

CHAPTER 114

CABLE TELEVISION FRANCHISE

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114.01 PERMIT GRANTED. The City Council hereby grants a nonexclusive permit to CenturyTel TeleVideo, Inc., (“operator”) for a period of fifteen years, with the option to renew for an additional ten (10) years, upon approval of the City Council. The franchise shall consist of the right to install, maintain, and operate within the streets or highways of the City any equipment facilities for or in connection with the operation and distribution of television signals, radio signals and any future communication or data transmission services either one-way or two-way over a Broadband Communication Network. No cable or other equipment or device installed in, over or under the streets or highways in the City under a permit herein granted shall be used for any other purpose except for a Broadband Communication Network as herein defined.

114.02 DEFINITIONS.

1. “Basic CATV Service” means any CATV Service offering which includes, at a minimum, the retransmission of local television broadcast signals, local access programming, and any other programming operator decides to include in the Basic CATV service offering pursuant to this chapter.

2. “Broadband Communication Network” means an arrangement or combination of apparatus whereby television or radio signals or other intelligences, either analog or digital, are broadcast over the air and are received at one or more towers, antennas or other devices from stations licensed by the Federal Communications Commission (“FCC”), and which for a consideration are transmitted by means of a coaxial cable or other suitable device to receiving sets or apparatus of subscribers of such service. A Broadband Communication Network may also offer other one-way or two-way communication services, data transmission or cable modem services.

3. “Cable Modem Service” means access to the Internet via the Broadband Communication Network.

4. “Expanded CATV Service” means CATV offerings in addition to the programming offered in the Basic CATV service offering including, but not limited to premium channels offering movies, pay-per-view programming, and video on demand programming.

5. “Gross Annual Subscriber Receipts” means any and all compensation received directly by the Operator from the City subscribers for Basic CATV service and Expanded CATV service. Gross Annual Subscriber Receipts do not include receipts from any cable modem service, data transmission or other communications service, taxes on services furnished by the operator imposed directly on any subscriber or user by any city, City, city, state, or other governmental unit and collected by the Operator from such a governmental unit.

6. “Operator” means CenturyTel TeleVideo, Inc., a Wisconsin Corporation or any subsidiary of said company, its successors and assigns and anyone who succeeds CenturyTel, in accordance with the provisions of this chapter. The franchise shall not be assigned or transferred without the prior written consent of the City.

7. “Streets” means and includes all public streets, alleys, boulevards, highways, parkways, public grounds, and easements owned or maintained by the City.

114.03 CONDITIONS AND RESTRICTIONS ON OPERATION. The Operator, now granted a permit under this chapter, shall be subject to the following restrictions and conditions with regard to the operation of such systems, which conditions and restrictions shall be in addition to any other contained or referred to in this chapter. Cables, wires, and other overhead equipment in connection with such system may be installed, operated, and maintained either over or under the streets or highways of said City upon such poles and equipment as is there existing and pursuant to such arrangements and agreements as may be made with the owners thereof. Construction and installation of any additional poles or other equipment for the support of cables, wires and other overhead and underground equipment in the streets or highways in connection with said systems shall be submitted to the City for approval. The City shall issue a permit to the Operator provided such construction and installation will conform to the applicable City of State code.

114.04 TRANSFER OF PERMIT. The Operator may not transfer or assign any rights granted under this chapter without the approval of the City Council. Transfer from a subsidiary to a parent corporation or vice versa shall not be considered a transfer under this section.

114.05 LIABILITY OF OPERATOR. The Operator shall indemnify and save the City, its agents, and employees harmless from any and all claims for personal injuries or property damage and any other claims, costs, including attorney's fees, expense of investigation and litigation of claims and actions which may arise from the installation and/or operation of said system, except those claims, costs, damages and injuries arising from the negligence of the City. For this purpose the Operator shall early and at all times maintain insurance on file with the City Clerk insuring such Operator and City against any and all liability arising from the installation, maintenance and operation of the Broadband Communication Network.

114.06 COMPLIANCE WITH APPLICABLE LAWS. The Operator shall at all times during the life of the permit be subject to all lawful exercises of the police power of the City and to such reasonable regulations as the City may hereafter by resolution or ordinance provide. In additions, the Operator and its system shall be subject to the laws of the State of Iowa.

114.07 REVOCATION OF PERMIT.

1. Upon the failure of the Operator to observe any of the terms and provisions of this chapter, the City may serve notice upon the Operator requiring it to perform or to act as required by this chapter. If the Operator shall fail at the end of a 60-day period to perform or act as required by this chapter, the City may terminate said license and all rights thereunder after notice and hearing. Notice of hearing shall be given by registered mail to the post office address of the Operator deposited in the U.S. mails not less than twenty (20) days prior to such hearings. Revocation or suspension of the bond and/or insurance referred to in Section 5 hereof shall be grounds for immediate termination of said license, without notice or hearing.

2. Except as provided above, such cables, wires, and other overhead equipment shall conform to the Electrical Code of the State of Iowa.

3. The System shall transmit signals from not less than twelve (12) television stations or networks.

4. The Operator shall maintain and operate the System in accordance with the rules and regulations of the FCC, the State and such regulations as the City promulgate.

5. In case it becomes necessary for the Operator to open or otherwise disturb any streets or highways, the Operator shall first secure a permit from the appropriate regulatory authority.

6. In the event at any time during the period the Broadband Communication Network is licensed under the provision of this ordinance, the City shall lawfully elect to alter or change any street, alley, or any other public way, the Operator, upon reasonable notice by the City, shall remove, relay, and relocated its facilities at its own expense.

7. The Operator shall upon request of any person holding a building moving permit issued by the City, temporarily raise or lower its facilities or disconnect or take them down to permit the moving of the buildings. The expense of such removal, raising or lowering of wires shall be paid for by the person requesting the same, and the Operator shall be given not less than forty-eight (48) hours' advance notice to arrange for such temporary line changes.

8. All installations by the Operator, of cables and other facilities and equipment, shall comply in all respects with all laws, ordinances, rules and regulations of the State of Iowa, or any agent or department thereof now or hereafter in effect.

9. The Operator shall provide and maintain its equipment in such condition and of such quality so that none of its service will adversely affect radio or television receptions.

10. Installation and maintenance of equipment shall be such that standard color signals shall be transmitted with reasonable fidelity to any subscriber receiver.

11. The Operator may not engage in the servicing or repair of television receivers in the City or directly or indirectly require of any subscriber patronage of any designated person or company engaged in such service or repair business. The foregoing shall not apply to the repair or adjustment of equipment other than receivers, which is a part of the system of the Operator.

12. The Operator shall submit to inspections by duly authorized personnel of the City and shall make available to such inspectors or duly authorized personnel its facilities and equipment. The City reserves the rights of reasonable regulation of the installation and maintenance of the facilities of the Operator.

114.08 ABSENCE OF GUARANTY. The granting of the franchise shall not be construed as any undertaking or guaranty of the efficiency of the Operator or maintenance of the service of the Operator. The City assumes no responsibility for the acts or commissions of the Operator other than to require compliance with this chapter.

114.09 PUBLIC SERVICE FEATURES AND ANNOUNCEMENTS. This chapter shall give the Operator the right to originate local public service features and announcements, in conformity with State and Federal law.

114.10 FRANCHISE FEE. The Operator, on or before the end of the Operator's fiscal year for each year, shall pay, as an annual franchise fee to the City, a sum equal to 1% of the Gross Annual Subscriber Receipts from Basic CATV services provided in the City for the preceding calendar year. Revenues received from cable modem service, data transmission or other communications services offered via the Broadband Communication Network are excluded from Gross Annual Subscriber Receipts for purposes of calculating the franchise fee,. No other fee, charge, or consideration shall be imposed. The Operator at least once annually at the request of the City Council, shall furnish the City with a full accounting and report showing its revenues derived from services within the City, and the manner of computation o its annual franchise fee to the City.

EDITOR'S NOTE

An Ordinance adopting a cable television franchise for the City was passed and adopted on July 10, 2006.

