

CHAPTER 115

CABLE TELEVISION REGULATIONS

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115.01 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. "Cable television system" means any facility that, in whole or in part, receives directly, or indirectly over the air, and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such services.
2. "Channel" means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
3. "FCC" means the Federal Communications Commission.
4. "Franchise" means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.
5. "Grantee" means the person granted a franchise in the City. When the context so requires, the term "Grantee" means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
6. "Private property" means all property, real, personal or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.
7. "Property of the Grantee" means all property, real, personal or mixed, owned or used by the Grantee however arising from or related to or connected with the franchise.
8. "Public property" means all property, real or personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

115.02 APPLICATION FOR FRANCHISE. No franchise may be granted unless the applicant has successfully completed the application procedure in accordance with filing instructions

promulgated by the City. All applicants must submit a request for franchise which shall include but not be limited to the follows:

1. **Name and Address of Applicant.** The name and business address of applicant or appropriate corporate officers.
2. **Description of Proposed Operation.** A general description of the applicant's proposed operation, including but not limited to: business hours; operating staff; maintenance procedures beyond those required in this chapter; management and marketing staff complement and procedures; and, if available, the rules of operation for public access.
3. **Signal Carriage.** A statement of the television and radio services to be provided, including both off-the-air and locally originated signals.
4. **Special Services.** A statement setting forth a description of the automated services proposed as well as a description of the production facilities to be made available by the Grantee for the public channels required to be made available by the provisions of this chapter.
5. **Schedule of Charges.** A statement of the applicant's proposed schedule of charges.
6. **Corporate Organization.** A statement detailing the corporate organization of the applicant, if any, including the names and addresses of its officers and directors and the number of shares held by each officer and director.

115.03 USE OF PROPERTY. The Grantee may use public property within the City and, with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system subject, however, to the following restrictions:

1. **Laws and Regulations.** The Grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereafter be applicable thereto.
2. **Restrictions.** The Grantee shall not use or occupy or permit public property or private property to be used or occupied or do or permit anything to be done on or about public property or private property which will, in any manner:
 - A. Impair the owner's interest in or title thereto;
 - B. Impair any mortgage or lease as may now or hereinafter be applicable thereto;
 - C. Adversely affect the then value or character thereof;
 - D. Cause or be likely to cause structural damage thereto, or any part thereof;
 - E. Cause or be likely to cause any damage or injury to any utility service available thereto;
 - F. Create a public or private nuisance, cause any offensive or obnoxious vibrations, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and persons lawfully on or about the same;
 - G. Violate the rules, regulations and requirements of any person furnishing utilities or services thereto; or

H. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

115.04 TAXES. The Grantee shall pay all real estate taxes, special assessments, personal property taxes, license fees, permit fees and other charges of a like nature which may be taxed, charged, assessed, levied, or imposed upon the property of the Grantee and upon any services rendered by the Grantee.

115.05 INSURANCE. The Grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. General Liability. Insurance in such forms and in such companies as shall be approved by the City to protect the City and Grantee from and against any and all claims, injury or damage to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment or appliance. The amount of such insurance shall be not less than \$100,000 as to any one person, \$300,000 as to any one occurrence for injury or death to persons, and \$100,000 for damages to property, with so-called umbrella coverage of at least \$3,000,000.

2. Worker's Compensation. Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.

3. Automobile. Automobile Insurance with limits of not less than \$100,000/\$300,000 of public liability coverage and automobile property damage insurance with a limit of not less than \$100,000 covering all automotive equipment, with so-called umbrella coverage of at least \$3,000,000.

4. Notice of Cancellation. All of said insurance coverage shall provide a ten (10) day notice to the City in the event of material alteration or cancellation of any coverage afforded in said policies prior to the date said material alteration or cancellation shall become effective.

5. Copies Filed. Copies of all insurance policies required hereunder shall be furnished to and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

6. Defense Costs. The Grantee shall pay all reasonable expenses incurred by the City in defending itself with regard to all damages, penalties or other claims resulting from the acts of the Grantee, its assigns, employees, agents, invitees, or other persons. Said expenses shall include all out-of-pocket expenses such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

115.06 REPAIRS. During the term of the franchise, the Grantee shall, at its own expense, make all necessary repairs and replacements to the property of the Grantee. Such repairs and replacements, interior and exterior, ordinary as well as extraordinary, and structural as well as nonstructural, shall be made promptly, as and when needed.

115.07 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee forever agrees to indemnify the City against, and agrees to hold and save the City harmless from, any and all damage, injury, costs, expenses, liability, claims, settlements, judgments, decrees and awards of every kind and nature whatsoever, including attorney's fees, costs and disbursements, that may ever be claimed against the City by any person whatsoever, or an account of any actual or alleged loss, damage or injury to any property or person whatsoever, however arising from or related to or connected with, directly or indirectly, (a) injury to or death of any person, or loss, damage or injury to any property of the Grantee, and/or (b) the nonobservance by the Grantee of the provisions of any laws, statutes, ordinances, resolutions,

regulations or rules duly promulgated by any governmental entity which may be applicable directly or indirectly, to rights, privileges, and authority, and the obligations and liabilities, assumed by the Grantee under the franchise, (c) the nonobservance by the Grantee of any of the terms and conditions of the franchise, and/or (d) the granting of the franchise.

115.08 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person, company or corporation without prior consent, provided the grantee shall have the right to assign the provisions of this chapter to a corporation wholly owned by the grantee, or to a limited partnership of which the grantee of other wholly owned subsidiary is a general partner, without prior consent of the City.

115.09 INSOLVENCY OF GRANTEE. In the event that the Grantee shall become insolvent, or be declared a bankrupt, or the property of the Grantee shall come into the possession of any receiver, assignee or other officer acting under an order of court, and any such receiver, assignee or other such officer shall not be discharged within sixty (60) days after taking possession of such property, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee.

115.10 DEFAULT OF GRANTEE. In the event the Grantee shall fail to comply with any of the terms and conditions of the franchise within thirty (30) days after receipt of notice in writing from the City specifying the failure or default, the City may, at its option, terminate the franchise by giving written notice thereof to the Grantee. This section shall not apply to failures or defaults beyond the reasonable control of the Grantee.

115.11 TERMINATION. Upon termination of the franchise for any cause, the Grantee shall remove the property of the Grantee from all public property and private property within the City and shall return such public property and private property to the owner thereof in the same condition as when the property of the Grantee was placed thereon, ordinary wear and tear excepted.

115.12 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all government laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a cable television system, the sale and supply of audio and video communications services, the use of public property and private property and the engagement in such further activities as may now or hereafter be consistent with generally accepted principles applicable to the operation of a cable television system.

115.13 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. Grantee's plant and equipment, including antenna site, headend, distribution system, towers, structures, poles, wires, underground cable and appurtenances shall be installed and maintained in accordance with good engineering practices and shall be located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance and operation of the system shall be in accordance with the provisions of the National Electrical Code of the National Fire Protection Association and National Electric Safety Code (outside work) and such applicable laws of the State and applicable ordinances of the City. All installations shall be of a permanent nature, durable and maintained in a safe, suitable and substantial condition, in a good order and repair.

115.14 INTERFERENCE. The Grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribers of the Grantee.

115.15 INSTALLATION OF CABLES. The Grantee shall have the right, privilege, and authority to lease, rent or in any other manner obtain the use of wooden poles with overhead lines, conduits, trenches, ducts, lines, cables, and other equipment and facilities from any and all holders of public licenses and franchises with the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. The Grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have installed underground cable, then in that event, the cable used by the Grantee shall be installed underground.

115.16 RESTORATION OF GROUND SURFACE. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore all paving, sidewalk, driveway, or surface of any street or alley disturbed, in as good a condition as before said work was commenced.

115.17 ALTERATION OF GRADE. In the event that during the term of the franchise, the City shall elect to alter or change the grade of any street, alley, or public way, the Grantee, upon reasonable notice by the City, shall remove, relay and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.

115.18 TEMPORARY REMOVAL OF CABLES. The Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its cables to permit the moving of buildings. The expense of such temporary removal, raising, or lowering of cables shall be paid by the person requesting the same and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than five (5) days' advance notice to arrange for such temporary cable changes.

115.19 TREE TRIMMING. The Grantee shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks, and public places of the City so as to prevent the branches of such trees from coming in contact with the cables of the Grantee. All trimming shall be done at the expense of the Grantee.

115.20 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City unless the density of potential subscriber locations is less than an average of thirty (30) potential locations per each linear mile of cable construction.

115.21 SERVICE REQUIREMENTS. The Grantee shall, during the period of its franchise, furnish reasonable, adequate and efficient cable television service to the residents of the City wherever possible and the Grantee shall maintain its system in reasonable repair and working order and provide adequate facilities for such maintenance. These requirements shall be temporarily suspended in the event of natural disaster or emergency conditions or other circumstances beyond the control of the Grantee.

115.22 PERFORMANCE STANDARDS. The Grantee shall produce a high-quality picture in black and white or in color accompanied by proper sound on typical standard television sets in good repair. The Grantee shall also transmit signals of adequate strength to produce good pictures with good sound at all subscriber terminals throughout the City without causing cross modulation in the cables or interfering with other electrical or electronic systems. The Grantee's cable television system shall meet technical standards of the rules and regulations of the Federal Communications Commission and the Grantee shall perform the periodic tests and make the measurements specified in such rules.

115.23 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the cable television system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

115.24 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN CITY BUILDINGS AND SCHOOLS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities with the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Grantee shall furnish a terminal at its expense and any additional terminals shall be at the expense of the City. This provision is meant to apply only to those buildings accessible to Grantee's system.

115.25 TELECAST OF EDUCATIONAL ACTIVITIES. The Grantee shall not cablecast, tape, reproduce or otherwise convey to its subscribers the activities of any recognized educational authority, public or private, without the written consent of the governing body of such authority.

115.26 PROGRAM ALTERATION. Any signal received by the Grantee from a television broadcast station shall be cablecast by the Grantee in its entirety, as received, without alteration.

115.27 COMPLAINT PROCEDURE. The Grantee shall maintain a publicly listed telephone number which can be called by all subscribers to the City's system toll free. The Grantee shall maintain a repair and maintenance crew capable of responding to subscriber complaints or request for services within twenty-four (24) hours after receipt of the complaint or request. No charge will be made to the subscriber for this service. This telephone number shall be given to each subscriber in writing at the time a service agreement is entered into and shall also be listed in the telephone directory distributed to residents of the City. The Grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints, which procedure shall be filed with and approved by the Council. If the Council does not approve of said procedures, they shall be altered by the Grantee to comply with the requests of the Council. The Grantee shall furnish to each subscriber in writing the procedure for receiving, acting upon and resolving subscriber complaints.

115.28 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations for the conduct of its business with its subscribers and service users, not inconsistent with the provisions of its franchise or with the rules and regulations of the FCC and other applicable laws, rules and regulations. The Grantee shall file such rules and regulations, and all amendments thereto, with the Clerk. If the Council makes no objections to said rules and regulations within thirty (30) days of the filing with the Clerk, they shall be in full force and effect until amended or altered. The Grantee shall also file with the Clerk the form of its service agreement with subscribers and channel users.

115.29 SUBSCRIBER RATES AND CHARGES. All rates for service shall be reasonable, compensatory and nondiscriminatory. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege and authority to change the rates and charges. Further regulations with regard to cable television rates are contained in Chapter 115 of this Code of Ordinances.

115.30 PAYMENTS TO CITY. The Grantee shall pay to the City one percent (1%) of its annual gross "basic service charges" from subscribers located within the City. All payments shall be made to the City annually and shall be due forty-five (45) days after the close of the calendar year. Grantee shall keep complete records of accounts showing dates and payments received and shall furnish an annual accounting by a certified public accountant to the City of the payment data as provided above. The Council shall have the right, power and authority to inspect the monthly service charge records of the Grantee at the premises of the Grantee during normal business hours or any other reasonable time and place.

115.31 INJURY TO PROPERTY OF THE GRANTEE. No person shall wrongfully or unlawfully injure the property of the Grantee.

115.32 INTERCEPTING SIGNALS OF THE GRANTEE. No person shall wrongfully or unlawfully intercept the signals of the Grantee.

115.33 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of FCC Form 325 and FCC Form 326 for the preceding calendar year.

115.34 FILING OF MAPS AND PLATS. On or before April 1 of each year, the Grantee shall file with the City maps and plats showing the location and nature of all new property of the Grantee within the City as of the end of the preceding calendar year.

115.35 FILING OF COMMUNICATIONS WITH REGULATORY AGENCIES. The Grantee shall file with the City, copies of all petitions, applications and communications submitted by the Grantee to any regulatory agency having jurisdiction over the Grantee.

115.36 ACCESS. The Grantee shall and does hereby grant to the City the right to enter upon the property of the Grantee, upon reasonable notice, at any and all reasonable times to inspect the same for purposes pertaining to the rights of the City.

115.37 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference of advantage to any person, nor subject any person to prejudice or disadvantage with respect to rates, charges, services, service facilities, rules, regulations, or in any other respect.

115.38 OTHER BUSINESS ACTIVITIES PROHIBITED. During the initial term of the franchise, or any extension thereof, the Grantee shall not engage in the business of selling, leasing, renting or servicing television or radio receivers, or their parts and accessories, and the Grantee shall not require or attempt to direct its subscribers to deal with any particular person or firm with respect to said activities.

115.39 CITY PREEMPTION RIGHTS. The City retains the right to utilize the existing poles for future City use and to require removal of the cable by the Grantee where existing poles are not sufficient to adequately handle the proposed City use and Grantee's cable.

115.40 NONINTERFERENCE. All transmission and distribution structures, lines and equipment erected by the Grantee within the City shall be so located as to cause minimum interference with the proper use of streets, alleys and other public ways and places and to cause minimum interference with the rights and/or reasonable convenience of property owners who adjoin any of the said street, alleys or other public ways and places.

115.41 PROTECTION OF WORK. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of the construction, operation or removal of cable installation shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Grantee shall, whenever it is deemed necessary by the City, install such steel plates as may be necessary to allow a public roadway to remain open while the Grantee is in the course of the construction, operation or removal of cable television.

115.42 REVOCATION OF FRANCHISE. If the Grantee fails to comply with any of the provisions of its franchise, or defaults in any of its obligations hereunder, except for causes beyond

the reasonable control of the Grantee, and fails within thirty (30) days after written notice from the City to commence, and within a reasonable time, complete, the correction of such default and noncompliance, the Council shall have the right to revoke its franchise and all rights of the Grantee thereunder.