be applicable in determining the obligations of the open video system operator.

i. The open video system operator must adjust its system to comply with new public, educational, and access obligations imposed on the County's incumbent franchised cable operator within a designated franchise service area following a renewal of the cable television franchise; provided, however, that the open video system operator will not be required to displace other programmers using its open video system to accommodate public, educational, and governmental access channels. The open video system operator must comply with such new public, educational, and governmental access obligations whenever additional capacity is or becomes available, whether it is due to increased channel capacity or to decreased demand for channel capacity .

5. If the County and the open video system operator cannot agree on the application of the FCC's rules regarding the open video system operator's obligations to provide public, educational, and governmental access under the provisions of subsection (4) set forth above, then either party may file a complaint with the FCC in accordance with the dispute resolution procedures set forth in 47 CFR 76.1514. No agreement will be executed by the County until the dispute has been finally resolved.

6. If the open video system operator intends to maintain an institutional network, as defined in Section 611(f) of the Communications Act, the County will require that educational and governmental access channels be designated on that institutional network to the same extent that those channels are designated on the institutional network of the County's franchised cable operator within the designated franchise service area.

7. The authority of an open video system operator to exercise editorial control over any public, educational, or governmental use of channel capacity will be restricted in accordance with the provisions of 47 CFR 76.1505(f).

8. The obligation of the open video system operator to comply with all applicable federal, state, and local statutes, ordinances, and regulations relating to customer service standards, including those specified in Section 2.150 of Article 2 of this ordinance.

9. If new physical plant is proposed to be constructed within the County, the obligation of the open video system operator to comply with the following rights-of-way use and management responsibilities that are also imposed by the County upon other cable television and telecommunications service providers in a nondiscriminatory and competitively neutral manner:

a. Compliance with all applicable County codes, including applications for excavation, encroachment, and construction permits and the payment of all required permit and inspection fees.

b. The coordination of construction activities.

- c. Compliance with established standards and procedures for constructing lines across private property.
- d. Compliance with all applicable insurance and indemnification requirements.
- e. The repair and resurfacing of construction-damaged streets.
- f. Compliance with all public safety requirements that are applicable to cable television and telecommunications service providers using public property or public rights-of-way.

10. Acts or omissions constituting breaches or defaults of the agreement, and the applicable penalties, liquidated damages, and other remedies, including fines or the suspension, revocation, or termination of the agreement.

11. Requirements relating to the sale, assignment, or transfer of the open video system.

12. Requirements relating to the open video system operator's compliance with and implementation of state and federal laws, rules, and regulations pertaining to the operation of the open video system.

13. Such additional requirements, conditions, terms, policies, and procedures as may be mutually agreed upon by the County and the open video system operator and that will, in the judgment of the Board of Supervisors, best serve the public interest and protect the public health, welfare, and safety.

ARTICLE 4. OTHER VIDEO AND TELECOMMUNICATIONS SERVICES AND SYSTEMS

4.100 Other Multichannel Video Programming Distributors

The term "cable system," as defined in federal law and as set forth in Section 5.100 below, does not include a facility that serves subscribers without using any public rights-of-way. Consequently, the categories of multichannel video programming identified below are not deemed to be "cable systems" and are therefore exempt from the County's franchise requirements and from certain other local regulatory provisions authorized by federal law, provided that their distribution or transmission facilities do not involve the use of the County's public rights-of-way.

A. Multichannel multipoint distribution service ("MMDS"), also known as "wireless cable," which typically involves the transmission by an FCC-licensed operator of numerous broadcast stations from a central location using line-of-sight technology.

B. Local multipoint distribution service ("LMDS"), another form of over-the-air wireless video service for which licenses are auctioned by the FCC, and which offers video programming, telephony, and data networking services.

C. Direct broadcast satellite ("DBS"), also referred to as "direct-to-home satellite services," which involves the distribution or broadcasting of programming or services by satellite directly to the subscriber's premises without the use of ground receiving or distribution equipment, except at the subscriber's premises or in the uplink process to the satellite. Local regulation of direct-to-home satellite services is further proscribed by the following federal statutory provisions:

1. 47 U.S.C. § 303(v) confers upon the FCC exclusive jurisdiction to regulate the provision of direct-to-home satellite services.

2. Section 602 of the Telecommunications Act of 1996 states that a provider of direct-to-home satellite service is exempt from the collection or remittance, or both, of any tax or fee imposed by any local taxing jurisdiction on direct-to-home satellite service. The terms "tax" and "fee" are defined by federal statute to mean any local sales tax, local use tax, local intangible tax, local income tax, business license tax, utility tax, privilege tax, gross receipts tax, excise tax, franchise fees, local telecommunications tax, or any other tax, license, or fee that is imposed for the privilege of doing business, regulating, or raising revenue for a local taxing jurisdiction.

4.110 Video Providers - Registration; Customer Service Standards

A. Unless the customer protection and customer service obligations of a video provider, as that term is defined in Section 5.100, are specified in a franchise, license, lease, or similar written agreement with the County, a video provider must comply with all applicable provisions of the following state statutes:

1. The Cable Television and Video Customer Service and Information Act (Government Code §§ 53054, et seq.)

2. The Video Customer Service Act (Government Code §§ 53088, et seq.)

B. All video providers that are operating in the County on the effective date of this ordinance, or that intend to operate in the County after its effective date, must register with the County; provided, however, that this registration requirement is not applicable to any video provider that has executed a franchise, license, lease or similar written agreement with the County. The registration form must include or be accompanied by the following:

1. The video provider's name, address, and local telephone numbers.

2. The names of the officers of the video provider.

3. A copy of the video provider's written policies and procedures relating to customer service standards and the handling of customer complaints, as required by Government Code §§ 53054, et seq. These customer service standards must include, without limitation, standards regarding the following:

- a. Installation, disconnection, service and repair obligations, employee identification, and service call response time and scheduling.
- b. Customer service telephone and office hours.
- c. Procedures for billing, charges, refunds, and credits.
- d. Procedures for termination of service.
- e. Notice of the deletion of a programming service, the changing of channel assignments, or an increase in rates.
- f. Complaint procedures and procedures for bill dispute resolution.

g. The video provider's written acknowledgment of its obligation under Government Code §53055.1 to provide to new customers a notice describing the customer service standards specified above in subparagraphs (a) through (f) at the time of installation or when service is initiated. The notice must also include, in addition to all of the information described above in subparagraphs (a) through (f), all of the following:

- (i) A listing of the services offered by the video provider that clearly describes all levels of service and the rates for each level of service.
- (ii) The telephone number or numbers through which customers may subscribe to, change, or terminate service, request customer service, or seek general or billing information.
- (iii) A description of the rights and remedies that the video provider may make available to its customers if the video provider does not materially meet its customer service standards.

h. The video provider's written commitment to distribute annually to its employees and customers, and to the County, a notice describing the customer service standards specified above in subparagraphs (a) through (f). This annual notice must include the report of the video provider on its performance in meeting its customer service standards, as required by Government Code §53055.2. Subject to the written notice and cure provisions of Government Code §53056(b), a video provider that fails to distribute the annual notice required by Government Code §53055.1 will be assessed a monetary penalty in the sum of \$500 for each year in which the annual notice is not distributed to all of its customers.

4. Unless a video provider is exempt under federal law from its payment, a registration fee will be required to cover the reasonable costs incurred by the County in reviewing and processing the registration form.

5. In addition to the registration fee specified above in subsection (4), the written commitment of the video provider to pay to the County, when due, all costs and expenses reasonably incurred by the County in resolving any disputes between the video provider and its subscribers, which dispute resolution is mandated by Government Code §53088.2(o).

C. The customer service obligations imposed upon video providers by the Video Customer Service Act (Government Code §53088 et seq.) consist of the following:

1. Every video provider must render reasonably efficient service, make repairs promptly, and interrupt service only as necessary.

2. All video provider personnel contacting subscribers or potential subscribers outside the office of the provider must be clearly identified as associated with the video provider.

3. At the time of installation, and annually thereafter, all video providers must provide to all customers a written notice of the programming offered, the prices for that programming, the provider's installation and customer service policies, and the name, address, and telephone number of the County's office that is designated for receiving complaints.

4. All video providers must have knowledgeable, qualified company representatives available to respond to customer telephone inquiries Monday through Friday, excluding holidays, during normal business hours.

5. All video providers must provide to customers a toll-free or local telephone number for installation, service, and complaint calls. These calls must be answered promptly by the video providers.

6. All video providers must render bills that are accurate and understandable.

7. All video providers must respond promptly to a complete outage in a customer's service. The response must occur within 24 hours of the reporting of that outage to the provider, except in those situations beyond the reasonable control of the video provider. A video provider will be deemed to respond to a complete outage when a company representative arrives at the outage location within 24 hours and begins to resolve the problem.

8. All video providers must provide a minimum of 30 days' written notice before increasing rates or deleting channels. All video providers must make every reasonable effort to submit the notice to the County in advance of its distribution to customers. The 30-day notice is waived if the increases in rates or deletion of channels are outside the control of the video provider. In those cases, the video provider must make reasonable efforts to provide customers with as much notice as possible.

9. All video providers must allow every residential customer who pays his or her bill directly to the video provider at least 15 days from the date the bill for services is mailed to the customer, to pay the listed charges unless otherwise agreed to pursuant to a residential rental agreement establishing tenancy. Customer payments must be posted promptly. No video provider may terminate residential service for nonpayment of a delinquent account unless the video provider furnishes notice of the delinquency and impending termination at least 15 days prior to the proposed termination. The notice must be mailed, postage prepaid, to the customer to whom the service is billed. Notice must not be mailed until the 16th day after the date the bill for services was mailed to the customer. The notice of delinquency and impending termination may be part of a billing statement. No video provider may assess a late fee any earlier than the 22nd day after the bill for service has been mailed.

10. Every notice of termination of service pursuant to the preceding subsection (9) must include all of the following information:

- a. The name and address of the customer whose account is delinquent.
- b. The amount of the delinquency.
- c. The date by which payment is required in order to avoid termination of service.
- d. The telephone number of a representative of the video provider who can provide additional information and handle complaints or initiate an investigation concerning the service and charges in question. Service may only be terminated on days in which the customer can reach a representative of the video provider either in person or by telephone.

11. Any service terminated without good cause must be restored without charge for the service restoration. Good cause includes, but is not limited to, failure to pay, payment by check for which there are insufficient funds, theft of service, abuse of equipment or system personnel, or other similar subscriber actions.

12. All video providers must issue requested refund checks promptly, but no later than 45 days following the resolution of any dispute, and following the return of the equipment supplied by the video provider.

13. All video providers must issue security or customer deposit refund checks promptly, but no later than 45 days following the termination of service, less any deductions permitted by law.

14. Video providers must not disclose the name and address of a subscriber for commercial gain to be used in mailing lists or for other commercial purposes not reasonably related to the conduct of the businesses of the video providers or their affiliates, unless the video providers have provided to the subscriber a notice, separate or included in any other customer notice, that clearly and conspicuously describes the subscriber's ability to prohibit

that disclosure. Video providers must provide an address and telephone number for a local subscriber to use without toll charge to prevent disclosure of the subscriber's name and address.

D. As authorized by Government Code §53088(q), the following schedule of penalties is adopted. These penalties may be imposed for the material breach by a video provider of the consumer protection and service standards that are set forth above in paragraph (C), provided that the breach is within the reasonable control of the video provider. These penalties are in addition to any other remedies authorized by this ordinance or by any other law, and the County has discretion to elect the remedy that it will apply. The imposition of penalties authorized by this paragraph (D) will not prevent the County or any other affected party from exercising any other remedy to the extent permitted by law, including but not limited to any judicial remedy as provided below in subsection (2).

1. Schedule of Penalties

a. For a first material breach: the maximum penalty is \$200 for each day of material breach, but not to exceed a cumulative total of \$600 for each occurrence of material breach, irrespective of the number of customers affected.

b. For a second material breach of the same nature for which a monetary penalty was previously assessed within the preceding 12-month period: the maximum penalty is \$400 per day, not to exceed a cumulative total of \$1,200 for each occurrence of the material breach, irrespective of the number of customers affected.

c. For a third or further material breach of the same nature for which a monetary penalty was previously assessed within the preceding 12-month period: the maximum penalty is \$1,000 per day, not to exceed a cumulative total of \$3,000 for each occurrence of the material breach, irrespective of the number of customers affected.

d. The maximum penalties referenced above may be increased by any additional amount authorized by state law.

2. Judicial Remedies Not Affected

The imposition of penalties in accordance with the provisions of subsection (1) above does not preclude any affected party from pursuing any judicial remedy that is available to that party.

3. Administration, Notice, and Appeal

a. The Clerk of the Board, or the Clerk of the Board's designee, is authorized to administer this paragraph (D). Decisions by the Clerk of the Board to assess penalties against a video provider must be in writing and must contain findings supporting the decisions. Decisions by the Clerk of the Board or designee are final, unless appealed to the Board of Supervisors.

b. If the video provider or any interested person is aggrieved by a decision of the Clerk of the Board or designee, the aggrieved party may, within

10 days of the written decision, appeal that decision in writing to the Board of Supervisors. The appeal letter must be accompanied by the fee established by the Board of Supervisors for processing the appeal. The Board of Supervisors may affirm, modify, or reverse the decision of the Clerk of the Board or designee.

c. The imposition of monetary penalties under subsection (1) above is subject to the following requirements and limitations:

(i) The County must give the video provider written notice of any alleged material breach and must allow the video provider at least 30 days from receipt of that notice to remedy the breach.

(ii) For the purpose of assessing monetary penalties, a material breach will be deemed to have occurred for each day following the expiration of the period for cure specified in subparagraph (i) above that the material breach has not been remedied by the video provider, irrespective of the number of customers affected.

4.120 Telecommunications Service Provided By Telephone Corporations

A. The Board of Supervisors finds and determines as follows:

1. The federal Telecommunications Act of 1996 preempts and declares invalid all state rules that restrict entry or limit competition in both local and long-distance telephone service.

2. The California Public Utilities Commission ("CPUC") is primarily responsible for the implementation of local telephone competition, and it issues certificates of public convenience and necessity to new entrants that are qualified to provide competitive local telephone exchange services and related telecommunications service, whether using their own facilities or the facilities or services provided by other authorized telephone corporations.

3. Section 234(a) of the California Public Utilities Code defines a "telephone corporation" as "every corporation or person owning, controlling, operating, or managing any telephone line for compensation within this state."

4. Section 616 of the California Public Utilities Code provides that a telephone corporation "may condemn any property necessary for the construction and maintenance of its telephone line."

5. Section 2902 of the California Public Utilities Code authorizes municipal corporations to retain their powers of control to supervise and regulate the relationships between a public utility and the general public in matters affecting the health, convenience, and safety of the general public, including matters such as the use and repair of public streets by any public utility and the location of the poles, wires, mains, or conduits of any public utility on, under, or above any public streets.

6. Section 7901 of the California Public Utilities Code authorizes telephone and telegraph corporations to construct telephone or telegraph lines along and upon any public road or highway, along or across any of the waters or lands within this state, and to erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

7. Section 7901.1 of the California Public Utilities Code confirms the right of municipalities to exercise reasonable control as to the time, place, and manner in which roads, highways, and waterways are accessed, which control must be applied to all entities in an equivalent manner. Nothing in Section 7901.1 adds to or subtracts from any existing authority that municipalities have with respect to the imposition of fees.

8. Section 50030 of the California Government Code provides that any permit fee imposed by a County for the placement, installation, repair, or upgrading of telecommunications facilities, such as lines, poles, or antennas, by a telephone corporation that has obtained all required authorizations from the CPUC and the FCC to provide telecommunications services, must not exceed the reasonable costs of providing the service for which the fee is charged, and must not be levied for general revenue purposes.

B. In recognition of and in compliance with the statutory authorizations and requirements set forth above in paragraph (A), the following regulatory provisions are applicable to a telephone corporation that desires to provide telecommunications service by means of facilities that are proposed to be constructed within the County's public rights-of-way:

1. The telephone corporation must apply for and obtain, as may be applicable, an excavation permit, an encroachment permit, or a building permit ("ministerial permit.")

2. In addition to the information required by this Code in connection with an application for a ministerial permit, a telephone corporation must submit to the County the following supplemental information:

a. A copy of the certificate of public convenience and necessity issued by the CPUC to the applicant, and a copy of the CPUC decision that authorizes the applicant to provide the telecommunications service for which the facilities are proposed to be constructed in the County's public rights-of-way. Any applicant that, prior to 1996, provided telecommunications service under administratively equivalent documentation issued by the CPUC may submit copies of that documentation in lieu of a certificate of public convenience and necessity.

b. If the applicant has obtained from the CPUC a certificate of public convenience and necessity to operate as a "competitive local carrier," the following additional requirements are applicable:

(i) As required by Decision No. 95-12-057 of the CPUC, the applicant must establish that it has timely filed with the County a quarterly report that describes the type of construction and the location of each construction project

proposed to be undertaken in the County during the calendar quarter in which the application is filed, so that the County can coordinate multiple projects, as may be necessary.

(ii) If the applicant's proposed construction project will extend beyond the utility rights-of-way into undisturbed areas or other rights-of-way, the applicant must establish that it has filed a petition with the CPUC to amend its certificate of public convenience and necessity and that the proposed construction project has been subjected to a full-scale environmental analysis by the CPUC, as required by Decision No. 95-12-057 of the CPUC.

(iii) The applicant must inform the County whether its proposed construction project will be subject to any of the mitigation measures specified in the Negative Declaration ["Competitive Local Carriers (CLCs) Projects for Local Exchange Communication Service throughout California"] or to the Mitigation Monitoring Plan adopted in connection with Decision No. 95-12-057 of the CPUC. The County's issuance of a ministerial permit will be conditioned upon the applicant's compliance with all applicable mitigation measures and monitoring requirements imposed by the CPUC upon telephone corporations that are designated as "competitive local carriers."

C. The County reserves all rights that it now possesses or may later acquire with respect to the regulation of any cable or telecommunications service that is provided, or proposed to be provided, by a telephone corporation. These reserved rights may relate, without limitation, to the imposition of reasonable conditions in addition to or different from those set forth in this section, the exaction of a fee or other form of consideration or compensation for use of public rights-of-way, and related matters; provided, however, that such regulatory rights and authority must be consistent with federal and state law that is applicable to cable or telecommunications services provided by telephone corporations.

ARTICLE 5. DEFINITIONS

5.100 Defined Terms and Phrases

A. The words, terms, phrases, and their derivations set forth in this ordinance have the meanings set forth below. Words used in the present tense include the future tense, and words in the singular include the plural number.

"Cable service" means the one-way transmission to subscribers of video programming, or other programming services, and subscriber interaction, if any that is required for the selection or use of that video programming or other programming service. For the purposes of this definition, "video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station; and "other programming service" means information that a cable system operator makes available to all subscribers generally.

"Cable system," or "cable communications system" or "cable television system," means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that

includes video programming and that is provided to multiple subscribers within a community. The term "cable system" does not include:

- (i) a facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (ii) a facility that serves subscribers without using any public right-of-way;
- (iii) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act, except that such facility will be considered a cable system (other than for purposes specified in Section 621(c) of the Communications Act) to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services;
- (iv) an open video system that complies with Section 653 of the Communications Act; or
- (v) any facilities of an electric utility that are used solely for operating its electric utility system.

"Cable system operator" means any person or group of persons:

- (i) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in that cable system; or
- (ii) who otherwise controls or is responsible for, through any arrangement, the management and operation of that cable system.

"_____ CFR" means the Code of Federal Regulations. Thus, the citation of "47 CFR 80.1" refers to Title 47, part 80, section 1, of the Code of Federal Regulations.

"Communications Act" means the Communications Act of 1934 (47 U.S.C. §§ 153, *et seq.*), as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996.

"County" means the County of Riverside as represented by its Board of Supervisors or by any delegate acting within the scope of its delegated authority.

"FCC" or "Federal Communications Commission" means the federal administrative agency, or any lawful successor, that is authorized to regulate telecommunications services and telecommunications service providers on a national level.

"Franchise" means an initial authorization, or the renewal of an initial authorization, granted by the Board of Supervisors, whether such authorization is designated as a franchise, agreement, permit, license, resolution, contract, certificate, or otherwise, that authorizes the construction or operation of a cable system or an open video system.

"Franchise fee" means any fee or assessment of any kind that is authorized by state or federal law to be imposed by the County on a Grantee as compensation in the nature of rent for the Grantee's use of the public rights-of-way. The term "franchise fee" does not include:

- (i) Any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);
- (ii) Capital costs that are required by the franchise to be incurred by a Grantee for public, educational, or governmental access facilities;
- (iii) Requirements or charges that are incidental to the award or enforcement of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or
- (iv) Any fee imposed under Title 17, United States Code.

"Franchise service area" or "service area" means that geographic area of unincorporated County territory in which the Grantee is authorized to construct, operate, and maintain a cable television system, which geographic area is specifically designated in a franchise agreement with the County.

"Grantee" means any person that is awarded a franchise in accordance with this ordinance, and that person's lawful successor, transferee, or assignee.

"Multichannel video programming distributor" or "video programming distributor" means a person such as, but not limited to, a cable system operator, an open video system operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who makes available multiple channels of video programming for purchase by subscribers or customers.

"Open video system" means a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service, including video programming, and that is provided to multiple subscribers within the County, provided that the FCC has certified that such system is authorized to operate in the County and complies with 47 CFR 1500 et seq., entitled "Open Video Systems."

"Open video system operator" means any person or group of persons who provides cable service over an open video system and directly or through one or more affiliates owns a significant interest in that open video system, or otherwise controls or is responsible for the management and operation of that open video system.

"Person" means an individual, partnership, limited liability company, association, joint stock company, trust, corporation, or governmental entity.

"Public, educational or government access facilities" or "PEG access facilities," means the total of the following:

- (i) Channel capacity designated for noncommercial public, educational, or government use; and
- (ii) Facilities and equipment for the use of that channel capacity .

"Subscriber" or "customer" or "consumer" means any person who, for any purpose, subscribes to the services provided by a multichannel video programming distributor and who pays the charges for those services.

"Street" or "public right-of-way" means each of the following that has been dedicated to the public and maintained under public authority or by others and is located within the County limits: streets, roadways, highways, avenues, lanes, alleys, sidewalks, easements, rights-of-way, and similar public property that the County from time to time authorizes to be included within the definition of a street.

"Telecommunications" means the transmission, between or among points specified by the user, of information of the user's choosing, without change in the form or content of the information as sent and received.

"Telecommunications equipment" means equipment, other than customer premises equipment, used by a telecommunications service provider to provide telecommunications service, including software that is integral to that equipment.

"Telecommunications service" means the offering of telecommunications directly to the public for a fee, or to such classes of users as to be effectively available directly to the public, regardless of the equipment or facilities that are used.

"Telecommunications service provider" means any provider of telecommunications service.

"____ U.S.C. § ____" means the United States Code. Thus, the citation of "47 U.S.C. § 153" refers to Title 47, section 153, of the United States Code.

"Video programming provider" means any person or group of persons that has the right under the federal copyright laws to select and to contract for the carriage of specific video programming on a cable system or an open video system.

"Video provider" means any person, company, or service that provides one or more channels of video programming to a residence, including a home, multi-family dwelling complex, congregate-living complex, condominium, apartment, or mobilehome, where some fee is paid for that service, whether directly or as included in dues or rental charges, and whether or not public rights-of-way are used in the delivery of that video programming. A "video provider" includes, without limitation, providers of cable television service, open video system service, master antenna television, satellite master antenna television, direct broadcast satellite, multipoint distribution services, and other providers of video programming, whatever their technology.

B. Unless otherwise expressly stated, words, terms, and phrases not defined in this ordinance will be given their meaning as used in Title 47 of the United States Code, as amended, and, if not defined in that Code, their meaning as used in Title 47 of the Code of Federal Regulations.

ARTICLE 6. VIOLATIONS; SEVERABILITY

6.100 Violations; Enforcement

A. Unless precluded by applicable law, any person who violates any provision of this ordinance is guilty of a misdemeanor and is punishable as provided for in Ordinance No. 725.10.

B. The misdemeanor penalty specified above in paragraph (A) is not applicable to a violation of any provision of this ordinance for which another sanction or penalty may be imposed under any franchise, license, lease, or similar written agreement between the County and a multichannel video programming distributor or telecommunications service provider.

C. The County may initiate a civil action in any court of competent jurisdiction to enjoin any violation of this ordinance.

6.110 Severability

If any provision of this ordinance is determined by any court of competent jurisdiction, or by any federal or state agency having jurisdiction over its subject matter, to be invalid and in conflict with any federal or state law or regulation now or hereafter in effect, or is determined by that court or agency to require modification in order to conform to the requirements of that law or regulation, then that provision will be deemed a separate, distinct, and independent part of this ordinance, and such determination will not affect the validity and enforceability of any other provisions. If that federal or state law or regulation is subsequently repealed or amended so that the provision of this ordinance determined to be invalid or subject to modification is no longer in conflict with that law or regulation, then that provision will again become effective and will thereafter be binding on the County and any affected cable or telecommunications service provider; provided, however, that the County must give the affected cable or telecommunications service provider 30 days written notice of that change before requiring compliance with that provision, or such longer period of time as may be reasonably required for the cable or telecommunications service provider to comply with that provision.

Section 3. Following the Board of Supervisor's adoption of this ordinance, the County Clerk is directed to provide a copy by certified mail to all video providers now providing cable service under nonexclusive licenses previously issued by the County. Upon the expiration of 90 days following the transmittal of this ordinance to those video providers, the provisions of Section 2.150 relating to consumer protection and service standards will apply to the operation of all cable television systems within the unincorporated territory of the County under those nonexclusive licenses. The authority for this action by the County is derived from the following sources:

A. 47 Code of Federal Regulations 76.309, titled "Customer Service Obligations," which provides in relevant part as follows:

"(a) A cable franchise authority may enforce the customer service standards set forth in paragraph (c) of this section against cable operators. The franchise authority must provide affected cable operators ninety (90) days written notice of its intent to enforce the standards."

"(b) Nothing in this rule should be construed to prevent or prohibit:

(3) Any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not specifically preempted herein; or

(4) The establishment or enforcement of any State or municipal law or regulation concerning customer service that imposes customer service requirements that exceed, or address matters not addressed by the standards set forth in paragraph (c) of this section."

B. California Government Code Section 53088 et seq., titled the "Video Customer Service Act." Section 53088.2(p) of this Act provides as follows:

"(p) Nothing in this division limits the power of a city, county, or city and county or video provider to adopt and enforce service standards and consumer protection standards which exceed those established in this division."

Section 4. The Clerk of the Board is directed to certify to the passage and adoption of this ordinance and to cause this ordinance to be published as required by law. This ordinance shall take effect thirty (30) days after adoption by the Board of Supervisors.

PASSED, APPROVED AND ADOPTED by the Board of Supervisors of the County of Riverside the __ day of _____, 2006.

Adopted: 503.11 Item __ of __/__/2006 (EFF: __/__/06)