

## CHAPTER 112

# CABLE TELEVISION FRANCHISE

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**112.01 DEFINITIONS.** The following words and phrases, when used herein, shall, for the purposes of this chapter, have the meanings ascribed to them in this section:

1. “Basic cable” is the lowest priced tier of service that includes the retransmission of local broadcast television signals.
2. “Board” Iowa Code 477A.1 means the utilities board within the utilities division of the department of commerce.
3. “Cable Operator” Iowa Code 477A.1 means the same as defined in 47 U.S.C § 522.
4. “Cable Act” means collectively the Cable Communications Policy Act of 1984 and the Cable Television Consumer Protection and Competition Act of 1992, as amended by the Telecommunications Act of 1996.
5. “Cable services” Iowa Code 477A.1 means the same as defined in 47 U.S.C. § 522.
6. “Cable system” Iowa Code 477A.1 means the same as defined in 47 U.S.C. § 522.
7. “FCC” means Federal Communications Commission or successor governmental entity thereto.
8. “Franchise” means the initial authorization or renewal thereof issued by the Board or a municipality, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, or otherwise, which authorizes construction and operation of the cable system or video service provider’s network in a public right-of-way.
9. “Franchise fee” Iowa Code 477A.1 means the fee imposed under section 477A.7.
10. “Gross revenues” refer to definitions in Iowa Code 477A.1(9).
11. “Person” means an individual, partnership, association, joint stock company, trust corporation or governmental entity.
12. “Public right-of-way” means the surface on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, alley, court, boulevard, public sidewalk, parkway, public way, drive, circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips or rights-of-way

dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon now or hereafter held by the City in the service area which shall entitle the City and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the cable system. "Public right-of-way" does not include the airwaves above a public right-of-way with regard to cellular or other nonwire telecommunications or broadcast services or utility poles owned by a municipality or a municipal utility..

13. "Service area" means the present municipal boundaries of the City and includes any additions thereto by annexation or other legal means.

14. "Subscriber" means a person who lawfully receives services of the cable system with the Grantee's express permission.

15. "Video programming" Iowa Code 477A.1 means the same as defined in 47 U.S.C. § 522.

**112.02 GRANT.** Nothing in this chapter shall be construed to prohibit the Grantee from offering any service over its cable system that is not prohibited by Federal or State law.

**112.03 TERM.** The franchise granted shall be in accordance with the Iowa Code.

**112.04 CONDITIONS OF STREET OCCUPANCY.** All transmission and distribution structures, poles, other lines and equipment installed or erected by the Grantee pursuant to the terms hereof shall be so located so as to cause a minimum of interference with the proper use of public ways, and with the rights and reasonable convenience of property owners who own property that adjoins any of such public ways.

**112.05 RESTORATION OF PUBLIC WAYS.** If during the course of cable service provider's construction, operation or maintenance of the cable system there occurs a disturbance of any public way by the provider, the provider shall, at its own expense, replace and restore such public way to a condition reasonably comparable to the condition of the public way existing immediately prior to such disturbance.

**112.06 RELOCATION AT REQUEST OF CITY.** Upon its receipt of reasonable advance notice, not to be less than five (5) business days, the cable service provider shall, at its own expense, protect, support, temporarily disconnect, relocate in the public way or remove from the public way any property of the provider when lawfully required by the City by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the City; but the provider shall in all cases have the right of abandonment of its property. If public funds are available to any person using such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, the City shall make application for such funds on behalf of the provider.

**112.07 RELOCATION AT REQUEST OF THIRD PARTY.** The cable service provider shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings, provided: (i) the expense of such temporary raising or lowering of the wires is paid by the person requesting the same, including, if required by the provider, making such payment in advance; and (ii) the provider is given not less than ten (10) business days' advance notice to arrange for such temporary wire changes.

**112.08 TRIMMING OF TREES AND SHRUBBERY.** The cable service provider shall have the authority to trim trees and other natural growth overhanging any of its cable system in the service area so as to prevent the branches of the trees from coming in contact with the provider's wires, cables and other equipment. The Grantee shall reasonably compensate the City for any damages caused by such trimming or shall, in its sole discretion and at its own cost and expense, reasonably replace all trees or shrubs damaged as a result of any construction of the cable system undertaken by the provider. Such replacement shall satisfy any and all obligations the provider may have to the City pursuant to the terms of this section.

**112.09 SAFETY REQUIREMENTS.** The cable system shall not unreasonably endanger or interfere with the safety of persons or property in the service area.

**112.10 AERIAL AND UNDERGROUND CONSTRUCTION.**

1. Generally. In those areas of the service area where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the cable service provider likewise shall construct, operate and maintain all of its transmission and distribution facilities underground, provided that such facilities are actually capable of receiving provider's cable and other equipment without technical degradation of the cable system's signal quality. In those areas of the service area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, the Grantee shall have the sole discretion to construct, operate and maintain all of its transmission and distribution facilities or any part thereof aerially or underground. Nothing contained in this section shall require the provider to construct, operate and maintain underground any ground-mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are placed underground after the effective date of this chapter, the provider shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time that such are placed underground.

2. New Developments. The developer shall provide the cable service provider with written notice of the issuance of building or development permits for planned commercial/residential developments within the franchise area requiring undergrounding of cable facilities. Developer shall be responsible for the digging and backfilling of all trenches during development. Provider shall be responsible for engineering, deployment of labor and cable facilities. Installation from utility easements to individual homes or other structures shall be at the cost of the home or building owner or developer unless otherwise provided.

3. Local Improvement District. If an ordinance is passed creating a local improvement district which involves placing underground certain utilities including that of the cable service provider which are then located overhead, the provider shall participate in such underground project and shall remove poles, cables and wires from the surface of the streets within such district and shall place them underground in conformity with the requirements of the City. Provider may include its costs of

relocating facilities associated with the undergrounding project in said local improvement district if allowed under applicable law.

**112.11 CUSTOMER SERVICE STANDARDS.** Iowa Code section 477A.8 is adopted for customer service standards.

**112.12 PROVIDER DISCRIMINATION PROHIBITED.** Iowa Code section 477A.10 is adopted for provider discrimination.

**112.13 SERVICE TO PUBLIC BUILDINGS.** The City may request public access channels in accordance with Iowa Code, Section 477A.6.

**112.14 FRANCHISE FEE.** The franchise fee shall be in accordance with Iowa Code 477A.7

**112.15 RENEWAL OF FRANCHISE.** The franchise shall be renewed in accordance with Iowa Code section 477A.3 or by the municipality pursuant to section 364.2

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