

CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

Sec. 6-85. Liquidated Damages.

(a) Each License granted by the City shall state that a Licensee understands and shall agree that failure to comply with any time and performance requirements as stipulated in this Chapter and the License will result in damage to the City, and that it is and will be impracticable to determine the actual amount of such damage caused by delay or nonperformance; the License shall include provisions for liquidated damages to be paid by the Licensee, in amounts set forth in the License and chargeable to the letter of credit for the following concerns:

- (1) Failure to Complete System Construction or reconstruction in accordance with this Chapter and/or the License, unless the City Council specifically approves the delay by motion or resolution;
- (2) Failure to provide a cable connection within the time(s) set forth in Section 6-42;
- (3) Failure to properly restore the public right-of-way or to correct related violations of specifications, code, or standards after having been notified by the City to correct such defects;
- (4) Failure to comply with Subscriber service standards of this Chapter;
- (5) Failure to test, analyze and report on the performance of the Cable System following a written request pursuant to Section 6-44(a);
- (6) Failure to provide in a continuing manner the type of services proposed in the accepted Proposal for Initial License or in the Initial or Renewal License unless the City Council specifically approves modification of a Licensee's obligation;
- (7) Failure to cure any violation of Section 6-62, following notice and an opportunity to cure pursuant to the provisions of that Section; and
- (8) Any other action or non-action by the Licensee, as agreed upon between the City and Licensee, and set forth in the License.

(b) If the City Manager concludes that a Licensee is in fact liable for liquidated damaged pursuant to this Section, he/she shall issue to Licensee by certified mail a Notice of Intention to Assess Liquidated Damages. The notice shall set forth the nature of the violation and the amount of the proposed assessment. The Licensee shall, within thirty (30) days of receipt of such notice:

- (1) Respond to the City in writing, contesting the City's assertion of violation and providing such information or documentation as may be necessary to support Licensee's position; or

CHAPTER 6 - CABLE COMMUNICATION SYSTEMS

- (2) Cure any such violation (and provide written evidence of the same), or, if, by the nature of the violation, such violation cannot be cured within such thirty (30) day period, take reasonable steps to cure said violation and diligently continue such efforts until said violation is cured. Licensee shall report to the City, in writing, at thirty (30) day intervals as to Licensee's efforts, indicating the steps taken by Licensee to cure said violation and reporting Licensee's progress until such violation is cured.
- (c) If Licensee contests the City's assertion of violation or fails to respond to the City's notice of intent to assess liquidated damages, within fifteen (15) days the City shall schedule a hearing in accordance with the procedures set forth in Section 6-86.
(Ord. No. 95-13, 3/7/95, Enacted)