

CHAPTER 90

FRANCHISES

Garbage Collection and Disposal

- 90.010 Purpose and authority.
- 90.020 Definitions.
- 90.030 Commingling garbage and rubbish.
- 90.035 Exclusive right to collect garbage.
- 90.037 Subscription to use of garbage service.
- 90.040 Right to collect.
- 90.050 Rates.
- 90.060 Establishing residential rates.
- 90.070 Commercial rates.
- 90.080 Rates for new areas.
- 90.090 Collection procedures.
- 90.100 Unlawful accumulations.
- 90.110 Unlawful dumping.
- 90.120 Franchise agreement.

Television Installation Systems

- 90.160 Purpose and authority.
- 90.165 Definitions.
- 90.170 Application for franchises: Contents.
- 90.175 Granting of franchise; procedure.
- 90.180 Terms and conditions of franchise: Period of franchise; renewal.
- 90.185 Expansion of existing franchise or granting new franchise for areas not covered by any franchise.
- 90.186 Expansion of existing franchise or granting of new franchise for areas covered by an existing franchise.
- 90.190 Terms and conditions of franchise: Sale, renting, repairing radios, television sets prohibited.
- 90.200 Terms and conditions of franchise: Written agreement.
- 90.205 Franchise fees.
- 90.210 Terms and conditions of franchise: Bond.
- 90.220 Terms and conditions of franchise: Compliance with laws, regulations; payment of cost of repairs; insurance.
- 90.230 Terms and conditions of franchise: Removal, relocation of facilities.
- 90.240 Terms and conditions of franchise: Notice of sale, transfer, assignment, lease.

- 90.250 Terms and conditions of franchise: Written agreement.
- 90.260 Forfeiture.
- 90.265 Complaints; reports and procedures for hearing, billings, adjustments.
- 90.270 Applicability, compliance with applicable laws and requirements.

Regulation of Cable Television
Basic Service Rates and Charges

- 90.271 Purpose and authority.
- 90.272 Regulation of basic service rates and charges.

Ambulance Service

- 90.280 Purpose and authority; Incline Village area described.
- 90.290 Terms and conditions of franchise.
- 90.300 Terms and conditions of franchise: Exclusive franchise.
- 90.310 Terms and conditions of franchise: Franchise agreement.
- 90.320 Terms and conditions of franchise: Period of franchise.
- 90.330 Terms and conditions of franchise: Renewal.
- 90.340 Terms and conditions of franchise: Paramedic ambulance service to be furnished; ambulance specifications; staffing.
- 90.350 Terms and conditions of franchise: Response to emergency calls; time limit.
- 90.360 Terms and conditions of franchise: Maximum response time to emergency calls.
- 90.370 Terms and conditions of franchise: Operation of ambulance outside Incline village area limited.
- 90.380 Terms and conditions of franchise: County to be held harmless.
- 90.390 Terms and conditions of franchise: Free ambulance service to Washoe County.
- 90.400 Terms and conditions of franchise: Fees for services; adjustment of fees.
- 90.410 Terms and conditions of franchise: Use of county gasoline supplies; reimbursement of county.
- 90.420 Terms and conditions of franchise: Notice to North Lake Tahoe Fire Protection District when responding to emergency calls.
- 90.430 Terms and conditions of franchise: Review by district health department of ambulance companies providing backup service.
- 90.440 Orders to comply; termination of franchise.

90.450 Review, revision of code provisions by county commissioners; time limit for reviewing fee increases, decreases.

Video Service Providers

90.475 Title: Video Service Providers Ordinance
90.476 Purpose and Authority.
90.477 Applicability.
90.478 Definitions.
90.479 Certificate of Authority Required.
90.480 Provider of Telecommunication Services or Interactive Computer Services.
90.481 Public Information.
90.482 Business License Required.
90.483 Franchise Fee.
90.484 Audit of Records.
90.485 Non-Discriminatory Management of County Rights-of-Way and Streets.
90.486 Installation of Facilities in accordance with ADA.
90.487 Rights-of-Way and Facilities Installation.
90.488 Security For Performance.
90.489 Insurance.
90.490 Indemnification.

Public Utility Franchises Granted Under Chapter 709 of NRS

Garbage Collection and Disposal

90.010 Purpose and authority. Pursuant to the power granted the board of county commissioners by NRS 244.187, a franchise for the right and privilege of operating a garbage collection and disposal service in any unincorporated area or district of Washoe County as may be designated by the board of county commissioners is hereby created.

['1, Ord. No. 135]

90.020 Definitions. As used in sections 90.030 to 90.120, the following words and terms shall have the meaning ascribed to them in this section:

1. "Garbage" means putrescible animal and vegetable waste resulting from the handling, storage, preparation, cooking, and sale

and serving of food and beverage. This includes, but is not limited to:

(a) Offal, swill, kitchen and table waste, and other organic animal and vegetable waste;

(b) Bottles, cans, cups, plates, utensils, containers, or any covering of any construction or material that has been in intimate contact with food, confection, or beverage;

(c) Any component used in the preparation or manufacture of matter intended for animal or human consumption; and

(d) Such matter or materials listed in (a) through (c) above that have been discarded without first being sanitized.

2. "Rubbish" means and includes nonputrescible solid waste, exclusive of those unsanitized materials that have been in contact with garbage. These wastes include, but are not limited to, ashes, paper, cardboard, wood, glass, crockery or plastics.

3. "Waste matter" means and includes unwanted or discarded materials resulting from any activity.

4. "District board of health" means the district board of health of the Washoe County health district created pursuant to chapter 439 of the Nevada Revised Statutes by the interlocal agreement of the City of Reno, City of Sparks and the County of Washoe.

5. "District health officer" means the person appointed by the district board of health of the Washoe County health district who is responsible for the enforcement of state and local health, sanitation and nuisance laws and the enforcement of regulations as approved by the Washoe County district board of health, created pursuant to NRS 429 and the interlocal agreement of the City of Reno, City of Sparks and Washoe County, Nevada, and his designated or authorized representatives.

['2, Ord. No. 135; A Ord. No. 559]

90.030 Commingling garbage and rubbish.

1. The mixing, addition, or commingling of garbage with rubbish, trash, or other waste matter exclusive of Group 1 wastes (as defined by Washoe County district health department, regulations governing solid waste management), renders the entire resulting mixture as garbage and requires the mixture to be handled as garbage.

2. The district board of health may, upon specific request, authorize in writing resource recovery from the waste stream, if the materials and garbage to be reclaimed:

(a) Are separated, processed, and stored in a manner that creates no health risk, health hazard, or health nuisance.

(b) The specifically approved recovery method meets all other requirements contained in this regulation.

[Part '3, Ord. No. 135; A Ord. No. 559]

90.035 Exclusive right to collect garbage.

1. Except as provided in subsection 2, the county, its duly authorized agents, servants, employees or contractees, or the agents or employees of any of those contractees, have the exclusive right to gather, collect and haul garbage within that part of the unincorporated area in which garbage is currently being gathered, collected and hauled and as that area may be expanded or contracted from time to time.

2. The right established pursuant to subsection 1 does not apply to the gathering, collection and hauling of garbage within a general improvement district which is authorized to provide that service unless the board of trustees of the district has contracted with the county to gather, collect and haul garbage on behalf of the district and within the district's boundaries.

['2, Ord. No. 838]

90.037 Subscription to use of garbage service.

1. Every owner of real property who accumulates or causes the accumulation of garbage as defined in this chapter upon any premises in the area described in section 90.035 must subscribe to the collection, hauling and disposal of garbage pursuant to the provisions of this chapter, unless such person qualifies for an exemption pursuant to this section.

2. For purposes of determining whether garbage service must be subscribed, it is presumed that every single-family dwelling, any building containing rooms for sleeping and overnight accommodations, every building or dwelling unit with a kitchen facility, and every business which permits food and drink to be sold, served or consumed upon the premises is accumulating or causing the accumulation of garbage upon the premises. Any owner or occupant of dwelling units or business establishments desiring to be exempt from garbage service because garbage is not being accumulated upon the premises must have the written approval of the district health officer, which approval shall not be granted except upon the showing that garbage, as defined by this chapter, is not being accumulated upon the premises.

3. An owner or occupant of a residential dwelling unit may also receive an exemption from garbage service if he desires to haul and dispose of his own residential garbage or because an easily recognizable condition exists on the property that presents a significant hardship to the resident of the property or to the franchised collector in the normal process of curbside collection of garbage. Any owner or occupant wishing to be exempt from residential garbage service under these circumstances must obtain an exemption permit issued by the district health officer. Upon the issuance and acceptance of the exemption permit, the owner or occupant agrees to comply with all conditions, statutes, laws, codes and regulations applicable to storage, recycling, hauling and

disposal of garbage, including the following:

(a) Garbage must be stored properly so as not to cause a health hazard, attract or propagate vectors, vermin, or pests, create unpleasant odors, or create a nuisance.

(b) Garbage must be hauled to an approved disposal site not less than every 7 calendar days.

(c) Precautions are to be taken to prevent littering and nuisances at the loading point during transport and at the disposal site. This includes the requirement that the waste and the vehicle be tightly covered during transport to the disposal site.

(d) Upon approval of the exemption application, the individual may only haul his own residential waste matter and must not provide garbage service to any other person.

['3, Ord. No. 838; A Ord. No. 848]

90.040 Right to collect. The authorized franchise holder shall be entitled to charge and collect a just and reasonable rate from all subscribers to the services rendered by the franchise holder in collecting and disposing of garbage and rubbish under its franchise agreement.

[Part '3, Ord. No. 135; A Ord. No. 559]

90.050 Rates.

1. The authorized franchise holder is entitled to charge its subscribers the rates set forth in a written franchise agreement, as those rates may be subsequently amended by action of the board of county commissioners of Washoe County.

2. The areas for which a rate has been established are delineated on a map on file in the office of the Washoe County clerk.

[Part '4, Ord. No. 135; A Ord. No. 559; Rev. Code Supp. No. 1]

90.060 Establishing residential rates.

1. For residential services, the franchise holder shall be entitled to collect a garbage collection fee based upon the following criteria:

(a) The charge for collection of garbage for residential areas shall be on a weekly basis and shall include one "designated container." A "designated container" shall be a container with a maximum capacity of 32 gallons which does not exceed 75 pounds in weight, or be a container approved by the franchise holder.

(b) When requested, the franchise holder shall provide more frequent collections on a regular basis, and the rate for such additional collections shall be agreed to in the same manner as commercial rates.

(c) The residential rate charged by the franchise holder shall require that the designated container be placed behind the curb or on the edge of the alley by 7:00 a.m., on the regular collection day.

The franchise holder shall be entitled to collect an additional charge for any additional containers of garbage, rubbish or waste matter which would be in addition to the regular residential service.

(d) All multiple dwelling buildings, including, but not limited to, duplexes, apartments, condominiums, cooperatives, mobile homes and trailer parks, and any other buildings or businesses containing multiple dwelling units which buildings are not a single-family dwelling, shall be charged the residential rate for each dwelling unit, and an additional charge for each dwelling unit requesting additional containers or services; provided, however, an owner of a multiple dwelling building or business, by using Dumpsters or equivalent containers, may make application to the franchise holder to be charged in accordance with the rates for business establishments.

(e) There shall be a 20 percent reduction in the residential rate for those persons who have been found eligible for a discount or refund by the Washoe County assessor under the provisions of NRS 361.800 to 361.877, inclusive, and commonly referred to as the "Senior Citizens' Property Tax Assistance Act." Any such person shall be entitled to the reduced rate by making written application to the franchise holder and submitting written proof of the finding of eligibility by the Washoe County assessor.

[Part '4, Ord. No. 135; A Ord. Nos. 559, 838, 848]

90.070 Commercial rates.

1. For commercial service, the franchise holder shall be entitled to collect a garbage collection fee based upon the following:

(a) Commercial accounts in the entire franchise area shall be serviced at a rate to be negotiated between the franchise holder and the commercial user. In the event the rate cannot be so determined, the Washoe County manager shall establish the rate after consultation with both parties.

(b) Commercial rates shall apply to each business establishment, public building or place, and buildings of a commercial nature containing dwelling units or living accommodations of a temporary or transient nature, including, but not limited to motels, hotels, boarding houses and rooming houses.

[Part '4, Ord. No. 135; A Ord. No. 559]

90.080 Rates for new areas. Garbage collection and disposal services for those areas of Washoe County for which a rate has not been established shall not be provided by the franchise holder. For new areas where the franchise holder is required or requested to provide collection and disposal services, the board of county commissioners of Washoe County shall establish a rate and require the franchise holder to provide the service.

[Part '4, Ord. No. 135; A Ord. No. 559]

90.090 Collection procedures. The franchise holder shall be entitled to adopt and enforce the following billing procedures:

1. Billing for residential service shall be in advance for the charges allowed by this code on a quarterly basis, and such charges shall be due and payable on the first day of each billing period. Franchisee is authorized to establish procedures for collecting delinquent accounts, including the right to collect security deposits.

2. Any owner or occupant of a residential dwelling unit who has obtained an exemption permit from the district health officer allowing that individual to haul and dispose of his own residential waste matter shall still be billed on a quarterly basis. Such owner or occupant, however, shall not be required to pay the amount billed if he submits to the franchise holder receipts or other proof showing that he has disposed of his garbage at an approved disposal site for each week within the previous quarter. Failure to show such proof of compliance shall result in the entire bill being due and payable and may result in revocation of the exemption by the district health officer.

3. The franchise holder shall bill for commercial service in advance on a monthly basis, and such charges shall be due and payable on the first day of each billing period. The bill or charge for commercial service shall be delinquent if not fully paid on the last day of each monthly period.

[Part '4, Ord. No. 135; A Ord. Nos. 559, 848]

90.100 Unlawful accumulations. It is unlawful for any person owning or occupying any building, lot or premises in Washoe County to suffer, allow or permit to collect and remain upon any lot or premises, any garbage, rubbish, or waste matter. In any area of the county where a rate has been established, the district health officer, upon application of either the franchise holder or any owner requesting service, shall have the power and authority to determine whether the service requested by an individual or business establishment is adequate to prevent the unlawful accumulation of garbage or to prevent a health hazard or nuisance.

[Part '4, Ord. No. 135; A Ord. No. 559]

90.110 Unlawful dumping. It shall be unlawful for any person to dump, spill, throw, place or bury in any parcel of land, lot, street, highway, gutter, or in any alley, or in any water or stream or in any canal or ditch within the limits of Washoe County, any garbage, rubbish, or waste matter, or any deleterious or offensive substances.

[Part '4, Ord. No. 135; A Ord. No. 559]

90.120 Franchise agreement. The board of county commissioners of Washoe County shall enter into a written franchise agreement setting forth additional terms and conditions of the exclusive garbage franchise, which terms and conditions shall not be in conflict with the provisions of the county code.

[Part '4, Ord. No. 135; A Ord. No. 559]

Television Installation Systems

90.160 Purpose and authority. Pursuant to the power granted the board of county commissioners by chapter 711 of NRS, as restricted by the 98th Congress of the United States in Public Law 98-549, nonexclusive franchises are hereby created for the purpose of operating a cable television system and the right and privilege to use county property or that portion of the county dedicated for public use for the purpose of installing and maintaining cables, wires, poles or any other underground or overhead devices for the transmission of television signals in any area of Washoe County which may be designated for such cable television systems by the board of county commissioners.

No person shall operate a cable television system which requires the use of county property or that portion of the county dedicated for public use within the unincorporated areas of Washoe County without having first secured a franchise.

['1, Ord. No. 242; A Ord. No. 711]

90.165 Definitions. As used in sections 90.170 to 90.270, inclusive, of this ordinance, the following words and terms shall have the meanings ascribed to them in this section.

1. "Board" means the board of county commissioners of Washoe County.

2. "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 which includes video programming and which is provided to multiple subscribers within the unincorporated areas of Washoe County. Such term does not include:

(a) A facility that serves only to retransmit the television signals of one or more television broadcast stations;

(b) A facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way;

(c) A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of Federal Cable Communications Policy Act of 1984, except that such facility shall be considered

a cable system to the extent such facility is used in the transmission of video programming directly to subscribers; or

(d) Any facilities of any electric utility used solely for operating its electric utility systems.

3. "Franchise" means a combination of the authorization to operate a cable television system issued by the State of Nevada and authorization to use public rights-of-way issued by the county prior to January 1, 1987. Subsequent to January 1, 1987, "franchise" shall mean the authorization issued by the county to install and operate a cable television system within the unincorporated areas of Washoe County.

['2, Ord. No. 711]

90.170 Application for franchises: Contents.

1. Any person desiring a franchise shall submit an application in writing to the county manager. The application shall state generally:

(a) The applicant's background, business references and financial statement for the last 2 years;

(b) The names of the principals and key personnel and whether they have been charged with any crime involving dishonesty or moral turpitude and, if so, the results of such charges;

(c) The applicant's experience with cable television including, without limitation, whether it has had other franchises revoked or sanctions or penalties imposed, and whether it has been involved in litigation concerning such franchise;

(d) The proposed rates to be charged subscribers;

(e) Estimates of costs for installation service;

(f) The number and description of television channels the applicant will provide immediately after the service is in operation and the channels contemplated for the future; and

(g) All other pertinent information concerning the physical location of cables, wire, poles and other equipment, including without limitation their relationship to public property or rights-of-way.

2. The application must set forth the geographical area in Washoe County for which the franchise is sought and must have attached thereto a map or plat which clearly depicts that geographical area. It shall also include a timetable for provision of service.

3. After an application is received, the county manager or his designee may demand that the applicant submit any additional relevant information necessary to determine whether the applicant will satisfy all the requirements of sections 90.165 to 90.265, inclusive, of this ordinance. An application is deemed submitted and the time requirements for notices and hearings start upon receipt of all required information.

['2, Ord. No. 242; A Ord. Nos. 711, 764]

90.175 Granting of franchise; procedure.

1. After an application is received, the county manager or his designee shall conduct an investigation of the applicant and the feasibility of its proposal.

2. After the investigation is completed the county manager shall schedule a public hearing on the application at the next convenient regularly-held meeting of the board of county commissioners or at a special meeting. The hearing must be noticed in accordance with Nevada's Open Meeting Law, and, additionally, by publication of one notice in a newspaper of general circulation which serves the area of the county to be included in the proposed franchise.

3. At the time of the hearing, the board of county commissioners shall consider all relevant evidence and hear comments from the public. The board may refuse to grant a franchise if it finds that the applicant has not ensured that:

(a) The safety, functioning and appearance of the property and the convenience and safety of other persons will not be adversely affected by the installation or construction of facilities necessary for the system.

(b) The cost of the installation, construction, operation or removal of the facilities will be borne by the applicant or subscribers, or a combination of both.

(c) The owners of any property affected by the installation, operation, maintenance or removal of the system will be justly compensated for any damages caused by the installation, operation, maintenance or removal of the system.

(d) Access to cable service will not be denied to any group of potential residential cable subscribers based upon the income level of the residents of the local area in which such group resides.

(e) The applicant will be able to provide adequate service to the potential subscribers.

4. The terms of the franchise must be set forth in a written franchise agreement which shall contain such provisions and conditions which are deemed reasonable and necessary to insure quality service and compliance with all applicable laws, rules and regulations.

['3, Ord. No. 711]

90.180 Terms and conditions of franchise: Period of franchise; renewal.

1. A franchise granted pursuant to section 90.175 is a franchise for the maintenance and operation of a cable television system within the county, on property of the county or that portion of the county dedicated to public use, for a period of up to 15 years after the date the franchise becomes effective.

2. During the 6-month period which begins with the 36th month

before any franchise expiration, the board may on its own initiative, and shall at the request of the franchisee, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of:

(a) Identifying the future cable-related community needs and interests; and

(b) Reviewing the performance of the franchisee under the franchise during the then current franchise term.

3. Upon completion of a proceeding under subsection 3, a franchisee seeking renewal of a franchise may, on its own initiative or at the request of the board, submit a proposal for renewal. Subject to federal law, any such proposal shall contain such material as the board may require, including proposals for an upgrade of the cable system. The board may establish a date by which such proposal shall be submitted.

4. Upon submittal by a franchisee of a proposal to the board for the renewal of a franchise, the board shall provide prompt public notice of such proposal and, during the 4-month period which begins on the completion of any proceedings under subsection 3 renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the franchisee or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with subsection 6 to consider whether:

(a) The franchisee has substantially complied with the material terms of the existing franchise and with applicable law;

(b) The quality of the franchisee's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

(c) The franchisee has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the franchisee's proposal; and

(d) The franchisee's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

5. In any proceeding under subsection 5, the franchisee shall be afforded adequate notice and the franchisee and the board, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection 3, to require the production of evidence, and to question witnesses). A transcript shall be made of any such proceeding.

6. At the completion of a proceeding under subsection 6, the board shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy

of such decision to the franchisee. Such decision shall state the reasons therefor.

7. Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subsection 5, pursuant to the record of the proceeding thereunder. The board may not base a denial of renewal on a failure to substantially comply with the material terms of the franchise under subsection 5(a) or on events considered under subsection 5(b) in any case in which a violation of the franchise or the events considered under subsection 5(b) occur after December 29, 1984 unless the board has provided the franchisee with notice and the opportunity to cure, or in any case in which it is documented that the board has waived its right to object, or has effectively acquiesced.

8. Any franchisee whose proposal for renewal has been denied by a final decision of the board made pursuant to this section, or has been adversely affected by a failure of the board to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of Section 635 of the Cable Communications Policy Act of 1984.

9. For purposes of this section, the term "franchise expiration" means the date of the expiration of the term of a franchise granted by the county subsequent to July 1, 1985.

10. Notwithstanding the provisions of subsections 3 through 10 of this section, a franchisee may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and the board may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections 3 through 10 of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections 3 through 10.

[Part '3, Ord. No. 242; A Ord. No. 711]

90.185 Expansion of existing franchise or granting new franchise for areas not covered by any franchise. Application for expansion of existing franchise or for a new franchise for areas not covered by any franchise shall be made as follows:

1. Any company desiring to provide service to an area not previously covered by a franchise agreement shall submit an application to the county manager. The application shall contain all relevant details required by section 90.170 which have not been previously submitted.

2. The county manager shall inform all existing franchisees within the county and any other company which has previously made a written request for notice of such application that the application

has been made and that the county manager will receive other proposals within 30 days after sending of the notice.

3. At the time of submission of a proposal, the applicant shall provide proof that each potential subscriber has been notified that an application has been made and that copies of the application are available for inspection and copying at its business office or at a location within 30 miles of the area sought to be franchised during regular business hours from 8:00 a.m. to 5:00 p.m.

4. The board will schedule a public hearing to be held within 60 days after submission of a completed application. Public testimony on the various proposals will be received and considered at the hearing.

5. Within a reasonable time after the hearing, the board may grant one or more franchises for the previously unfranchised area. If the franchise is granted to an existing franchisee, the boundaries of the existing franchise will be automatically expanded and the newly franchised area shall become part of the existing franchise subject to any amendments which may be made to the existing franchise agreement.

['4, Ord. No. 711; A Ord. No. 764]

90.186 Expansion of existing franchise or granting of new franchise for areas covered by an existing franchise. In keeping with the goals of the Federal Cable Communications Policy Act of 1984 to foster competition among cable companies and to protect the best interests of the residents of Washoe County, a new franchise or an expansion of an existing franchise may be granted for areas which are presently included within a franchise area. An application for such a franchise must be made as follows:

1. An applicant who does not have an existing county franchise shall comply with the requirements for application described in section 90.170 in addition to the requirements of this section.

2. All applicants shall submit an application to the county manager describing the area sought to be covered, the service presently provided to that area, and the details of his proposed service in comparison to the service which is or will be provided to that area by the existing franchisee. The details must include, without limitation, channels offered, rates to be charged, and capacity of the area to physically accommodate more than one system.

3. The county manager shall provide notice to existing franchisees within the county, and to any other company who has previously made a written request to the county manager to be provided notice, that an application has been made and that written comments may be submitted to the county manager within 14 days after receipt of the notice.

4. A public hearing before the board of county commissioners shall be scheduled not less than 30 nor more than 60 days after receipt

by the county manager of a complete application. The applicant and other persons noticed under subsection 3 of this section shall be informed of the time and place of the hearing.

5. At the hearing the board of county commissioners shall hear comments from the public and other interested persons concerning the applicant's proposal. The board may refuse to grant a new franchise or an extension of an existing franchise to cover the previously franchised areas if it finds that the applicant is not capable of providing quality service, that the area will not physically accommodate multiple systems without undue disruption to the streets and rights-of-way or to private property, that the applicant has misrepresented a material fact, or on any other lawful grounds.

6. Any franchise which entitles the franchisee to serve any area then covered by a preexisting franchise may include any or all of the burdens imposed on the holder of the preexisting franchise.

['2, Ord. No. 764]

90.190 Terms and conditions of franchise: Sale, renting, repairing radios, television sets prohibited. A franchise shall not be granted to any person in the county engaging in the business of selling, renting or repairing radios and television sets, and if the person securing a franchise at any time during the life of such franchise enters into any such business, the franchise shall be forfeited.

[Part '3, Ord. No. 242]

90.200 Terms and conditions of franchise: Written agreement. The franchises granted pursuant to sections 90.160 to 90.270, inclusive, shall not become effective until a written agreement for each franchise granted is entered into by the successful applicant and the county in conformity with the terms of sections 90.160 to 90.270, inclusive.

[Part '3, Ord. No. 242]

90.205 Franchise fees.

1. For the privilege of the franchise, the franchisee shall pay to the county an annual fee in an amount to be set by the board on an annual basis not to exceed 5 percent, or the maximum amount allowed by federal or state law, of its monthly recurring programming service charges subject to applicable deductions under NRS 711.200.

2. The franchisee may pay in quarterly installments or may elect to pay in advance, in which case the initial payment must be based on a good-faith estimate with necessary adjustments to be made at the end of each quarter. All payments, whether made quarterly or paid in advance and adjusted at the end of a quarter, are due 30 days after the end of a quarter.

3. The fee requirements under this section shall apply to new

franchises granted or existing franchises which are renewed after the effective date of this ordinance.

['5, Ord. No. 711]

90.210 Terms and conditions of franchise: Bond.

1. A person securing a franchise shall file a bond running to Washoe County in the penal sum of \$10,000, conditioned that:

(a) Such person shall well and truly observe, fulfill and perform every term and condition of the franchise; and

(b) In case of any breach of condition of the bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages and shall be recoverable from the principal and sureties on the bond.

2. The bond shall be approved by the district attorney and shall be filed with the county clerk within 10 days after the date of granting of a franchise. In case the bond is not so filed or is not approved by the district attorney, the franchise shall be forfeited.

[Part '3, Ord. No. 242]

90.220 Terms and conditions of franchise: Compliance with laws, regulations; payment of cost of repairs; insurance.

1. Every person securing a franchise shall:

(a) Construct, install and maintain or cause to be constructed and maintained all lines, wires, cables and appurtenances in accordance with and in conformity with all of the ordinances, rules and regulations heretofore or hereafter adopted by the board of county commissioners in the exercise of its police powers and in accordance with the general laws of the State of Nevada relating to the location and maintenance of such facilities.

(b) Pay to Washoe County, on demand, the reasonable cost of all repairs to public property made necessary by any operations under the franchise.

(c) At its sole expense, defend any claims and indemnify and hold harmless Washoe County, the board of county commissioners and the employees of Washoe County from any and all liability for damages proximately resulting from any operations under the franchise.

(d) Maintain in full force and effect throughout the term of the franchise the following insurance in a form and with insurer(s) satisfactory to the county:

(1) Workmen's compensation insurance in compliance with the laws of the State of Nevada;

(2) Bodily injury liability insurance with limits of \$500,000 each person, and \$1,000,000 each occurrence; and

(3) Property damage liability insurance with limits of \$100,000 each occurrence.

(e) The county must be named as an additional insured on each policy of insurance set forth in subparagraphs (2) and (3) of

paragraph (d).

[Part '3, Ord. No. 242; A Ord. No. 711]

90.230 Terms and conditions of franchise: Removal, relocation of facilities. The person securing each franchise shall remove or relocate, without expense to Washoe County, any facilities installed, used or maintained under the franchise if and when made necessary by any lawful change of grades, alignments or width of any public street, way, alley or place.

[Part '3, Ord. No. 242]

90.240 Terms and conditions of franchise: Notice of sale, transfer, assignment, lease. The person receiving each franchise shall, 30 days before the transaction is to become effective, file with the county clerk written notice of any contemplated sale, transfer, assignment or lease of the franchise or any part thereof, or of any of the rights or privileges granted thereby. No such sale, transfer, assignment or lease of the franchise, or any part thereof, shall be effective until first approved by the board of county commissioners.

[Part '3, Ord. No. 242]

90.250 Terms and conditions of franchise: Written agreement. Within 20 days after the granting of a franchise, the county and the person securing the franchise shall enter into a written agreement in conformity with the terms of sections 90.160 to 90.270, inclusive.

[Part '3, Ord. No. 242]

90.260 Forfeiture. If any person securing a franchise fails, neglects or refuses to comply with any of the provisions or conditions of sections 90.160 to 90.270, inclusive, and does not within 10 days after written demand for compliance begin the work of compliance, or after such beginning does not prosecute the work of compliance with due diligence to completion, then the board of county commissioners may declare such franchise forfeited.

[Part '3, Ord. No. 242]

90.265 Complaints; reports and procedures for hearing, billings, adjustments. Each franchise shall contain a procedure for hearing and resolution of subscriber complaints. Every monthly billing statement will contain a statement that the subscriber has a right to submit unresolved complaints to the county manager or his designee.

1. The franchisee shall submit a monthly report to the county manager describing in general categories the types and numbers of complaints received from subscribers. If requested by the county manager or his designee, the franchisee will supply names and

addresses of the complainants.

2. The complaints will be listed in two categories:

- (a) Those involving reception or service; and
- (b) Others such as billing disputes.

3. The report shall state which complaints were resolved and how and when they were resolved.

4. Complaints involving reception or service will be resolved within 24 hours of receipt. Complaints involving other matters will be resolved within 30 days or before the next billing cycle.

5. Complaints which were not resolved will be submitted to the county manager or his designee in the following basic format:

(a) The complainant will submit a written statement to the county manager or his designee with a copy to the franchisee containing pertinent details and supporting documents.

(b) The franchisee will submit a response thereto to the county manager or his designee with a copy to the complainant within 10 days of receipt of the complaint.

(c) The county manager will review the statements and, if deemed necessary, schedule a hearing with the parties.

(d) After hearing the matter, the county manager or his designee may impose a penalty upon the franchisee of not more than \$200 for each complaint. The county manager or his designee may apply the penalty in whole or in part to satisfy damages suffered by the complainant.

6. The fact that a penalty was or was not imposed does not affect any claim for damages which may be asserted in a legal action between the franchisee and the complainant.

7. Each franchise agreement will contain provisions allowing reduction of bills for periods of service failure.

['6, Ord. No. 711]

90.270 Applicability, compliance with applicable laws and requirements.

1. Prior to July 1, 1985, the county issued franchises in the form of rights-of-way. The regulatory power and the authorization to operate cable television systems was vested in the Nevada public service commission.

2. In Public Law 98-549, known as the Cable Communications Policy Act of 1984, the United States Congress began the process of deregulation of cable television systems by states and local governments. By amendment to chapter 711 of NRS effective July 1, 1985, the Nevada public service commission was removed from the field of cable television regulation and the regulatory responsibility was shifted to counties and cities. The effect of such legislation was not immediate, and a number of existing laws and regulations were left in effect for varying periods of time. To the extent that such laws and regulations allow, the state laws and public service

commission rules and regulations in effect on July 1, 1985 shall be applicable to any franchise granted under the provisions of sections 90.160 to 90.265, inclusive, unless otherwise made inapplicable by express reference or reasonable inference from the provisions of sections 90.160 to 90.265, inclusive.

3. A franchise issued by the county prior to July 1, 1985 and any extensions thereof allowing the use of public property for the installation of cable television facilities will remain effective for the term of such franchise to the extent of the authority granted by such franchise. Provided, however, that in order to continue operation of an existing system such franchisees shall be required to secure a new or supplemental franchise subject to the provisions of sections 90.160 to 90.265, inclusive.

['4, Ord. No. 242; A Ord. No. 711]

Regulation of Cable Television
Basic Service Rates and Charges

90.271 Purpose and authority.

1. On October 5, 1992, the United States Congress enacted the Cable Television Consumer Protection and Competition Act of 1992 which, among other things, provided that the basic service tier rates, and the charges for related equipment, installation and services, of a cable television system shall be subject to regulation by a franchising authority in accordance with regulations prescribed by the Federal Communications Commission (FCC). The FCC prescribed such regulations on April 1, 1993, in the Report and Order, In the Matter of Implementation of Sections of Cable Television Consumer Protection and Competition Act of 1992: Rate Regulation, MM Docket 92-266, FCC 93-177 (released May 3, 1993, referred to herein as the "FCC Rate Regulations").

2. The County of Washoe desires to regulate the Basic Service Rates and Charges for companies holding franchises issued by the county to operate cable television systems in Washoe County; and the county shall do so in accordance with the FCC Rate Regulations, notwithstanding any different or inconsistent provisions in any franchises granted by the county or as otherwise provided herein.

['2, Ord. No. 898]

90.272 Regulation of basic service rates and charges.

1. The county will follow the FCC Rate Regulations in its regulation of the Basic Service Rates and Charges of every cable television system operating in the county, notwithstanding any different or inconsistent provisions in a franchise.

2. In connection with such regulation, as set forth in subsection 1 above, the county will ensure a reasonable opportunity for

consideration of the views of interested parties.

3. The county manager, or his designee, is authorized to execute on behalf of the county and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the county to regulate Basic Service Rates and Charges.

['3, Ord. No. 898]

Ambulance Service

90.280 Purpose and authority; Incline Village area described. Pursuant to NRS 244.187, the board of county commissioners hereby creates an exclusive franchise to operate an ambulance service to pick up patients in all that portion of the county, as constituted on April 21, 1973, beginning at the northwest corner of Carson City and running easterly along the northern boundary of Carson City to its intersection with the watershed between Lake Tahoe and Washoe Lake and Steamboat Creek, which is the summit of the Carson Range; thence northerly along the summit of the Carson Range to a point where the summit intersects the line common to T. 17 N. and T. 18 N., M.D.B.&M.; thence due west along that line to the Nevada-California state line; thence south along the California state line to the place of beginning; referred to in sections 90.280 to 90.450, inclusive, as the Incline Village area.

['1, Ord. No. 453]

90.290 Terms and conditions of franchise. The franchise created pursuant to section 90.280 shall be granted on the terms and conditions contained in sections 90.300 to 90.430, inclusive.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.300 Terms and conditions of franchise: Exclusive franchise. The franchise shall be an exclusive franchise granted to the franchisee to furnish ambulance service in the Incline Village area.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.310 Terms and conditions of franchise: Franchise agreement. The franchise shall commence upon execution of a franchise agreement between the board of county commissioners and the franchisee.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.320 Terms and conditions of franchise: Period of franchise. Unless the franchise is sooner terminated for the reasons set forth in section 90.440, it shall continue in force and effect for 2 years from the date of its execution.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.330 Terms and conditions of franchise: Renewal. The franchise may be renewed for not to exceed three 2-year terms at the option of the franchisee and upon approval of the board of county commissioners. In determining whether to renew the franchise, the board of county commissioners shall consult with and consider the recommendations of the Incline Village emergency medical services committee regarding the franchisee's performance during the previous 2 years.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.340 Terms and conditions of franchise: Paramedic ambulance service to be furnished; ambulance specifications; staffing. The franchisee shall furnish paramedic (advance life support) ambulance service in the Incline Village area 24 hours a day 7 days per week during the term of the franchise. The ambulance used by the franchisee shall be equipped with 4-wheel drive for use during inclement weather, shall be of modular design (either Type I or Type III), and shall be staffed by not less than one paramedic and one emergency medical technician (EMT) at all times.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.350 Terms and conditions of franchise: Response to emergency calls; time limit. When the destination of an emergency call is known, the franchisee shall not exceed 2 minutes elapsed time from receipt of the call to the time that its ambulance leaves the station to respond to the call.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.360 Terms and conditions of franchise: Maximum response time to emergency calls. The maximum response time of the franchisee to emergency calls shall not exceed 10 minutes for at least 90 percent of the calls received unless, through no fault of the franchisee, a longer response time is required.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.370 Terms and conditions of franchise: Operation of ambulance outside Incline Village area limited.

1. Except as otherwise provided in this section, the franchisee shall insure that the ambulance remains in the Incline Village area at all times.

2. The franchisee may operate the ambulance outside the Incline Village area when:

(a) The franchisee determines that advanced life support treatment is required to transport a critically ill patient to a medical facility outside the area;

(b) A physician requests that the franchisee transport a patient to a medical facility outside the area;

(c) A patient requests that he be transported to a medical facility outside the area; or

(d) Strictly necessary to provide life support services to a person outside the franchise area if that person is closer to the franchisee's operations base than to the operations base of any other ambulance company.

3. The franchisee shall make every effort to arrange by contractual agreement for backup emergency service with other ambulance companies in the area to insure that emergency service is available while the franchisee's ambulance is responding to a call. Such emergency service does not constitute any violation of the exclusivity of the franchise created pursuant to sections 90.280 to 90.450, inclusive.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.380 Terms and conditions of franchise: County to be held harmless. Each contractual agreement entered into by the franchisee shall provide that the contracting parties agree to hold Washoe County harmless for any injury or damage caused by the parties in providing ambulance services and shall be submitted to and approved by the county's risk management analyst.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.390 Terms and conditions of franchise: Free ambulance service to Washoe County. The franchisee shall provide ambulance service in the Incline Village area at no charge to and without expectation of subsidy by Washoe County.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.400 Terms and conditions of franchise: Fees for services; adjustment of fees.

1. The franchisee may charge not more than the following fees for services provided pursuant to the franchise:

<u>Paramedic Charges</u>		<u>Ambulance Charges</u>	
Base rate	\$30	Base rate	\$90
Intravenous therapy	20	Per patient mile	3
EKG monitor	20	Emergency	5
12 lead EKG	25	Night (8 p.m. to 8 a.m.)	8
Endotracheal intubation	25		
Medications (each)	5		
Nasogastric tube	25		
Defibrillation (total)	25		
CPR	25		

Heart lung resuscitator 25
Oxygen 5

2. The fees specified in subsection 1 shall be adjusted by the franchisee quarterly, each year, during the term of the agreement to reflect any increase or decrease in costs as a result of inflation. An increase or decrease in total fees shall be determined by multiplying the existing fee by the rate of inflation reflected in the Consumer Price Index for 1979, revised quarterly commencing at the end of the first quarter of 1980 and adding that surcharge to the existing fee. No increase or decrease becomes effective until reviewed and approved by the board of county commissioners. As used in this subsection, "consumer price index" means the Consumer Price Index for Urban Wage Earners and Clerical Workers using the All Cities category and a base year of 1967 as equaling 100.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.410 Terms and conditions of franchise: Use of county gasoline supplies; reimbursement of county. The board of county commissioners grants to the franchisee the privilege of access to and use of any county gasoline supplies in the Incline Village area whenever no other gasoline supply is available to fuel the franchisee's ambulance equipment. The franchisee may obtain the fuel on such an emergency basis and shall reimburse the county at the county's cost on a quarterly basis each year. The franchisee shall provide with its reimbursement to the county a list of each date and time of the day on which fuel was obtained.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.420 Terms and conditions of franchise: Notice to North Lake Tahoe fire protection district when responding to emergency calls. The franchisee shall immediately notify the North Lake Tahoe fire protection district whenever the franchisee is responding to an emergency call within the boundaries of the district. The franchisee shall furnish a map or description of the boundaries of the district to its dispatchers and ambulance drivers.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.430 Terms and conditions of franchise: Review by district health department of ambulance companies providing backup service. Each ambulance company with which the franchisee contracts pursuant to section 90.370 shall be periodically reviewed by and meet with the approval of staff of the Washoe County district health department. The department shall attempt to insure that each company provides backup service by personnel with not less than emergency medical technician one (EMT-I) training.

[Part '2, Ord. No. 453; A Ord. No. 487]

90.440 Orders to comply; termination of franchise. If the franchisee fails to comply with any provision contained in sections 90.280 to 90.450, inclusive, or with any applicable law or regulation governing the provision of ambulance services, the board of county commissioners may order the franchisee immediately to comply. Alternatively, the board of county commissioners may terminate the franchise for the franchisee's failure to comply. Termination becomes effective not less than 60 days from the date upon which written notification of termination and the reason or reasons therefor have been mailed to the franchisee.

[Part '2, Ord, No. 453; A Ord. No. 487]

90.450 Review, revision of code provisions by county commissioners; time limit for reviewing fee increases, decreases. The provisions contained in sections 90.280 to 90.450, inclusive, may be reviewed or revised by the board of county commissioners at any time upon request of the franchisee. The board of county commissioners shall review any proposed increase or decrease submitted by the franchisee pursuant to section 90.400 within 2 weeks of receipt thereof.

[Part '2, Ord. No. 453; A Ord. No. 487]

Video Service Providers

90.475. Title. Sections 90.475 through 90.490 shall be known as the Video Service Providers Ordinance.

['2, Ord. No. 1438]

90.476. Purpose and Authority.

1. The Nevada State Legislature passed Assembly Bill 526 (NRS Chapter 711) in the 2007 Legislative Session, which limited regulatory powers of local governments regarding video service providers, and which established a new regulatory structure involving the Secretary of State. Pursuant to NRS Chapter 711, Washoe County retains the power to regulate and manage, within unincorporated Washoe County, its rights-of-way, streets and highways and collect franchise fees from video service providers for the use and occupation of those rights-of-way, roads, streets and highways. The purpose of this section of Chapter 90 is to:

(a) Establish rules and regulations governing those aspects of the operations of video service providers over which the county has legal jurisdiction and ensure that these rules are applied in a non-discriminatory manner to all video service providers and other business entities.

(b) Ensure that video service providers fairly, accurately and

promptly compensate the county for occupation and use of its rights-of-way, streets and highways.

(c) Establish the county's policy concerning rights-of-way management for all video service providers.

['3, Ord. No. 1438]

90.477. Applicability. The provisions of this section shall apply to any video services provider that has applied for and obtained a Certificate of Authority from the Nevada Secretary of State, pursuant to NRS Chapter 711, to construct, install, excavate, alter, repair, relocate, replace, operate and maintain a video service network and related facilities within the County or to provide video service to subscribers within the County.

['4, Ord. No. 1438]

90.478. Definitions.

1. Unless otherwise expressly stated, words not defined herein shall be given the meaning set forth in Chapter 711 of the NRS or Title 47 of the United States Code, as amended, and, if not defined therein, their common and ordinary meaning.

2. "Board" means the Board of Washoe County Commissioners as the legislative body of the county.

3. "Cable operator" has the same meaning as that term is defined in NRS 711.024, as amended.

4. "Cable service" has the same meaning as that term is defined in NRS 711.025, as amended.

5. "Cable system" has the same meaning as that term is defined in NRS 711.026, as amended.

6. "Certificate of authority" and "certificate" have the same meanings as those terms are defined in NRS 711.027, as amended.

7. "Code" means the official code of all of the county's ordinances of a general and permanent character, as may be adopted and amended by the board of county commissioners.

8. "Community antennatelevision company" has the same meaning as that term is defined in NRS 711.030, as amended.

9. "Community antenna television system" has the same meaning as that term is defined in NRS 711.040, as amended.

10. "Facility" or "Facilities" has the same meaning as that term is defined in NRS 711.060, as amended.

11. "Franchise fee" means a franchise fee imposed by the county on a video service provider for the privilege of providing video service.

12. "Gross revenue" has the same meaning as that term is defined in NRS 711.066, as amended.

13. "Holder of a certificate" or "holder" has the same meaning as that term is defined in NRS 711.071, as amended.

14. "Incumbent cable operator" has the same meaning as that term is defined in NRS 711.072, as amended.

15. "Information service" has the same meaning as that term is defined in NRS 711.0723, as amended.

16. "Interactive computer service" has the same meaning as that term is defined in NRS 711.0726, as amended.

17. "Right-of-way" or "rights-of-way" means public property including air space dedicated, granted, held or prescriptively used, or authorized by patent of the United States of America, for county public street and public utility purposes, except as limited by any underlying grant and except public streets predominantly used for public freeway or expressway purposes, except for any property owned, operated, maintained and/or administered by the department of aviation, including, without limitation, airport roadways, sidewalks and streetlights.

18. "Service area" has the same meaning as that term is defined in NRS 711.105, as amended.

19. "Street" means the surface, the air space above the surface and the area below the surface of the full width of the right-of-way, including sidewalks and thoroughfares, places or ways of any kind used by the public or open to the public as a matter of right for the purposes of vehicular traffic or vehicular and pedestrian traffic, except for those on property owned, operated, maintained and/or administered by the department of aviation.

20. "Subscriber" has the same meaning as that term is defined in NRS 711.115, as amended.

21. "Telecommunication" has the same meaning as that term is defined in NRS 711.125, as amended.

22. "Telecommunication provider" has the same meaning as that term is defined in NRS 711.131, as amended.

23. "Telecommunication service" has the same meaning as that term is defined in NRS 711.135, as amended.

24. "Video service" has the same meaning as that term is defined in NRS 711.141, as amended.

25. "Video service network" has the same meaning as that term is defined in NRS 711.145, as amended.

26. "Video service provider" or "provider" has the same meaning as that term is defined in NRS 711.151, as amended.

['5, Ord. No.1438]

90.479. Certificate of Authority Required. It is unlawful for any video service provider to construct, operate and maintain a video service network within the county or to provide video service to subscribers within the county unless the provider is a holder of a Certificate of Authority issued by the Nevada Secretary of State that includes service areas within the unincorporated area of the county.

['6, Ord. No. 1438]

90.480. Provider of Telecommunication Services or Interactive Computer Services. If a video service provider that was not an incumbent cable operator prior to June 4, 2007, intends to construct facilities within the county pursuant to a Certificate of Authority, the provider shall, until it has constructed all the facilities intended for the county, prepare and submit to the county a semiannual report which describes the number of service locations within the county that are capable of receiving video service from the provider. The provider shall submit such report no later than the tenth (10th) business day in January and July of each year. Pursuant to Section 711.600 of the NRS, the information contained in such report submitted to the county is confidential and proprietary information of the provider, is not a public record, and must not be disclosed to any person other than an officer or employee of the county unless the provider consents to the disclosure.

['7, Ord. No. 1438]

90.481. Public Information. Information and reports submitted to the county pursuant to this section of Chapter 90 that are not mentioned in section 90.480 next above shall, if required by Nevada's Public Records Law, NRS Chapter 239, as amended, be subject to public inspection and copying.

['8, Ord. No. 1438]

90.482. Business License Required

1. At all times during which a video service provider is authorized to provide video service within the county pursuant to a Certificate of Authority from the Secretary of State, the provider shall maintain a valid unexpired business license specific to its video service business. The business license fee for providing video services shall be included in, and is in addition to, the franchise fees payable to the county for providing video services.

2. At all times during which a video service provider provides telecommunication service within the county, the provider shall maintain a valid unexpired business license specific to its telecommunication business as provided in Chapter 25 of this Code. The provider shall pay all business license fees due from its telecommunication service business separately from the payment of the franchise fees due from its video service business.

3. In addition to the business licenses required by subsections 1 and 2 of this section, a provider shall at all times maintain all other generally applicable business licenses specific to any of the provider's business activities other than those of providing video service and telecommunication service, as such other business activities are specified in this Code; provided that nothing in this section shall be construed to require a separate business license for the provision of "information service" or "interactive computer

service." The provider shall pay all license fees due from such other businesses separately from the payment of fees due from its video service and telecommunication service businesses.

4. In addition to payment of the fees specified in subsections 1 through 3 of this section, a provider shall pay all lawful property taxes, ad valorem taxes and local improvement district assessments, and all exactions, fees and charges that are generally applicable during the provider's real property development or use as required by this Code.

5. Acceptance by the county of any payment due under this section shall not be deemed to be a waiver by the county of any breach of the video service provider's obligations under its Certificate of Authority from the Secretary of State or applicable law, and such acceptance shall not preclude the county from later establishing that an underpayment existed or that a larger amount was actually due and shall not preclude the county from collecting such balance.

['9, Ord. No. 1438]

90.483. Franchise Fee.

1. A video service provider shall pay, on a quarterly basis, a franchise fee of five (5) percent of the provider's gross revenue from its video service subscribers within the unincorporated area of the county. The fee shall be payable, in legal tender of the United States or in a check, draft or note that is payable in legal tender of the United States, quarterly, on the last day of the following month. Payment is considered received timely when officially postmarked or, if hand delivered, received by the Washoe County Purchasing Administrator by the due date.

2. A video service provider shall submit a written report with each quarterly payment of franchise fees providing in reasonable detail a summary of its revenue categories for that quarter and how the franchise fees were calculated.

3. If a video service provider fails to pay a franchise fee as required by this section, the provider shall pay a penalty of two percent (2%) per month (or fraction thereof) of the delinquent amount until such time as the payment is in full satisfaction of all obligations and is received in full by the county.

4. A video service provider may pass the franchise fee through to its subscribers within the county based on the gross revenue received from each such subscriber and may designate the amount of the franchise fee as a separate line item on the subscriber's bill.

['10, Ord. No. 1438]

90.484. Audit of Records.

1. Not more than once every three (3) years, the county may, upon forty-five (45) days written notice to a provider, review and audit the business records of a video service provider to ensure payment

of all franchise fees due pursuant to the provider's Certificate of Authority and this Section. If the results of such a review and audit identify an underpayment of franchise fees in an amount that requires corrective action, the county may perform a subsequent compliance review and audit to determine whether the provider has corrected the underpayment of fees. The compliance review and audit must be performed not later than twelve months after the date on which the results of the initial review and audit are finalized.

2. A provider shall keep complete and accurate business records concerning the franchise fees due pursuant to its Certificate of Authority for a period of at least four years or, longer if requested by the county until such time as the county has completed any pending audit through the payment of all fees determined by the county to be due or through the resolution of any disputed amounts. The county may review and audit all records concerning the provider's revenue that may reasonably be considered by the county to be subject to a franchise fee. The provider shall make the requested records available to the county for purposes of conducting its review and audit within forty-five days after receiving the county's written request for a review and audit of such books and records.

3. If the county determines that any amounts are due as a result of a review and audit pursuant to this section, it shall give the provider written notice of the amounts determined to be due and the basis for determining such amounts were due. The provider shall pay all such amounts in full within thirty (30) days following receipt of the county's notification, subject to the provider's rights to contest the county's determination pursuant to NRS 711.680, as amended.

4. The county and the provider shall each pay its own costs and fees relating to a review and audit of the provider pursuant to this section; provided that if the provider elects to have the county review and audit the requested business records at a location outside the county, the provider shall pay the per diem allowances and travel expenses incurred by the county to perform the review and audit at that location. .

['11, Ord. No.1438]

90.485. Non-Discriminatory Management of County Rights-of-Way and Streets. The requirements and conditions set forth herein shall be construed and applied by the county in a competitively neutral manner that does not discriminate among provider's, including cable companies, operators or other business entities regulated under the Code, or as between provider's and any other users of the rights-of-way, streets or highways, as regulated under Chapter 85 of the Code, for the construction, installation, operation and maintenance of facilities.

['12, Ord. No. 1438]

90.486. Installation of Facilities in accordance with ADA. A provider shall install all of its facilities in the rights-of-way in a manner consistent with the Americans with Disabilities Act ("ADA"), including any reconstruction or modification of existing facilities. Following notice by the county of an ADA violation or construction problem caused directly or indirectly by a provider, the provider shall, within thirty days or such other time as the public works director reasonably determines to be appropriate, remedy the ADA violation or problem.

['13, Ord. No. 1438]

90.487. Rights-of-Way and Facilities Installation.

1. A provider shall comply with this chapter and the improvement, construction and installation standards adopted in Chapter 85 and any other requirement of this Code, the latest adopted edition of the Standard Specifications for Public Works Construction, the Washoe County Public Works Design Manual, the Washoe County Standard Details for Public Works Construction, County approved Pavement Condition Index for pavement patching and cutting and to the reasonable satisfaction of the Director of Public Works. Such publications shall be available for public inspection and review at the office of the County Public Works Director or County Engineer.

2. Pursuant to Chapter 85 of the Code, the county may require a provider to obtain a construction, encroachment or street excavation permit for any work in the rights-of-way, may inspect any construction, installation, maintenance or repair work in the rights-of-way, and may charge a provider a fee to issue permit or to perform such inspection. The county shall act upon any request by a provider for a permit no later than ten (10) business days after the date on which the request is made. The amount of any permit or inspection fee under this section, Chapter 85 or any other requirement of the Code shall not exceed the actual costs incurred by the county in administering the process of issuing such permits and performing such inspections.

3. If there is an emergency requiring immediate response work or repair in, on, under or over any rights-of-way, a provider may begin such work or repair without first obtaining a permit; provided that the provider shall notify the Director of Public Works as promptly as is reasonably possible after learning of the need for the emergency work, shall subsequently obtain any permit that otherwise would have been required for non-emergency work, shall pay all applicable fees for such permit, and shall restrict any work performed in the rights-of-way prior to obtaining a permit to emergency work and repairs.

4. Except as provided for in subsection next above, prior to any work within the rights-of-way, the provider shall obtain a street excavation permit and/or encroachment permit pursuant to applicable

provisions of Chapter 85 of this Code.

5. All construction work in the rights-of-way performed by or on behalf of a provider shall be performed in a safe manner subject to the approval of the Public Works Director and in accordance with all applicable laws, rules, regulations and permitting requirements related to public safety or the use of rights-of-way. When the public improvement designs prepared by the provider are more detailed than, or are not covered by, the improvement standards adopted in Chapter 85 of this Code or the specifications and details identified in subsection 1 of this section above, plans and specifications for construction, reconstruction, installations, and repairs of public improvements shall be sealed by a Nevada registered professional engineer and must be submitted to the county for review and approval.

6. Except in the case of an emergency, and except as provided in subsection 7 of this section, a provider who is the initiator of a project in a street or easement along which residential yards are located and maintained that will result in disruption of such yards or result in the installation of new exposed surface facilities shall notify residents who are located adjacent to the proposed project at least two (2) days prior to the date that the provider proposes to commence the proposed project. Such notice shall be by written notice in person, by posted notice on the street where the proposed project is scheduled to be built (which notice is to be large enough to be clearly read by passing motorists), by door hanger, or by mail, with a description of the proposed project, the name of the provider together and a telephone number at which the provider can be reached twenty-four hours per day.

7. Before placing a facility in an easement within a single-family residential property, a provider shall provide the homeowner with written notice no less than five (5) days before such installation. Such notice shall advise the homeowner of:

(a) The location within the easement where the provider plans to locate the facility;

(b) The homeowner's right to select another place within the easement to locate the facility, if such location is technically feasible for the provider. The provider's obligation to camouflage the facility, either by landscaping or by some other method reasonably acceptable to the homeowner.

8. All public improvement work performed by the provider in rights-of-way shall be inspected, completed and accepted in accordance with this chapter and the improvement standards adopted in Chapter 85 of this Code or other applicable sections of the Code.

9. In the case of damage caused by the provider to any rights-of-way, the video service provider shall at no cost or expense to the county repair, replace and restore the damaged area in accordance with current improvement standards adopted in Chapter 85 of this code or other applicable sections of the Code.

10. The provider shall not acquire any vested right or interest in any particular right-of-way location for any of its facilities constructed, operated, or maintained in any existing or proposed rights-of-way, even though such location was approved by the county.

11. Reconstruction, removal or relocation of a provider's facilities to accommodate a public improvement shall be provided for in the following manner:

(a) The county or its designee shall issue to a provider written notice of a need to reconstruct, remove, or relocate any of provider's facilities which may be in conflict with an existing or proposed public improvement in order to accommodate the installation, maintenance, or use of the public improvement. Such written notice shall include project information equivalent in detail to fifty percent (50%) or more of final design for the public improvement. The provider shall, within thirty (30) days after receiving such written notice from the county or its designee, present to the Director of Public Works a notice of intent to reconstruct, remove, or relocate said facilities, and shall, within six months after receipt of written notice from the county or its designee, or such shorter time period as may be reasonable, reconstruct, remove, or relocate said facilities. Upon request from a provider identifying a recommended location for its facilities, the Director of Public Works shall provide that location or an alternate location within the right-of-way for the provider, if space is available.

(b) Within thirty (30) days after receipt of such written notice from the county or its designee, as described in subsection 11(a) of this subsection, the provider may present a written application and supporting documentation to the Director of Public Works for an extension of time in which to complete reconstruction, removal or relocation of its facilities. The Director of Public Works may grant additional time beyond the time period provided if the additional time requested is due to service, equipment, or material delivery constraints beyond the control and without the fault or negligence of the provider, or if the project described in the written notice is of such a size that the work to be performed by the provider cannot be completed within the allowable time.

(c) If after the issuance of the initial written notice the county or its designee, as described in subsection 11(a) of this subsection, makes a substantial change in the design of the public improvement project, including but not limited to changes in elevation, changes affecting public right-of-way alignment and widths of alignment, the county or its designee shall notify the provider of the details of the substantial change. If the provider determines that such change would cause a delay in reconstruction, removal or relocation of its facilities beyond the time period

provided, the provider may, within fourteen (14) days from receipt of notice of such change, petition the Director of Public Works for an extension of time in which to complete reconstruction, removal or relocation of facilities. If the additional time is requested due to service, equipment, or material delivery constraints beyond the control of the provider, or if the public improvement design change is of such a scope that the work to be performed by the provider cannot be completed within the time period allowed, the Director of Public Works may grant an extension of time. If the request for extension of time is denied, the provider may appeal the denial to the Board within fourteen (14) days from receipt of notice of denial. The decision of the Board shall be final.

(d) The county or its designee shall furnish the provider with a final design of the public improvement as soon as it becomes available. Likewise, the provider shall furnish the county with final design for the reconstruction, removal or relocation of facilities.

(e) When reconstruction, removal or relocation of a provider's facilities is required for a public improvement, the provider shall be responsible for complying with the county's construction schedule as it relates to businesses or other entities that are using the facilities in the county rights-of-way. The provider's compliance to the county's construction schedule shall be at no cost to the county.

(f) If a provider fails to reconstruct, remove, or relocate its facilities as required by this section within the time period agreed upon, the county may reconstruct, remove, or relocate said facilities and charge the cost of reconstruction, removal, or relocation to the provider. The county will not be held liable for any losses or damages due to reconstruction, removal, or relocation of such facilities.

12. Whenever, in case of emergency, it becomes necessary to remove any of the provider's facilities, no charge shall be made by the provider against the county for loss, damage, restoration, and repair.

13. A provider shall maintain and provide to the county, upon request and at no cost to the county, as-built plans indicating the location of its facilities. A provider may provide, on a voluntary basis, electronic plans showing the general location of its facilities in rights-of-way.

14. A provider shall participate in "Call Before You Dig" or any such other such programs active in its service area within the county with regard to giving and receiving notice of the location of facilities and excavations.

15. Without limiting the foregoing, antennae and their supporting structures (towers) shall be designed in accordance with the Uniform Building Code as amended, and shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other

applicable state or local laws, codes, and regulations, all as hereafter may be amended or adopted.

16. Neither the county nor its officers, employees, agents, attorneys, consultants or independent contractors shall have any liability to a provider as a result of or in connection with the protection, movement, removal, alteration, or relocation of any part of a video service network by or on behalf of a provider or the county in connection with any emergency, public work, public improvement, alteration of any publicly owned structure, any change in the grade or line of any right-of-way.

17. A provider shall place its system lines underground in localities where both telephone and power lines are underground, and shall replace aerial facilities with underground facilities concurrently with telephone and power utilities when both types of utilities are required by the county to place facilities underground. Where undergrounding is required, system passive or active electronics may be housed only in low-profile, above-ground pedestals, as approved by the county.

18. Any contractor or subcontractor used for work or construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under laws of the state and all applicable local ordinances, where applicable, and each contractor or subcontractor shall have the same obligations with respect to its work as the provider would have if the work were performed by the provider. A provider must ensure that contractors, subcontractors and all employees who will perform work for it are trained. A provider shall be responsible for ensuring that the work of contractors and subcontractors is performed consistent with applicable law, shall be fully responsible for all acts or omissions of contractors or subcontractors performed within the scope of their work for the provider, shall be responsible for promptly correcting acts or omissions by any contractor or subcontractor, and shall implement a quality control program to ensure that the work is properly performed.

19. A provider shall not attach any of its facilities to any county-owned facilities unless the provider has entered into a written agreement with the county for the rights of attachment and use.

20. After an excavation is made and after any excavation work is completed, including the requirements contained in subsection 21 of this section, a provider shall, as soon as practicable but not later than seventy-two (72) hours, remove all surplus material; except that if the surplus material is blocking a public street or sidewalk, the provider shall remove such material no later than twenty-four (24) hours after the excavation is made or the excavation work completed.

21. A provider shall reconstruct, replace or restore any landscaping, street or alley, or any water, sewer, sanitary sewer,

storm drainage, traffic signal or street light facilities, or any other facility of the county disturbed by the provider, within thirty (30) days of written notice by the county, to a condition acceptable to the Director of Public Works, consistent with specifications, requirements and regulations of the county in effect at the time of such restoration. Any such improvements so disturbed by the provider shall be reconstructed, replaced or restored only under the supervision of county personnel. All costs incurred in surplus material removal and restoration, whether done with the county's work forces and equipment or otherwise, shall be paid by the provider, including the cost of any inspectors the county may assign to the project.

22. All of a provider's facilities shall be placed so that they do not interfere with the use of the rights-of-way by the county and shall only be placed after approval of the location by the Director of Public Works, in accordance with any generally applicable specifications adopted by the county governing the location of facilities.

23. Whenever the county excavates or performs any non-emergency work in the rights-of-way and such excavation or work may disturb but not require the removal or relocation of a provider's facilities, the county shall notify the provider seventy-two (72) hours in advance of the excavation or work to enable the provider to take such measures as it may deem necessary to protect its facilities from damage and inconvenience, or from injury or damage to the public or the rights-of-way. If the provider cannot take such measures, the provider shall be required to relocate its facilities in accordance with this section, in which case, the provider shall, upon request, furnish field markings to the county showing the location of all of its facilities in the area involved in such proposed excavation or work.

24. When the county proposes to improve the rights-of-way, including but not limited to work related to streets, sidewalks, landscaping, traffic signalization, street lights, water lines, storm drainage or sanitary sewers, and such improvements include excavation and the placement of underground utilities vaults and conduit sufficient for a provider's facilities by and at the expense of someone other than the provider, then upon notification by the county to the provider and such reasonable scheduling as may be required by the county, the provider shall replace its then-existing overhead facilities within the affected rights-of-way with underground facilities within such area. The provider shall pay all costs of such underground placement. The conversion from overhead to underground shall be conditioned upon the county requiring the undergrounding in the area in which both the existing and new facilities are and will be located and on the county requiring all existing overhead communication and utility facilities in such area

to be removed.

['14, Ord. No. 1438]

90.488. Security For Performance.

1. As security for performance of its rights-of-way obligations under this chapter, a provider shall, at all times during which it holds a certificate of authority permitting the provider to provide video service within the county, provide, and maintain at the minimum level herein specified, security to the county manager, in the form of either cash deposited with the county manager, made payable to the Washoe County Treasurer, an irrevocable pledge of certificate of deposit, an irrevocable letter of credit, or a performance bond, in the amount of two hundred thousand dollars, or an amount agreed to by the County Risk Manager or designee, any or all of which may be claimed by the county as payment for fees and penalties, and to recover losses resulting to the county from the provider's failure to perform.

2. If a provider has already posted an irrevocable pledge of certificate of deposit, an irrevocable letter of credit, or a performance bond for two hundred thousand dollars or more in connection with its use of the county's right-of-way for other purposes, the provisions of subsection 1 of this section next above shall not apply to the provider to the extent that such existing security is in full force and effect during all times of provider's use of the right-of-way for video service purposes and the terms of such security are made applicable to the provider's use of the right-of-way for video service purposes in accordance with the terms of subsections 3, 4 and 5 of this section.

3. If bonds are used to satisfy these security requirements, they shall be in accordance with the following:

(a) All bonds shall, in addition to all other costs, provide for payment of reasonable attorneys' fees.

(b) All bonds shall be issued by a surety company authorized, and in good standing, to do business in the state of Nevada, and which is listed in the Department Circular 570 of the U.S. Department of the Treasury Fiscal Service (Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Current Revision).

(c) The provider shall require the attorney-of-fact who executes the bonds on behalf of the surety to affix thereto a certified and current copy of his power of attorney.

(d) All bonds prepared by a licensed non-resident agent must be countersigned by a resident agent per Nevada Revised Statutes, Section 680A.300.

4. The following procedures shall apply to drawing on the security required in this section:

(a) If a provider fails to make timely payment of any amount due

to the county, or fails to compensate the county within thirty (30) days of written notification that such amount is due for any damages, costs or expenses the county suffers or incurs by reason of any act or omission of the provider, or fails after thirty (30) days written notice to comply with any provision of its certificate or this Code that can be remedied by drawing on the security, the county may withdraw the amount thereof, with applicable interest and penalties, from the security.

(b) Within three days of a withdrawal from the security, the county shall personally deliver or send by certified mail written notification to the provider of the amount, date and purpose of such withdrawal.

(c) If at the time of a withdrawal from the security by the county, the amounts available are insufficient to provide the total payment towards which the withdrawal is directed, the balance of such payment shall continue as the obligation of the provider to the county until it is paid.

(d) No later than thirty (30) days after the delivery or mailing of notification to the provider of a withdrawal from the security, the provider shall restore the security to the total amount specified in subsection 1(a) of this section.

5. Recovery by the county of any amount from the security required by this section does not limit a provider's obligation to provide insurance or to indemnify the county as otherwise required by this chapter.

['15, Ord. No. 1438]

90.489. Insurance.

1. A provider shall, at all times during which it holds a Certificate of Authority permitting the provider to provide video service within the county, provide and maintain all insurance coverage amounts, or demonstrate the ability to self-insure, for at least the minimum limits required herein and no provider shall commence work in rights-of-way or utility easements or provide video service to subscribers within the county until all insurance requirements have been met.

2. All primary and excess insurance obtained for meeting the requirements of this section must be provided in compliance with the applicable Nevada Revised Statutes and any commercial insurance carrier providing any required coverage must have an A.M. Best rating of A-VII or higher; and

(a) The provider shall provide a certificate of insurance naming Washoe County, Nevada, as an additional insured, and stating that the policy will not be canceled, terminated or materially altered by the insurer, nor will the insurer state an intention not to renew until thirty (30) days after providing written notification of such to the county manager or designee; and

(b) The provider shall be solely responsible for payment of all premiums for insurance policies required herein.

3. Prior to commencement of work in rights-of-way or utility easements or provide video service to subscribers within the unincorporated area of the county, the provider shall provide proof of insurance to the county manager or designee, the following minimum insurance coverage amounts, insuring against all damages arising out of or resulting from the installation, construction, excavation, repair, replacement, alteration, operation, and maintenance of the facilities or system:

(a) General liability insurance, with minimum limits of two million dollars per occurrence, which includes coverage for products, completed operations, blanket contractual liability, independent contractor hazard, broad form property damage, including but not limited to coverage for explosion, collapse and underground hazard.

(b) Automobile liability insurance, with a minimum combined single limit per occurrence of two million dollars, and which includes coverage for non-owned and hired automobile liability. Automobile liability insurance may be included as part of general liability insurance.

(c) Workers' compensation insurance in accordance with Nevada Revised Statutes, Chapters 616A, 616B, 616C, 616D and 617. The minimum limits may be provided for through a single primary insurance policy providing such coverage or through addition of an umbrella liability policy written in excess of the general liability, and automobile liability policies.

4. If insurance coverage is obtained on a claims-made for, the provider shall provide proof of coverage for "prior acts" and proof of coverage form claims reported within two years of any occurrence.

5. The required insurance may be provided in the form of conventional insurance, self-insurance, or a combination of conventional insurance and self-insurance retention.

6. The county risk manager may approve a plan of self-insurance as meeting the requirements of this section. The provider may apply for such approval by written request to the county manager, which shall include a detailed plan of self-insurance, including retention limits, named excess insurance carrier, if any, and a copy of audited financial statements. The county risk manager may impose conditions or requirements, including posting of security. Such conditions or requirements may be unique from one provider to another. The county commission may, at any time during the term of an agreement, revoke approval of a plan of self-insurance, or impose requirements or conditions for continued approval. Failure to comply with the conditions or requirements imposed by the county risk manager shall be deemed as failure to meet the requirement for insurance under this section, and as a violation of a condition of

an agreement.

['16, Ord. No.1438]

90.490. Indemnification.

1. A provider shall, at its sole cost and expense, defend, indemnify and hold the county harmless from and against all claims for damages to persons or property in any way related, directly or indirectly, to the construction, excavation, installation, repair, replacement, alteration, maintenance and operation of its facilities or its use of the rights-of-way, when or to the extent injury or damage is caused or alleged to be caused, wholly or in part, by any act, omission, negligence or misconduct of the provider or any of the provider's contractors, subcontractors, officers, agents or employees, or by any person for whose act, omission, negligence or misconduct the provider is by law responsible. This section is intended to require the provider to indemnify the county to the maximum extent allowed by law for claims related to the provider's use of the rights-of-way and is not intended to create liability for the benefit of any party other than the county.

2. If any claim is made against the county that is covered by subsection 1 of this section, and if a court of competent jurisdiction shall adjudge by final decree that the county is liable therefor, the provider shall indemnify and hold the county harmless from any such liability, including any court costs, expenses and reasonable attorney's fees incurred by the county in defense thereof and incurred at any stage of the proceedings.

3. Upon commencement of any suit, proceeding at law or in equity against the county relating to any matter covered by subsection (a) of this section, the county shall give the provider prompt notice of such suit or proceeding; whereupon the provider shall provide a defense to such suit, including any appellate proceedings brought in connection therewith, and pay any settlement, costs and judgments that may be rendered against the county by reason of such suit.

4. If the provider fails to comply with its obligations under subsection 3 of this section, after reasonable notice to the provider by the county, the county shall have the right to defend any claims against it and, in addition to being reimbursed for any settlement or judgment that may be rendered against the county, the provider shall reimburse the county's reasonable attorney's fees and all expenses incurred by the county by reason of undertaking the defense of such suit, regardless of whether such suit is successfully defended or settled, or fully adjudicated. If the county is required to defend any such suit because of the provider's failure to do so, the county shall have the right to enter into any settlement as the county may deem in its best interest, without the prior approval of the provider.

['17, Ord. No. 1438]

(Pursuant to the express authority granted the board of county commissioners by NRS 244.185 and 244.187 and in accordance with the provisions of sections 90.010 to 90.450, inclusive, of the Washoe County Code, the board of county commissioners has granted a garbage collection and disposal franchise to Independent Sanitation Company, an ambulance service franchise to Medic I and a television installation system franchise to Tahoe Systems, Inc., a subsidiary to Teleprompter Corporation. For the terms and conditions of these specific franchises reference should be made to the minutes of the meetings of the board of county commissioners and to records on file in the office of the county clerk.)

Public Utility Franchises Granted
Under Chapter 709 of NRS

(Chapter 709 of NRS contains the substance of certain state statutes enacted in 1901, 1909 and 1919 and empowers the board of county commissioners to grant certain public utility and carrier franchises. The board of county commissioners has exercised its authority under chapter 709 of NRS (and its predecessor statutes) as follows:

1. Truckee River Power Company--1923. The predecessor in interest to the Truckee River Power Company was granted a franchise on April 19, 1904, to supply electricity, power, heat and light to the inhabitants of Washoe County, including the City of Reno. On July 23, 1923, the Truckee River Power Company applied for an extension of the franchise for 50 years from April 19, 1904. The franchise was granted September 5, 1923, for a term of 50 years commencing April 19, 1923, to supply electric energy, power, heat and lights to all of the inhabitants of Washoe County, including all cities and towns therein.

2. Truckee-Carson Irrigation District--1930. The district was granted a franchise to provide electric lights in Wadsworth for a term of 50 years from December 5, 1930. The district assigned its franchise rights to the Sierra Pacific Power Company on June 28, 1968, and the assignment was approved by the board of county commissioners on January 6, 1969. On October 28, 1980, the board of county commissioners extended the franchise.

3. Plumas-Sierra Rural Electric Cooperative Inc.--1947. In 1947 a franchise for a term of 25 years was granted to the cooperative to provide electric service in the Red Rock area. On July 17, 1972, the franchise was extended for 25 years.

4. J.J. Thrasher--1950. On March 20, 1950, J.J. Thrasher was granted a franchise for a term of 25 years to manufacture, buy, sell and distribute electricity for light and power in Gerlach.

5. Southwest Gas Corporation--1965. On January 25, 1965, the Southwest Gas Corporation was granted a franchise for a term of 25 years for the installation, maintenance and use of pipes and appurtenances for conveying and distributing gas to the public.

6. Sierra Pacific Power Company--1965. On April 26, 1965, the Sierra Pacific Power Company was granted a franchise for a term of 25 years for the purpose of installing, maintaining and using pipes and appurtenances for conveying and distributing natural gas and water to the public. On September 7, 1965, the company was granted a franchise for a term of 50 years for the purpose of installing, operating and maintaining electric light, heat and power lines.

For details of these franchises reference should be made to the minutes of the meetings of the board of county commissioners and the records in the office of the county clerk.)

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