

RESOLUTION NO. 2018-21

**A RESOLUTION WAIVING CERTAIN SECTIONS AND PROVISIONS OF SALEM
REVISED CODE CHAPTER 43 (CABLE COMMUNICATIONS FRANCHISE CODE)**

Whereas, proceedings undertaken by a franchising authority related to the renewal of cable television franchises is governed, in part, by the provisions of the Cable Act (47 USC § 546); and

Whereas, Salem Revised Code (SRC) Chapter 43, the Cable Communications Franchise Code of the City of Salem, provides for and specifies the means to grant or renew nonexclusive cable television franchises to construct, operate, maintain and reconstruct cable television systems within the City limits; and

Whereas, SRC 43.005(b) provides that because of the complex and rapidly changing technology associated with cable television, the public convenience, safety and general welfare can best be served by establishing regulatory powers; and

Whereas, SRC 43.020(a) provides that in the event that Grantor shall grant to a Grantee a nonexclusive, revocable franchise to construct, operate, maintain, and reconstruct, a cable communications system within the franchise area, or a renewal of an existing franchise, said franchise or renewal shall constitute both a right and an obligation to provide the services of a cable communications system as required by the provision of this chapter and the franchise agreement; and

Whereas, the City of Salem (Grantor) entered into a Cable Television Franchise Agreement with Far-West Communications, Inc., dba Viacom Cable on September 12, 1994, and subsequently transferred to TCI, AT&T, and ultimately to AT&T Comcast, which became Comcast of Oregon I, Inc. (Comcast); and

Whereas, the parties entered into a Cable Television Franchise Agreement that was set to expire on February 1, 2010; and

Whereas, on January 11, 2010, the Salem City Council authorized the City Manager to execute a Cable Television Franchise Extension Agreement extending the current Cable Television Franchise Agreement for 180 days. Subsequently, the Salem City Council authorized the City Manager to execute thirteen more Cable Television Franchise Extension Agreements, extending the Agreement to expire June 30, 2018; and

Whereas, the parties completed negotiations of the Cable Television Franchise Agreement (Agreement) which contain many of the terms and conditions of the renewed franchise; and

Whereas, certain terms of the Agreement conflict with provisions of SRC Chapter 43; and

Whereas, certain provisions of SRC Chapter 43 are no longer essential to the provision of cable

television service in a manner that provides for the public convenience, safety, and general welfare of potential subscribers; and

Whereas, certain terms of the Agreement, while in conflict with SRC Chapter 43, are highly negotiated for the public convenience, safety and general welfare of potential subscribers to cable television services within the City of Salem, and are similar to terms negotiated by other local communities; and

Whereas, SRC 43.450 provides that any provision of SRC Chapter 43 may be waived by the Grantor, at Grantor's sole discretion, by Council resolution.; and

Whereas, City Council desires to waive certain sections and provisions of SRC Chapter 43 which conflict with the terms of the Cable Television Franchise Agreement negotiated with the Comcast.

NOW, THEREFORE, THE CITY OF SALEM RESOLVES AS FOLLOWS:

Section 1. Sections and provisions of SRC Chapter 43 are waived as set forth and described in Exhibit A, attached hereto and incorporated herein by this reference. Such sections and provisions of SRC Chapter 43 are waived only for this Agreement between the City of Salem and Comcast of Oregon I, Inc., and only for the term of the Agreement as described in Section 2.3 of such Agreement unless otherwise specified in Exhibit A.

Section 2. This resolution is effective upon the effective date of Ordinance No. 5-18.

ADOPTED by the City Council this ____ day of _____, 2018.

ATTEST:

City Recorder

Approved by City Attorney:_____

Checked by: R. Zink