

AN ORDINANCE 84 0 130

ESTABLISHING THE LAREDO CABLE COMMISSION, ITS MEMBERSHIP, TERMS OF OFFICE, METHODS OF APPOINTMENT, AUTHORITY, DUTIES, AND OTHER TERMS AND CONDITIONS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO, TEXAS:

SECTION 1. Establishment and Short Title.

- a. The Laredo Cable Commission is hereby established.
- b. This ordinance shall be known and may be cited as the Laredo Cable Commission Ordinance of 1984.

SECTION 2. Definitions.

The following terms, words, and abbreviations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular words in the singular include the plural, and the use of any gender shall be applicable to all genders. The words "shall" and "will" are mandatory and the word "may" is permissive. Words not defined herein shall be given their common and ordinary meaning, except that technical words and terms used in the cable television industry shall be given the meaning common to that industry. All of the definitions contained in the Laredo Cable Television System Franchise Ordinance of 1983 and any amendments subsequent thereto, shall apply and be incorporated by reference herein.

- a. "Chairman" means the Chairman of the Laredo Cable Commission, except where the context clearly indicates that the chairman of a committee is intended.
- b. "Commission" means the Laredo Cable Commission, as established by this Ordinance.
- c. "Communications Officer" means the City Communications Officer or his designate.
- d. "Educational access channel" means any of the channels defined in Section 10b(1) of the Franchise.
- e. "Franchise Ordinance" means the Laredo Cable Television System Franchise Ordinance of 1984, and any amendments thereto.
- f. "Governmental access channel" means any of the channels defined in Section 10b(2) of the Laredo Cable Television System Franchise Ordinance.
- g. "Leased channel" means any of the channels subject to Section 10k of the Franchise.
- h. "Public access channel" means any of the channels defined in Section 10b(3) of the Franchise.
- i. "Access equipment fund" means the funds described in Section 10i of the Franchise.
- j. "Access subsidy" means the funds described in Section 10j of the Laredo Cable Television System Franchise Ordinance.

SECTION 3. Relationship to Franchise.

This Ordinance fulfills the requirement of Section 18 of the Franchise for the establishment of the commission, which shall have the form, authority, and duties defined therein. If any controversy should arise between the provisions of the Franchise and this Ordinance, the former shall prevail.

SECTION 4. Membership, Term of Office, Method of Appointment, and Ex-Officio Memberships.

- a. The members of the Commission shall include nine (9) members who shall

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be citizens of the City of Laredo, appointed by the City Council.

b. All members shall serve a term of three years, and shall continue in Office until their successors are duly appointed. Terms of office for the first appointed Commission shall be staggered, such that three Commissioners shall serve a term of one year, three shall serve a term of two years, and three shall serve a full term, and the term of each Commissioner shall be designated by the City Council upon appointment.

c. If a commissioner's position becomes vacant due to death, discontinuance of the Commissioner's eligibility to serve, or the Commissioner's incapacity or unwillingness to serve for any reason, the Council shall fill the vacancy for the unexpired term, by appointment.

d. A member shall be entitled to serve more than one term.

e. The chief administrator of each and every grantee, or his designate; the City Manager; the City Communications Officer; and a person appointed jointly by the chief executive officers of the educational authorities, shall serve, ex-officio, as non-voting members of the Commission, but may not serve as Chairman of the Commission.

SECTION 5. Chairman and Other Officers; Committees.

a. The Chairman shall be elected annually by majority vote, shall serve for a calendar year, and shall be eligible for reelection.

b. The Commission may establish such other officers as the Commission may deem necessary.

c. The Commission may establish by resolution such committees as it deems necessary. The Chairman shall appoint the members and chairmen of all such committees.

SECTION 6. City Communications Officer.

A communications officer shall be appointed by the City Manager and shall serve as staff of the Commission.

SECTION 7. General Authority.

a. The Commission shall have the authority to accept funds from any source whatever and to transmit the same to the City Finance Department for deposit. if any such funds are received for a specific purpose or with specific obligations, the Comptroller, the City Communications Officer, and the City Manager shall be advised of those obligations or restrictions.

b. The Commission shall have authority to conduct inquiries, surveys, investigations, and the like; to receive testimony of witnesses; hold public hearings; and may require any grantee to produce and submit any documents, papers, books of account, or other records pertaining to the operations of a cable television system in the City as may be required for the conduct of its business and the discharge of the duties assigned to it.

c. The Commission shall prepare and submit reports and recommendations to the City Manager or to the City Council, at its discretion.

d. The Commission shall advise the Communications Officer or any grantee concerning any matter pertaining to the operation of a cable television system or similar communications system.

e. The Commission shall have authority to seek advice or opinion of any City officer or department, including the City Attorney, regarding any question of law, fact, or administrative procedure.

SECTION 8. Duties with Regard to Franchise Administration.

a. The Commission shall ensure the grantee complies with all provisions of the Franchise and shall report any violations or failures of compliance to the City Council.

b. From time to time, the Commission shall conduct surveys of the general population of the City, cable subscribers, or any other segment of the population of the City, by such methods and procedures as the Commission may devise, to ascertain the public's interest, convenience, and need for cable television

and similar communications services; and shall report the findings of such surveys to the City Council, with recommendations, if any, for action by the Council or any grantee. The Commission shall conduct surveys for the purpose of ascertaining the public interest and need for two-way cable services, and institutional cable network, or expansion of the channel capacity of the subscriber cable network.

c. The Commission shall compare the services, rates, and operations of any grantee with the services, rates, and operations of cable television systems in other communities, taking into account the similarities or lack thereof among the communities, and shall report the results of such comparisons, and of any recommendations for actions to be taken, to the City Manager, the City Council, and the grantees.

d. The Commission shall prepare and submit reports to the Council for use in performance evaluation. Said reports shall contain information concerning the grantee's performance according to the provisions of the franchise; the grantee's rates and services; the number, types, and resolution of complaints from subscribers; and such other matters as the Commission deems warrant the Council's attention; and such recommendations as the Commission wishes to place before the Council. Said reports shall be submitted not less than thirty (30) days before the scheduled performance evaluation. Further, the Chairman of the Commission shall appear during the performance evaluation, and shall present orally the significant findings of the Commission, and shall be prepared to answer the questions of the Council or the grantee.

e. The Commission shall from time to time conduct technical tests, by such methods and procedures as the Commission may devise, to ascertain if the grantee's cable television system meets the standards prescribed in Section 13 of the Franchise Ordinance.

f. Upon instruction of the City Council, the Commission shall examine the books of accounts of any grantee, or such other records as may be required, and shall determine the historical, current, and projected future rates of return on capital investment of the grantee, and the probable effect on such rates of return of any changes in rates charged for services, capital investment, or changes in operations; and shall report the findings to the Council. The methods of examination and analysis shall conform to the generally accepted accounting procedures that are usual and customary in the cable television industry.

g. The commission shall receive complaints and grievances from citizens, whether or not they are cable system subscribers, concerning any matter relating to the operations of any grantee; shall advise the grantee on steps that may be taken to resolve such complaints, and shall report in summary form to the City Council on all complaints or grievances received and their resolution.

SECTION 9. Duties with Regard to Access Channels.

a. In general, it is the duty of the Commission to administer access channels, except those whose administration is vested in another person or agency under the franchise; and to solicit, receive, account for, and budget funds for access operations and program production; and otherwise to promote and provide for the use of the access channels.

b. The Commission shall administer the educational access channels provided under Section 10b(1) of the Franchise as provided herein, unless and until the Laredo educational authorities, have established an instructional television consortium or similar agency for the purpose of administering the educational access channels; in which case the commission shall designate the consortium or similar agency as the administrator of the channels. The Commission shall administer the channels in the following manner:

(i) Each educational authority shall periodically request program transmission time, stating the time period required, the program or programs to be transmitted, the channel desired, and such other information as the Commission may require; such requests to be submitted in writing to the Communications Officer.

(ii) The Communications Officer, subject to the approval of the Commission, shall assign scheduled time periods to each educational authority according to their requests, insofar as there is no conflict or duplication of requested time periods, and shall resolve conflicts or duplications as follows:

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(a) The first showing of a particular program shall take precedence over second and subsequent showings of another program;

(b) Programs in a series shall take precedence over single programs;

(c) Programs intended for use as a part of class room instruction that occurs at a particular time of the day, and for which another time of the day would be unsuitable, shall take precedence over programs that could be usefully transmitted at any time of the day;

(d) Programs that are intended as a part of class room instruction in the ordinary curriculum of a school shall take precedence over programs of a general educational nature.

(iii) The Commission shall adopt such written policies, rules, or procedures as may be necessary to ensure that all educational authorities have equitable use of the educational access channels, and that programs are properly transmitted at their scheduled times.

(iv) Any agreement or commitment between an educational authority and the grantee, or between an educational authority and any other agency of government, concerning the use of an educational access channel during the 1984-1985 school year, shall be binding upon the Commission until June 15, 1985, and shall take precedence over any other use of an educational access channel until that date.

c. The Commission shall administer the public access channels in the following manner:

(i) The Communications Officer shall serve as Access Schedule Coordinator, or shall designate someone to serve in that capacity.

(ii) Any person may request time on an access channel for transmission of any program, by submitting the request in writing, in a form and manner determined by the Commission, setting forth the title, subject matter, and producer or source of the program, declaring that the content and transmission of the program does not violate Section 10h of the Franchise nor any law nor copyright of any person, and stating the preferred time of transmission.

(iii) The access Schedule Coordinator shall establish a schedule of programs, not less than two weeks in advance of each program day, and shall assign a transmission time to each program, according to the users' requests. Conflicts or duplications shall be resolved in the following manner:

(a) The first showing of a program shall take precedence over the second or subsequent showing of another program;

(b) Programs in a series shall take precedence over single programs;

(c) Programs produced by a citizen of Laredo, or by any organization of citizens of Laredo, shall take precedence over any program produced elsewhere;

(d) Programs produced with funds provided by the commission shall take precedence over other programs, all else being equal;

(e) The scheduled transmission time for any program shall not be changed once it has been set by the Access Schedule Coordinator except with the express permission of the user.

(iv) Each user shall deliver his program in a videotape format approved by the Commission, not less than twenty-four (24) hours in advance of the scheduled transmission time, to the Access Schedule Coordinator, who shall determine that the program is in fact the one described in the user's request for time. A failure to deliver the program in a timely manner shall void the time assignment, and the Access Schedule Coordinator shall thereupon substitute another program for the one scheduled.

(v) The Communications Officer shall arrange for the actual transmission of each program at its scheduled time.

(vi) The Commission may ask the Communications Officer to establish and conduct a training program for access users (that is, producers of programs for the access channels) and may establish such written policies, rules, and procedures as may be necessary to provide such training. The City Council may set a fee for such training, in which case the fee shall be no more than the fee that would be charged by the Laredo Community College or by the adult or community education program of the Laredo Independent School District, whichever is less, for courses of similar nature and length. Such fees shall be deposited with the City Finance Department.

(vii) The Commission shall establish written policies, rules and procedures whereby individuals and groups may borrow and use the television production equipment and related property acquired by the City, whether through the funds contributed by the cable television system grantees or from other sources, for the production of programs for access channels. No fee shall be charged for use of such equipment, except for consumable materials or utilities (including recording tape), or damage or loss to the equipment. The Commission may establish rules setting qualifications for borrowers, among which may be residency in the City of Laredo, and completion of one or more of the training courses defined in Section 9c(vi) herein.

(viii) The Commission shall establish written policies, rules, and procedures to publicize and to promote use of access channels, access training programs, and access equipment, and may ask the Communications Officer and his staff to assist the Commission in discharging this duty.

SECTION 10. Budget

a. The Commission may solicit and acquire funds from diverse sources to support its various purposes. The Commission may seek grants from public agencies and private sources, subject to approval of the City Council.

b. On or before the first day of September of each year, the City Communications Officer will prepare a budget pursuant to the City Charter with the advice and recommendation of the Commission and submit such budget to the City Manager.

c. All funds received by the Commission from whatever source shall be transmitted to the City Finance Department. No disbursement shall be made except according to the annual budget as approved by City Council or for the specific purpose specified by the grantor.

d. Funds received from a grantee in accordance with Section 10i of the franchise ordinance shall be designated as "access equipment funds," and shall be used only for acquisition of television production equipment, and related property, for production of programs for public access channels, and for acquisition by purchase, lease, or other means, of facilities for said production, including studios, control rooms, editing rooms, storage and construction rooms, and similar facilities. The City of Laredo shall determine the need for facilities and equipment, and shall prepare a budget for their acquisition, specifications for equipment, and such other documents as may be needed. All purchases shall be made through the City's usual purchasing procedures. All invoices, statements, and claims for payment shall be endorsed by the City Manager and forwarded to the grantee, who shall immediately pay the same out of the access equipment funds.

e. Funds received from a grantee pursuant to Section 15j of the Franchise shall be designated as "Access subsidy" funds, and shall be used only to support the operation of the public access channels and education channels. The management of the access subsidy funds shall be in the following manner:

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(1) The grantee shall pay to the City the access subsidy required under Section 10j of the Franchise and the funds shall be deposited with the City Finance Department.

(2) The use of the access subsidy funds shall be shown separately in the annual budget, and no funds shall be disbursed except with the approval of the City Council.

(3) The access subsidy funds may be used for the following purposes:

(a) To pay any expenses incurred in the operation of the training programs defined in Section 9c(vi) herein, in excess of the income received from training fees;

(b) To pay any reasonable expense incurred to publicize and promote the use of the access channels, access training programs, and access equipment and facilities;

(c) To purchase materials and supplies for the production of access programs;

(d) To pay any reasonable expense incurred to transmit public access programs, except that no expense of the grantee shall be paid;

(e) To award grants to producers of programs for the public access channels, to defray the reasonable expenses they are expected to incur.

(4) Grants for the production of programs for the public access channels shall be made only to residents of Laredo, or to nonprofit organizations composed primarily of residents of Laredo. Any program produced with funds under such grant shall be first shown publicly on a public access channel, and may thereafter be shown on an educational or governmental access channel, or may be disseminated otherwise. However, the recipient of a public access production grant under this Section shall not sell, lease, rent, or otherwise distribute the resulting program at a profit, or in any other manner receive remuneration (except to recover the actual cost of making duplicate copies of the program, and to ship the program). The grants provided under this Section shall not be awarded nor used to produce any program for a commercial interest or purpose, nor to promote or to oppose the nomination or election of any candidate for political office, nor to promote or advocate any particular religious denomination or sect; and all such programs shall comply with Section 10h of the Franchise and all other applicable laws and regulations. The Commission shall establish such other written policies, rules, procedures, and qualifications as may be necessary to carry out the purposes of this Section.

SECTION 11. Meetings

a. The Commission shall meet not less than once each month at such time and place as the Chairman shall designate. Notice of each meeting shall be posted pursuant to the Texas Open Meetings law.

b. The commission shall elect officers at its first meeting and then at its first meeting in January of every year thereafter. First officers may include a chairman, Vice-chairman, and such other officers.

c. A quorum for any meeting shall be four members (not including any ex-officio non-voting member of the Commission).

d. All meetings shall be conducted according to Robert's Rules of Order.

e. The agenda for each meeting shall be established by the Chairman in consultation with the City Communications Officer. Any member of the Commission, voting or non-voting, shall have the right to place any proper item of business on the agenda, by so requesting of the Chairman before notice of the meeting is published.

f. Attendance at regular and special called meetings of the Commission is mandatory. Any member who knows in advance that he will be unable to attend a meeting shall so notify the Chairman. Any member who is absent without prior notice shall notify the Chairman at the earliest possible time of the reason or the absence. The Commission shall determine the reasonableness and acceptability of any absence, and shall excuse any absence it considers unavoidable or reasonable.

g. The agenda for each regular meeting shall include Citizen Communications, and at the time reserved for this purpose any person may come before the Commission. The Chairman may limit the time allotted to each speaker, but not less than three minutes per speaker, and not in a manner that discriminates against any person.

h. A member may be removed from office before the end of his term by action of the City Council for any good cause, and in particular for any of the following causes:

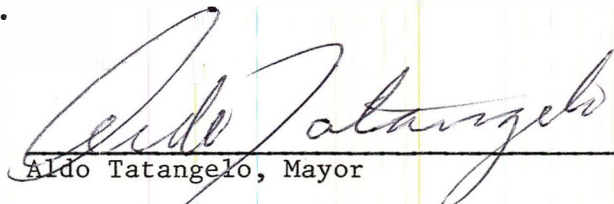
(i) Failure to attend three or more regularly scheduled meetings of the Commission, without giving notice in advance of his intended absence (except when an emergency arises that makes the giving of notice impracticable), and without having an adequate excuse acceptable to the commission.

(ii) Having a vested interest in a grantee, whether or not such interest existed at the time of appointment, or having any other conflict of interests such as to render his service on the Commission illegal or improper;


(iii) Failure to attend properly to the duties of the Commission, to comply with the provisions of this ordinance.

If a member is removed from office, the office shall be filled in the manner provided above.

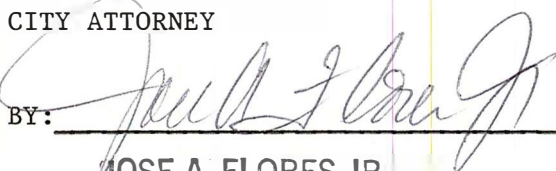
PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE 27th DAY OF September, 1984.


Aldo Tatangelo, Mayor

ATTEST:


Hortencia C. Gonzalez
City Secretary

APPROVED AS TO FORM:
EUSTORGIO PEREZ
CITY ATTORNEY

BY: 
JOSE A. FLORES JR.
Assistant City Attorney

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