

## CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

### Sec. 6-21. Transfers and assignments.

(a) A License shall not be sold, assigned or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person, except an Affiliate of Licensee, without prior written consent of the City, which consent shall not be unreasonably withheld. Such consent shall not be required for a transfer in trust, mortgage, or other hypothecation in whole or in part to secure an indebtedness. The proposed assignee must show the transfer will not cause any increased risks of nonperformance of the License or any loss to the City of its bargained for consideration in the License. The assignee's showings must at a minimum detail facts sufficient to show the assignee's technical ability, financial capability, legal qualifications and general character qualifications and such other qualifications as determined by the City and the assignee must agree to comply with all provisions of the License.

(b) Except for a transfer to an Affiliate of Licensee, no change, transfer, or acquisition of control of the Licensee shall occur without prior written consent of the City, which consent shall not be unreasonably withheld. The Licensee shall promptly notify the City of any actual or proposed change in, or transfer to, or acquisition by any other party, of control of the Licensee. The word "control" as used herein is not limited to major stockholders but includes actual working control in whatever manner exercised.

(c) A non-rebuttable presumption that transfer of control has occurred shall arise upon the acquisition or accumulation by any person, or group of persons (other than an Affiliate of Licensee), of more than fifty percent (50%) of the voting interest of the Licensee or of the person exercising management authority over the Licensee.

(d) Except in the case of an assignment of the License to an Affiliate of Licensee, upon written notification by the Licensee to the City of a proposed assignment of the License, or transfer of control or ownership of the Licensee company, the City Manager shall issue his written notice fixing and setting forth the day, hour and place certain when and where any persons having any interest therein may appear and be heard. The City Clerk shall cause such notice to be published in a newspaper of general circulation within the City. The City Clerk also shall cause a copy of such notice to be mailed to the Licensee at least ten (10) days prior to the date specified for the hearing. At the time set for such hearing, or at any adjournment thereof, the City Manager shall proceed to hear the matter. Following the close of such hearing, the City Manager shall prepare and file with the Council his report of the hearing, his findings, and an opinion containing his recommendations and the reasons therefor. If after the expiration of ten (10) days following receipt of the City Manager's report and opinion, the Council shall find that the assignment of the License or transfer of control or ownership of the Licensee company will not be detrimental or injurious to the best interests and welfare of the Subscribers and Users, and of the City, then the Council by resolution shall consent to the assignment of the License or transfer of control or ownership of the Licensee company. Such resolution shall thereupon become and shall be a part of any License granted under this Chapter and affected thereby.

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(e) The consent or approval of the City Council to any transfer of a License shall not constitute a waiver or release of the rights of the City in and to the Streets, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of the License.

(f) In the absence of extraordinary circumstances, the City Council will not approve any transfer or assignment of a License within three years of and in no event prior to substantial Completion of Construction of a proposed Cable System.

(g) *Fees.* Notwithstanding any other requirement of this Chapter, each applicant for a transfer or assignment must furnish with its request a nonrefundable filing fee in the amount established by the Council in Chapter 2 of this Code, by cash, certified or cashier's check wire transfer, or in any other manner acceptable to the City Manager made payable to the City of Peoria. No Proposal for a Transfer or Assignment of License shall be considered without receipt of said fee. The fee will be used for the purpose of covering the City's cost in consideration of a Transfer or Assignment of License. The fee shall be handled in the same manner as provided for an Initial License fee in Section 6-12 of this Chapter and shall, upon granting the assignment or transfer, be a credit against License Fees under this Chapter.

(h) The City may reserve in the License a right of first refusal to purchase a Licensee's Cable System.

(i) In no event shall a transfer of ownership be approved without the successor-in-interest becoming a signatory to the License.

(j) As long as a grant, rent or lease does not amount to a transfer as defined in this Section and is made in the ordinary course of business with prior notice to the City, a Licensee in the normal course of providing Cable Services or other telecommunication services may grant, rent, or lease use of its Cable System to other persons. Any such use shall be restricted to and consistent with such uses as the Licensee is authorized in this Chapter and the License. Any such use shall be in compliance with applicable federal and state law. Any such grants, lease or rent by the Licensee shall not, however, thereby relieve its use of the Streets and public ways, and any such grant, rent or lease shall require that such other person comply with the appropriate provisions of this Chapter and the License as such use warrants. The grant, lease or rent shall expressly provide for the authority of the City under applicable law to regulate the use provided by the grant, lease or rent (including but not limited to the authority to protect the public welfare, safety and health) and to enforce compliance with any applicable standards established by this Chapter or the License.

(Code 1977, § 9-7-9)

(Ord. No. 95-13, 3/7/95, Repealed)

(Ord. No. 95-13, 3/7/95, Enacted)