

HAILEY ORDINANCE NO. 1036

AN ORDINANCE OF THE CITY OF HAILEY, IDAHO, GRANTING COXCOM, INC. D/B/A COX COMMUNICATIONS A FIVE (5) YEAR NON-EXCLUSIVE FRANCHISE TO BUILD, CONSTRUCT, MAINTAIN AND OPERATE A CABLE SYSTEM IN THE CITY OF HAILEY, IDAHO; PROVIDING FOR RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND CITY; PROVIDING FOR THE OBLIGATIONS OF THE FRANCHISEE'S CUSTOMERS; REQUIRING A FRANCHISE FOR CABLE SERVICES; PROVIDING FOR EXTENSION OF THE FRANCHISE IN ANNEXED AREAS; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR A REPEALER CLAUSE; PROVIDING FOR PENALTIES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Hailey City Council finds that Coxcom, Inc. d/b/a Cox Communications, an Idaho corporation, is capable providing cable services to the citizens of Hailey;

WHEREAS, the Hailey City Council previously granted CoxCom, Inc. d/b/a Cox Communications a non-exclusive four (4) year franchise to provide cable services to the citizens of Hailey, pursuant to Hailey Ordinance No. 926; and

WHEREAS, the Hailey City Council finds that it is in the best interests of the citizens of Hailey to grant CoxCom, Inc. d/b/a Cox Communications a non-exclusive five (5) year franchise to provide cable services to the citizens of Hailey.

BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HAILEY, BLAINE COUNTY, IDAHO:

Section 1. GRANT OF FRANCHISE.

Pursuant to Idaho Code §50-329, the City of Hailey hereby grants to CoxCom, Inc. d/b/a Cox Communications ("Franchisee"), the authority, right, privilege and non-exclusive franchise for a term of five (5) years, beginning October 21, 2009, in accordance and subject to the Franchise Agreement executed by the City of Hailey and Franchisee on September 28, 2009, and as subsequently amended ("Franchise Agreement") for the term of the franchise granted hereunder (unless otherwise lawfully terminated in accordance with the terms of the Franchise

Agreement), to construct and operate a cable system in, along, among, upon, across, above, over, under or in any manner connected within public streets, alleys and public ways within the City of Hailey, and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across, or along any public streets, alleys and public ways and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments, power supplies, network reliability units and other related property or equipment as may be necessary or appurtenant to the cable system, and to engage in the business of providing cable services within the corporate limits of Hailey, Idaho.

Section 2. RIGHTS AND OBLIGATIONS OF THE FRANCHISEE AND CITY.

A. The Franchisee shall have the right and privilege to use the streets, alleys and other public right-of-ways within the City of Hailey, in accordance with this Ordinance and the Franchise Agreement.

B. The City of Hailey is responsible for maintaining the streets, its alleys and its public ways in a passable condition.

C. The Franchisee shall provide cable services in accordance with this Ordinance and the Franchise Agreement.

D. The Franchisee shall comply with all ordinances of the City of Hailey and all applicable state and federal laws.

E. Unless otherwise provided in this Ordinance, the specific duties and obligations of the City of Hailey and Franchisee are more particularly described in the Franchise Agreement.

Section 3. OBLIGATION OF CUSTOMERS.

Except as otherwise provided in the Franchise Agreement, customers of the Franchisee shall pay the applicable charge established for cable services in accordance with this Ordinance and the Franchise Agreement.

Section 4. FRANCHISE REQUIRED.

It shall be unlawful for any person or legal entity to engage in the business of providing cable services over and upon the public right-of-ways within the City of Hailey, unless the person or legal entity is granted a franchise pursuant to Idaho Code §50-329.

Section 5. ANNEXATIONS.

If the City of Hailey annexes additional areas during the term of this franchise, the Franchisee shall have the non-exclusive authority and privilege to provide cable services within the City of Hailey shall extend to the newly annexed area.

Section 6. SEVERABILITY.

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 7. REPEALER.

Hailey Ordinance No. 926 is hereby repealed in their entirety and all ordinances or parts of ordinances in conflict herewith are hereby repealed.

Section 8. PENALTY.

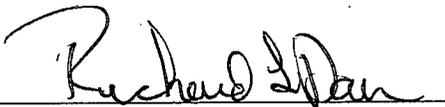
Any person, firm or other legal entity violating any provision of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than three hundred dollars (\$300.00) or imprisonment in the county jail for a period not to

exceed six (6) months, or both such fine and imprisonment. Each day such violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such hereunder.

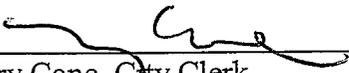
Section 9. EFFECTIVE DATE.

This Ordinance shall be in full force and effect from and after its passage, approval, and publication according to law.

PASSED AND ADOPTED BY THE HAILEY CITY COUNCIL AND APPROVED BY THE MAYOR THIS 12th DAY OF OCTOBER, 2009.


Richard L. Davis, Mayor

Attest:


Mary Cone, City Clerk

Publish: Idaho Mountain Express October 21, 2009

