

ORDINANCE NO. 182

AN ORDINANCE OF THE CITY OF SEVEN POINTS, TEXAS GRANTING K1 CABLESYSTEMS, INCORPORATED THE NON-EXCLUSIVE RIGHT TO ERECT, MAINTAIN AND OPERATE IN, UNDER, OVER, ALONG, ACROSS THE STREETS, RIGHTS-OF-WAY, LANES, AVENUES, SIDEWALKS, ALLEYS, BRIDGES, HIGHWAYS, EASEMENTS DEDICATED FOR COMPATIBLE USES AND OTHER PUBLIC PLACES IN THE COMMUNITY HEREOF AND ANY SUBSEQUENT ADDITIONS THERETO, TOWERS, POLES, LINES, CABLES, WIRES AND OTHER APPARATUS FOR THE PURPOSE OF RECEPTION, TRANSMISSION AND DISTRIBUTION BY CABLE OF VIDEO AND AUDIO PROGRAMMING AND OTHER TELECOMMUNICATION SERVICES TO SUBSCRIBERS WITHIN THE COMMUNITY AND ADJOINING COMMUNITIES.

SECTION I

For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When required by the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory.

- (a) **"Cable Act"** is the Cable Communications Policy Act of 1984, 47 U.S.C. & 521 et seq., and any amendment thereto subsequent to the effective date of this Ordinance.
- (b) **"Cable Service"** means the transmission and delivery by the Grantee to subscribers' television receivers (or any other suitable type of electronic terminal or receiver) of telecommunication signals, including the re-transmission of broadcast and satellite received video and audio programming, and of programming originated by Grantee.
- (c) **"Community"** is the City Of Seven Points, Texas.
- (d) **"Council"** is the governing body of the City Of Seven Points, Texas.
- (e) **"Cable System"** is a facility utilizing certain electronics and other components which is designed to deliver to subscribing members of the public cable service and various other communication services.
- (f) **"FCC"** shall mean Federal Communications Commission.
- (g) **"Person"** is an individual, firm, partnership, association, corporation, governmental entity, or organization of any kind, and any other legally recognized entity.
- (h) **"Grantee"** is K1 Cablesystems, Inc. and its successors and assigns in accordance with the provisions of this Ordinance.
- (i) **"Subscribers"** are those persons contracting to receive cable service furnished under this Ordinance by Grantee.

SECTION II

The City Of Seven Points, Texas hereby grants, to the Grantee and to its successors, assignees or designees, the non-exclusive right, privilege and authority to erect, maintain, operate and reconstruct, in, under, over, along, across and upon the existing and future streets, rights-of-way, lanes, avenues, sidewalks, alleys, bridges, highways, and any easements dedicated for compatible uses within the City Of Seven Points and subsequent additions thereto, towers, poles, lines, cables, wires, manholes and all other appliances and equipment necessary or desirable for the construction, maintenance, operation and reconstruction in the City Of Seven Points of a cable system, for the purpose of reception, transmission and distribution of audio, visual, electronic and electric impulses in order to furnish cable service to subscribers for a period of twenty (20) years, and any renewals thereof, commencing from and after the effective date of this Ordinance.

SECTION III

The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive, provided, however, that any additional grants to other persons to construct and operate a cable system shall not operate to materially modify, revoke, or terminate any rights of grantee hereunder, and shall be upon terms and conditions substantially similar to those contained herein.

SECTION IV

Grantee shall be responsible for the cost of construction, maintenance and operation of the cable system. Grantee shall also be responsible for obtaining any necessary utility, planning board, zoning and construction permits required for the construction of the cable system.

SECTION V

The Grantee shall, during the term hereof and any renewal terms, comply with all applicable provisions of the Cable Act, the Copyright Act of 1976, and the rules and regulations of the FCC and, except in those areas which have been pre-empted by the Cable Act or by any other statute or rule or which are regulated by the FCC, shall be subject to all lawful exercise of the regulating and police powers of the City Of Seven Points, Texas. If any provision of this franchise shall become inconsistent with applicable federal law or regulation, such provision shall be deemed modified to conform with applicable law.

SECTION VI

The service area comprises the existing legal limits of the City Of Seven Points and any additions or accessions thereto. Grantee may, but shall not be required to serve: (a) areas or individual homes adjoining, but outside the City Of Seven Points limits; (b) individual homes in the City Of Seven Points to which it is not economically feasible to provide service from Grantee's existing facilities; and (c) private property if access thereto is not permitted by the property owner and not permitted by applicable federal law. Grantee may negotiate directly the amount to be charge for bringing cable service to those residents.

SECTION VII

Grantee shall, at all times keep in effect the following types of insurance coverage, listing the City Of Seven Points as an additional insured:

(a) **Worker's Compensation** - upon all its employees and subcontractors involved in any manner in the installation or servicing of its plant and equipment as required by the City Of Seven Points and the State Of Texas statutes.

(b) **Property Damage Liability Insurance** - to the extent of \$1,000,000.00 as to each occurrence and personal injury liability insurance to the extent of \$1,000,000.00 as to each occurrence. Automobile bodily injury liability insurance in the amount of \$1,000,000.00 shall be maintained for each occurrence and property damage liability insurance of \$1,000,000.00 for hired, borrowed or non-ownership automobile liability coverage. In addition to a \$2,000,000.00 umbrella policy.

(c) **Grantee** shall indemnify, protect, and save harmless the City Of Seven Points from and against any damages, losses, claims or liabilities arising out of physical damage to property, bodily injury or death to persons, including payments made by the City Of Seven Points under any Worker's Compensation law, in connection with the erection, maintenance, presence, use or removal by Grantee of the cable system, or any other act of Grantee, its agents or employees, in connection with the provision of cable service, including copyright infringement. The City Of Seven Points shall cooperate with Grantee in defending any litigation, investigation or proceeding(s) involving a claim for which indemnification may be paid.

(d) **Grantee** shall also carry such insurance as it deems necessary to protect it from claims under any Worker's Compensation law that may be applicable to Grantee. All insurance required shall be and shall remain in full force and effect for the entire life of the rights granted hereunder. Insurance certificates showing proof of insurance coverage shall be deposited with and shall be kept on file in the City Secretary's office, of the City Of Seven Points.

SECTION VIII

Grantee's cable system shall have a minimum of 12 (twelve) channels. The electronic design frequency of 300mhz allows up to a 36 (thirty-six) channel capacity. Grantee shall provide to the City Of Seven Points, upon completion of construction of the cable system, an "as built" construction drawing.

SECTION IX

Grantee shall be governed by technical standards as may established by the FCC from time to time.

SECTION X

Grantee shall commence construction of the Cable System as soon as practicable after the effective date of this Ordinance, once Grantee obtains all permits and achieves all necessary coordination with utilities and local planning authorities. The City Of Seven Points shall have the right to inspect the construction and installation work being performed by Grantee, upon reasonable notice to grantee, and to require from Grantee, periodic reports on the progress of such construction.

Grantee may in its discretion, employ third party contractors to construct or maintain the cable system and provide cable service. The grantee shall render efficient service to subscribers, make repairs promptly, and interrupt subscriber service only for good cause and for the shortest possible time.

SECTION XI

In case of a local emergency or disaster, the Grantee shall, upon request of the governing body of the City Of Seven Points, make available its facilities to the City for emergency use during the emergency or disaster. If the City wishes to operate a **Civil Emergency Alert System** on a plan that is mutually acceptable to the City Of Seven Points and Grantee, and provides Grantee with the necessary equipment for such system, Grantee will permit the emergency system to be used on the cable system.

SECTION XII

The Grantee shall, at all times, employ ordinary care in the construction and operation of the cable system and shall use and maintain commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage or injuries or nuisances to the public.

SECTION XIII

LIMITATION ON RIGHTS GRANTED is as follows:

(a) All reception, transmission and distribution structures, lines and equipment erected by the Grantee within the City Of Seven Points shall be so located as to cause minimum interference with the proper use of street, alleys and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places, and Grantee shall remove its lines and equipment whenever the governing body of the City Of Seven Points reasonably finds that the same restrict or obstruct the operation or location of any future streets or public places in the community.

(b) Construction and maintenance of the cable system shall be in accordance with the provisions of the National Electrical Safety Code, the National Electrical Code, and such applicable Ordinance and regulations of the City Of Seven Points, affecting electrical installation, which may be presently in effect, or changed by future Ordinance.

(c) The Grantee shall have the authority to trim trees on public streets, alleys, sidewalks, rights of way and other public areas of the City of Seven Points, so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee. Trimming of trees in private property shall require the written consent of the property owner.

(d) The Grantee shall, in the case of disturbance of any public street, sidewalk, alley, right-of-way or paved area caused by Grantee or its representatives at any time during the term hereof and any renewals, restore the same to its original condition at the Grantee's expense.

SECTION XIV

During the term and any renewals hereof and upon termination or revocation of this franchise, all equipment and facilities installed by Grantee in the public areas of the City Of Seven Points or at a subscriber's premises shall be personal property and shall remain the property of Grantee, regardless of its method of affixation to property, and Grantee shall have the right to remove said facilities and equipment upon termination or revocation.

SECTION XV

Once construction of the cable system is substantially completed, the Grantee may assign its rights under this Ordinance to another person by giving the governing body of the City Of Seven Points thirty (30) days written notice. Such assignment shall be come effective only if the assignee executes a copy of this Ordinance and agrees to be bound by the terms hereof. Grantee may pledge this franchise or all or a portion of the cable system as security for any indebtedness of Grantee.

SECTION XVI

The rights granted to Grantee herein shall, except as provided in this Section, terminate twenty (20) years from the effective date of this Ordinance. The rights granted to Grantee herein shall be subject to renewal pursuant to the provisions of Section 546 of the Cable Act, or any applicable successor statute. Pending final completion of renewal proceedings, the Ordinance shall remain in effect even if the original twenty (20) year term has expired. If this Ordinance is not renewed or if it is revoked for cause by the City Of Seven Points, the transfer of Grantee's system shall be governed by Section 547 of the Cable Act.

SECTION XVII

The governing body of the City Of Seven Points may at any time revoke the franchise herein granted upon a material breach by Grantee of any of the provisions of this Ordinance should Grantee fail to:

- (a) cure such breach or;
- (b) object in writing to the governing body of the City Of Seven Points stated grounds for revocation within ninety (90) days after receiving written notice of the breach by the governing body.

If the Grantee objects the governing body's grounds for revocation, the governing body shall conduct a public hearing on the matter and, once the governing body issues its findings and conclusions, the parties may avail themselves of any remedies provided by law. During such time as the dispute over the proposed revocation is unsettled, this franchise shall remain in effect.

SECTION XVIII

In addition to any other remedies provided by law or equity, Grantee's obligations under this Ordinance may be modified, at its request, in accordance with Section 545 of the Cable Act.

SECTION XIX

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason held invalid or unconstitutional by any court of competent jurisdiction, or is superseded or pre-empted by FCC regulations or any statute, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.

SECTION XX

During the term hereof, Grantee shall pay to the City Of Seven Points, an annual permit fee of \$500.00, payable in a lump sum. In addition to the annual permit fee, Grantee shall pay the City Of Seven Points a franchise fee of 4%, based on the gross revenues received by the Grantee from the operation of the cable system. Franchise fees are payable on a quarterly basis. Such fee shall not, during the term hereof, exceed 4% of gross revenues and may be passed on directly to each subscriber, once the cable system is operational. For purposes of this section, "gross revenues" does not include fees or taxes collected by Grantee from subscribers for direct pass-through to a governmental entity; subscribers payments to Grantee for terminal equipment destroyed or lost by the subscriber; tax refunds; converter deposits by subscribers and interest earned thereon, and any franchise fee reimbursement. Grantee shall keep and maintain accurate records with respect to the gross revenues of the cable system. The City Of Seven Points shall have the right, upon reasonable notice to Grantee, to inspect Grantee's books and records as are necessary to confirm the accuracy of the Grantee's franchise fee payments.

SECTION XXI

This Ordinance is subject to acceptance by Grantee. The Grantee agrees to commence work on the system and have it in operation within twenty-four (24) months from the date of acceptance by Grantee. However, the Grantee may ask the City Of Seven Points governing body for an extension of time, if the work of installing the cable has been started and not completed within twenty-four (24) months. Approval of extension of time shall not be unreasonably withheld. If work has not be completed and the system in operation or an extension of time granted, this Ordinance shall be withdrawn by the governing body of the City Of Seven Points.

SECTION XXII

During the processing of this Ordinance, any legal expenses and/or publication costs incurred by either party remain the obligation of the respective party that incurred them. Grantee shall not deny cable service to any potential subscriber on the basis of race, color, religion, national origin, age or sex. Grantee will comply with the Equal Employment Opportunity requirements of the Cable Act and the FCC.

SECTION XXIII

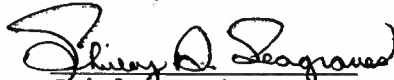
Grantee's obligation to meet the requirements of the franchise shall be deferred or excused if, by force majeure, performance hereunder is made unreasonably burdensome or impossible.

The City Of Seven Points, Texas hereby warrants that it has the legal right to issue this franchise to Grantee.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SEVEN POINTS TEXAS, THIS ORDINANCE WAS APPROVED AND ADOPTED THIS THE 24th DAY OF May, 1990.


Paul E. Mooneyham
Mayor

ATTEST:


Shirley D. Seagraves
City Secretary

ACCEPTED BY K1 CABLESYSTEMS, INC., THIS _____ DAY OF _____, 1990.

President - K1 Cablesystems, Inc.

DATE SIGNED: _____

ORDINANCE NO. 187

Repealed
01.10.2000
Ord #319

-CO
Ch6

PROHIBITING THE BURNING OF CERTAIN WASTES

AN ORDINANCE FOR THE CITY OF SEVEN POINTS, TEXAS AMENDING ORDINANCE NO. 180, SECTIONS II, III, (III), IV AND V; REPEALING ANY EXISTING AND OR CONFLICTING ORDINANCES; THIS AMENDMENT IS AN ORDINANCE DEFINING GARBAGE, HAZARDOUS WASTE, BULKY WASTE, CONSTRUCTION DEBRIS, DEAD ANIMALS, RUBBISH AND REFUSE; PROHIBITING THE BURNING OF CERTAIN WASTES; PROHIBITING THE BURNING AFTER HOURS; CREATING HEALTH AND WELFARE HAZARDS; UNATTENDED OR UNCONTROLLED BURNING; PROVIDING A PENALTY CLAUSE PUNISHABLE BY FINE FOR EACH VIOLATION OF THIS ORDINANCE.

BE IT ORDAINED BY THE CITY COUNCIL OF SEVEN POINTS, TEXAS:

SECTION I
SECTION IV

The following definitions shall apply when used in this ordinance:

OFFENSIVE SMOKE AND ASHES

Garbage - This term shall refer to every accumulation of waste, (animal, vegetable and/or other matter) that results from the preparation, processing, consumption, dealing with, handling, packing, canning, storage, transportation, decay or decomposition of meats, fowl, fish, birds, fruits, grains or other animal or vegetable matter (including, but not by way of limitation, used tins, cans and other food containers; and all putrescible or easily decomposable waste animal or vegetable matter which is likely to attract flies or rodents); except bulky waste, construction debris or hazardous waste.

CONTROLLED BURNING

Hazardous Waste - Any chemical, compound, mixture, substance or article which is designated by the United States Environmental Protection Agency or appropriate agency of the State to be "hazardous", as that term is defined by or pursuant to Federal or State law, supervising such burning. That the controlled burn will be located on the person's property as a burner or a burner of **Bulky Waste** or Stoves, refrigerators, water tanks, washing machines, furniture and other similar waste materials.

Construction Debris - Waste building materials resulting from construction remodeling, repair or demolition operations.

FINES AND PUNISHMENT

Dead Animals - Animals or portions thereof (except dogs and cats) that have expired for any cause, except those slaughtered or killed for human use; guilty of a misdemeanor and upon conviction in the Municipal Court of Seven Points shall be fined two-hundred dollar.

Rubbish - All wastewood, wood products, tree trimmings, grass cuttings, dead plants, weeds, leaves, dead trees or branches thereof, chips, shavings, sawdust, printed matter, paper or pasteboard, rags, straw, used and discarded mattresses, used and discarded clothing, used and discarded shoes and boots, combustible waste pulp and other products such as are used for packaging, or wrapping crockery and glass, ashes, cinders, floor sweepings, glass, mineral or metallic substances and any and all other waste materials not included in the definition of bulky waste, construction debris, dead animals, garbage or hazardous waste as mentioned in the ordinance of public health, safety and welfare and requires

Refuse - This term shall refer to garbage, rubbish, bulky waste, construction debris and dead animals generated by residential units, light commercial units or heavy commercial units.

PROHIBITING THE BURNING OF CERTAIN WASTES

It shall be unlawful to burn garbage, hazardous wastes, bulky wastes, dead animals, certain rubbish being used or discarded mattresses, used and discarded clothing, rags or any other type or kind of cloth or material as defined in Section I.

Paul E. Mooneyhan
Paul E. Mooneyhan
Mayor

SECTION III

AFTER HOURS BURNING

It shall be unlawful for any person to burn or set fire to any rubbish before daylight in the morning and after dark in the evening.

Shirley Seagraves
City Secretary

SECTION IV

OFFENSIVE SMOKE AND ASHES

It shall be unlawful for any person to burn any rubbish that emits smoke that is obnoxious, disagreeable, offensive or hazardous to the environment of any citizen of Seven Points. Further it shall be unlawful to permit the escape of soot, ashes or other solid products or results of combustion so as to be wind blown or scattered.

SECTION V

CONTROLLED BURNING

It is further ordained that any person desiring to burn refuse first notify the Seven Points Fire Department for permission for a controlled burn. That the Seven Points Fire Department shall, if deemed necessary, supervise such burning. That the controlled burn will be located on the person's property so as to not endanger or spread to another's property.

SECTION VI

FINES AND PUNISHMENT

Any person, firm, association or corporation in violation of this ordinance shall be deemed guilty of a misdemeanor and upon conviction in the Municipal Court of Seven Points shall be fined two-hundred dollars (\$200.00) for each violation.

SECTION VII

EMERGENCY

Whereas, the present ordinance of the City of Seven Points does not adequately regulate the burning of refuse within the limits of the City increases an urgency and emergency in the preservation of public health, safety and welfare and requires that this ordinance shall take effect immediately upon passage by the governing body of the City of Seven Points and publication of the caption of said ordinance as the law in such case provides.

PASSED AND APPROVED THE 13 DAY OF November, 1990.


Paul E. Mooneyham
Mayor

ATTEST:

Shirley Seagraves
City Secretary