

## **CHAPTER 112 - CABLE TELEVISION FRANCHISE**

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### **112.01 DEFINITIONS.**

For the purpose of this chapter the following terms, phrases, words and their derivations shall have the meaning given below.

1. "Grantee" is Spirit Lake Cable TV, Inc. or its assigns, the receiver of rights granted by the ordinance codified in this chapter.
2. "System" or "plant" is entire complex of wires, cables and associated equipment making up the cable television system.

### **112.02 GRANT OF AUTHORITY.**

After due consideration in public hearing, in which interested persons were offered opportunity to participate, and being satisfied as to the Grantee's legal, technical, character, financial and qualifications, the City does hereby grant to the Grantee, its successors and assigns, a nonexclusive franchise, right and privilege, for rights-of-way and use of space over and/or under roads, streets, bridges, avenues, parks, drives and driveways, walks, parking lots, all manner of easements and other public areas of the City as now existing or hereafter revised or extended, for construction, operation and maintenance of a cable television system, including the provision of cable television service and other data and communication services, consisting of antennas, wires and cables and associated electric/electronic equipment and other necessary supplies and furnishings for the collection and distribution of electronic impulses and energy and for other legal purposes within the capability of the system, with the period of the franchise to be for a term of 20 years from the date cable television service is offered to subscribers to the Grantee's service in the City, with renewal for successive 20- year periods consistent with the rules of the Federal Communications Commission (FCC). ? During the term of the franchise, Grantee shall not allow any other person to own or operate a cable system within the City under terms more favorable or less burdensome than those contained in this chapter.

### **112.03 LIABILITY AND INDEMNIFICATION.**

Grantee shall maintain Worker's Compensation, public liability and property damage insurance with a company approved by the Commissioner of Insurance of the State of Iowa. Limits of liability shall not be less than the following:

1. \$100,000.00 property damage to one person with total of \$200,000.00 any one accident.
2. \$250,000.00 personal injury to one person with total of \$1,000,000.00 any one accident.

Public liability and property damage insurance shall cover the Grantee in consideration or defense of claims or suits for alleged injuries or damages due to construction, operation or maintenance of the system. A certificate of insurance shall be filed with the City Clerk.

### **112.04 CONDITIONS OF OCCUPANCY.**

1. The Grantee may contract for use of poles and other facilities and equipment to whatever extent such agreements may be of advantage to the Grantee in providing services offered under the franchise to its subscribers. Should such poles and equipment or contracts not be available or of advantage to the Grantee, then Grantee may own and maintain its own poles and equipment at locations approved by the City's engineer or other designated official except in locations where both telephone and power lines are underground the Grantee may be required to place its lines underground where technically and economically feasible.
2. Cable system, cables, wires and equipment shall be of good quality and installed in accordance with good engineering and construction practices. System shall not be located as to offer an inconvenience to the public or limit free use of streets, alleys and public areas or limit free access to private property.
3. During construction or system modifications or maintenance, surface disturbance of streets or public ways shall be restored to a condition comparable with that existing before such disturbance.
4. Trees and tree branches overhanging or lying on Grantee's lines and cables may be trimmed in a workmanlike manner to forestall service interruptions to subscribers.
5. Grantee, on request of any person holding a valid building moving permit issued by the City, shall temporarily raise or lower its lines to allow such moving. The expense of such modifications to Grantee lines and cables shall be paid in advance by the holder of the permit. Not less than twenty working days' advance notice may be required by the Grantee for such temporary modifications and restoration.
6. Grantee shall not be required to extend service to isolated structures; buildings or new construction unless said structures are as a group of four or more within one thousand feet of trunk or feeder lines and a majority of the occupants agree to accept the service when available.

### **112.05 ASSIGNMENT AND/OR TRANSFER.**

Rights granted under this chapter may be freely assigned with approval of the City. The City shall not arbitrarily withhold approval of transfer except it may require the proposed assignee to show financial and technical responsibility and file an instrument of acceptance of the terms and conditions of this chapter with the City Clerk.

### **112.06 FEES.**

Annually, on 30-day notice by the City Council, the Grantee agrees to pay to the City, in lieu of an annual permit fee or other charge including pole rent, within 60 days after the close of the Grantee's fiscal year, a stipend not to exceed three percent (3%) of the gross receipts. "Gross receipts," defined for the purpose of this payment, shall be limited to monthly or annual charges collected for basic and expanded basic services rendered within the City and shall not include sales taxes or other direct taxes or income from connections, reconnections or other sources included but not limited to rents, advertising, special services including channels of programming sold on a per-channel basis. Grantee shall keep records of gross receipts for a period of one year after close of each Grantee's fiscal year for inspection or audit by a duly authorized agent of the City during reasonable business hours.

### **112.07 RATES AND CHARGES.**

Grantee may regulate rates and charges to subscribers as provided by Federal law.

### **112.08 PUBLIC ACCESS.**

Grantee shall provide one channel for public, education and government access. Conditions are as follows:

1. The channel may be used by the City, school or other public bodies as a public service, educational or informational channel on a first come, first serve basis.
2. The City, school or other public bodies shall furnish any special equipment and personnel necessary to feed public service, informational or educational programs into the Grantee's system.
3. The Grantee shall not be responsible for the content of said public service, informational or educational programs and reserves the right to use this channel at any time or during any period for which no program of use of such channel is scheduled by the City, school or other public bodies.

### **112.09 PERMITS.**

Grantee shall secure permits to construct and operate the system as may be required by the Federal Communications Commission or other regulatory agencies. Grantee shall keep all licenses and permits current and operate the system in accordance with rules and regulations of the said agencies and this chapter.

### **112.10 SERVICE EXTENSIONS.**

The Grantee may locate a portion of the system or extend service outside the corporate limits of the City without conflict or restriction by any part of this chapter.

### **112.11 ANTI-DISCRIMINATION.**

Grantee shall not make or grant special privileges or discriminate against any person, subscriber or legal entity or subject anyone to a prejudice or disadvantage based on race, gender or ethnic background.

### **112.12 INDIVIDUAL ANTENNAS.**

Nothing in this chapter shall limit or deny service as presently provided by direct reception or limit the right of individuals to erect and maintain their own antenna.

### **112.13 UNAUTHORIZED CONNECTIONS.**

It is unlawful for any person(s) to secure cable services from Grantee's lines or facilities, or from any user or lessee of readjusting any lessee of said lines and facilities. Any person(s) securing said service as outlined above or tampering with said lines and equipment in any manner shall be deemed guilty as provided by applicable laws and ordinance and subject to the penalties as directed thereby. Should any person secure service from said lines and/or facilities illegally or connect equipment illegally thereto, the Grantee or its users or lessees shall not be liable for alleged damages, interference with or operation of any equipment or facilities so illegally connected.

### **112.14 LIMITATION OF ACTIVITIES.**

Grantee shall not engage in the sale or service of residential television receivers or parts and supplies or recommend any manufacturer or service personnel over any other.

### **112.15 EXTENSIONS.**

Grantee, without restriction, taxation, fee or license, may use the rights-of-way as outlined in Sections 112.02 and 112.05 of this chapter, as a corridor to place one or more cables through the City to communities outside the corporate limits of the City.

Notes

EDITOR'S NOTE: Ordinance No. 76 granting a franchise for cable television service was passed and adopted on May 8, 2000.