

CHAPTER 112

TELEPHONE FRANCHISE

112.01 Franchise Granted
112.02 Terms and Conditions

112.03 Assignment of Franchise

112.01 FRANCHISE GRANTED. U. S. West is hereby granted and vested with the right, franchise and privilege for a period of twenty-five (25) years from the effective date of the franchise ordinance codified in this chapter, to acquire, construct, operate and maintain in the City the necessary facilities for telecommunications services for public and private use and to construct and maintain along, upon, across and under the streets, highways, avenues, alleys, bridges and public places the necessary fixtures and equipment for such purposes.

112.02 TERMS AND CONDITIONS. U. S. West, hereinafter referred to as "Grantee," shall be subject to the following terms and conditions during the term of the franchise granted hereunder:

1. **Service Requirements.** The Grantee shall furnish reasonable, adequate and efficient telecommunication services throughout the City and shall maintain its system in reasonable repair and working order and provide adequate facilities for such maintenance.
2. **Installation and Maintenance of Service Facilities.** The Grantee's plant and equipment, including all telecommunication lines, whether overhead or underground, and other distribution facilities shall be installed 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 unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. The erection, installation, construction, replacement, removal, repair, maintenance and operation of the telecommunications system shall be in accordance with all applicable laws, regulations and codes of the State and applicable ordinances, regulations and codes of the City. The Grantee shall restore all property of the City and of the inhabitants thereof to its original condition after the installation of either overhead or underground utility lines.
3. **Transmission and Distribution Facilities – General Location Requirements.** All telecommunication structures, lines and equipment erected by the Grantee within the City shall be located as to cause minimum interference with the proper use of streets, and other public ways and places, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin any of the said streets, or other public ways and places.

4. Grantee's Duty To Restore 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 Engineer, 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. All trenches and filled excavations must be tamped and compacted to a ninety-five percent (95%) Standard Proctor Density.
5. Alteration of Street or Street Grade. If at any time the City elects to alter or change a street or the grade of any street, or public way, and such alteration or change requires the relocation of any of Grantee's facilities located on public property, the Grantee, upon reasonable notice by the City, shall remove, re-lay and relocate its poles, wires, cables, underground conduits, manholes, or other distribution fixtures at its own expense.
6. Tree Trimming. The Grantee shall have the authority to trim trees upon and overhanging streets, sidewalks and public places of the City so as to prevent the branches of such trees from coming in contact with the transmission or distribution lines of the Grantee, all trimming to be done at the expense of the Grantee and subject to the approval of the City Director of Public Works.
7. Street Obstruction. Any opening or obstruction in the streets or other public ways made by the Grantee in the course of its operations, pursuant to the authority granted hereunder, shall be guarded and protected at all times by the placement of adequate barriers, fences or boarding, the bounds of which during the periods of dusk and darkness shall be clearly designated by warning lights.
8. Approval Required. Grantee shall consult with the City prior to locating its facilities on private property that is adjoining current or proposed public right-of-way. Prior to making any opening or causing any street obstructions for construction or repair on public property, including easement, Grantee shall obtain the approval of the City Public Works Department, which shall not unreasonably deny approval and whose decision may be appealed to the Council.
9. Pole Signs. The City shall be allowed to erect and maintain official signs on Grantee's poles located within the City.
10. Indemnification. In the conduct of its operation pursuant to this chapter, the Grantee shall at all times use due care and diligence. The Grantee shall further defend, indemnify, protect and save harmless the City and its political subdivision from and against any and all liability, losses and physical damage to property and bodily injury or death to any persons from any cause of action which any person may have or claim to have by reason of any act, conduct, negligence, fault or misconduct on the part of the Grantee, its agent, officers, servants or employees.

11. Franchise Tax. If, during the term of the franchise there shall be enacted by the Iowa General Assembly a valid taxing statute authorizing the City to collect a tax on the revenues received by Grantee from its customers in the City, then if such tax is levied by the City, said Grantee will include, subject to the approval of the Iowa State Utilities Board, such tax as a separate item on bills to its customers within the City, and remit the sums collected to the City under the terms and provisions of such enacted statute.

112.03 ASSIGNMENT OF FRANCHISE. The Grantee shall not, without consent of the City, sell, assign or convey its franchise rights granted pursuant to this chapter, except that Grantee may, without City consent, sell, assign or convey such franchise rights to its affiliated companies or subsidiaries.

EDITOR'S NOTE

Ordinance No. 299, adopting a telephone franchise for the City was passed and adopted on December 2, 1982.

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