

CHAPTER 112

CABLE TELEVISION FRANCHISE

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112.01 TERM OF FRANCHISE. Mediacom, L.L.C., its successors and assigns, are hereby granted a renewal of the nonexclusive right, franchise, and authority, for a period of ten (10) years, to erect, maintain, and operate a Cable Television System in the City, and to sell and supply to individuals, firms, and corporations within the corporate limits of the City cable service and other services in, along, among, upon, across, above, over, under or in any manner connected with public ways within the service areas and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain or retain in, on, over, under, upon, across or along any public way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the cable system, subject to the conditions and restrictions provided and subject to the Cable Franchise Regulatory Ordinance, passed and adopted on February 26, 1996 (codified in Chapter 113 of this Code of Ordinances), and all applicable laws of the State and United States of America.[†]

112.02 COMPLIANCE WITH REGULATORY ORDINANCE. The Grantee shall comply with all of the conditions and provisions of the Cable Franchise Regulatory Ordinance No. 397 passed and adopted on February 26, 1996, unless an exemption or modification is so specified in this chapter. If Grantee fails to comply with the requirements of said regulatory ordinance, then the City may invoke and secure compliance in accordance with Section 1.14 of this Code of Ordinances and as authorized by Section 364.22 of the *Code of Iowa*. The Grantee may provide a *Notice to Subscribers* in the form attached as Exhibit A to Ordinance No. 398 in lieu of the Customer Handbook required by Section 113.24(18) of this Code of Ordinances.

112.03 SYSTEM UPGRADE. The Grantee shall construct a cable system which delivers cable television signals processed at 450 MHz (55 channels). The system upgrade shall include:

1. Pay-Per-View Capabilities. Diverse, multiple pay-per-view and pay-per-view channel services will be offered to subscribers after the completion of the rebuild within five (5) years of the effective date of the franchise.
2. Override System. The installation and operation of an emergency alert override system on or before July 1, 1997, or as soon as the FCC regulations regarding such systems are finalized and operational.
3. Upstream Capability. "Upstream capability" to allow live broadcast on the local access channel from the following locations: Williamsburg Public Library and City Hall, Williamsburg Community High School, and one other location to be selected by the Council. The Grantee shall

[†] **EDITOR'S NOTE:** Ordinance No. 398, granting a cable television franchise to Triax Midwest Associates, L.P., was passed and adopted on February 26, 1996. The franchise was transferred to Mediacom, L.L.C. on September 13, 1999.

provide the cable to the headend, the transmitting equipment, and modulator, and for live broadcast capability at each of the four locations. The Grantee shall also provide one video cassette player at one location. The Grantee shall activate the upstream capabilities from one location as designated by the City within one year of the effective date of the franchise and shall activate the upstream capabilities from the three remaining locations within three years of the effective date of the franchise.

4. Conversion. Subscribers shall not be charged by Grantee for conversion from the existing system to the new system. In the event that special additional or customized equipment is requested by any subscriber or is required to provide service to any subscriber, the Grantee may charge the subscriber for such equipment. Grantee will notify subscribers and the public in general of the cutover, using a combination of the following: bill stuffers; direct mail; news releases; radio announcements; CSR training, and community bulletin board announcements.

5. Drop Audit. During the rebuild/upgrade, Grantee shall audit and test all subscriber drops and all drops not meeting the standards of the *National Electric Code* shall be replaced during the rebuild/upgrade. The system shall be designed to allow as many subscriber drops as required by FCC regulations. Such subscriber drop audit shall be completed concurrent with the completion of the rebuild/upgrade.

6. Five-Year Extension. It is agreed and understood that the Grantee may submit a proposal to the City at any time during the term of the franchise to construct a 550 MHz cable system, which would be capable of providing 76 channels, in exchange for a five-year extension of the term of the franchise. The Council shall accept or reject such proposal or extension in writing to the Grantee.

7. In the event the Grantee fails to complete the rebuild/upgrade within three (3) years of the effective date of the franchise agreement, according to the terms of this section and absent any reasonable extensions of time for performance, Grantee agrees to pay to the City one hundred dollars (\$100.00) per day for each day construction is not complete.

112.04 CLOSED LOOP CIRCUIT. If requested and authorized by the City, in advance of the rebuild, the Grantee shall connect the following locations to the Cable System so that there will be a closed loop circuit. The costs of such closed loop circuit shall be paid by the Williamsburg School District and/or the City:

1. Williamsburg City Hall
2. Williamsburg Public Library
3. Williamsburg Elementary/Middle School
4. Williamsburg High School
5. Interparish Lutheran School
6. Kirkwood Community College - Williamsburg Center

112.05 COMMUNITY CHANNEL EQUIPMENT GRANT. Within 120 days after the effective date of the franchise agreement, the Grantee will provide the City with a \$5,000.00 up-front capital grant to be used exclusively for community channel equipment and/or facilities as the City deems necessary.

112.06 ACTIVATED CHANNELS. Prior to the completion of the system upgrade, the Grantee shall provide a minimum of 31 activated channels on the basic/expanded basic tier of service. After the completion of the system upgrade, the Grantee shall provide a minimum of 37 activated channels on the basic/expanded basic tier of service during the remaining term of the franchise.

112.07 ADDITIONAL PROGRAMMING. Within three (3) years of the effective date of the franchise, the Grantee will add an unspecified number of new channels of programming. The Grantee shall consult with the City regarding the types of programming to be added prior to making a decision regarding the channels to be added, but reserves the right to make a final determination as to which channels are added.

112.08 SERVICE AREA.

1. Service to Potential Subscribers. Grantee shall offer cable television residential service to all areas of the City which are in the corporate limits of the City on the effective date of the franchise.
2. Annexed Locations. Grantee shall extend service to any newly annexed locations meeting the density requirements of the Regulatory Ordinance, in all unwired newly annexed developments within six (6) months of a request in an area to be served by either aerial or underground construction.
3. Service Area. The service area of the Grantee shall be the entire corporate boundaries of the City and include any areas annexed to the City in the future.
4. Commercial Service. Grantee shall, upon request, make service available to all commercial/industrial establishments, located within 250 feet of its existing system at its expense. Service shall be provided upon request of the commercial establishment beyond 250 feet at the expense of the commercial establishment.
5. The Grantee shall extend service to newly developed housing areas not meeting the density requirements of Section 113.21 of this Code of Ordinances if the owners of the housing development agree to provide advance payment with a five-year payback as outlined in Exhibit B to Ordinance No. 398.

112.09 FRANCHISE NONEXCLUSIVE. Consistent with the requirements of the Regulatory Ordinance codified in Chapter 113 of this Code of Ordinances, the franchise shall not be construed as any limitation upon the right of the City to grant to other persons rights, privileges, or authorities similar to the rights, privileges and authorities herein set forth, in the same or other streets, alleys or other public ways or public places. The City specifically reserves the right to grant at any time during the term of the franchise or renewal thereof, if any, such additional franchises for a cable communications system as it deems appropriate.

112.10 POLICE POWERS. In accepting the franchise, the Grantee acknowledges that its rights hereunder are subject to the police powers of the City to adopt and enforce general ordinances necessary for the safety and welfare of the public and it agrees to comply with all applicable general laws and ordinances enacted by the City pursuant to such powers.

112.11 TRANSFER OF FRANCHISE. The Grantee's right, title or interest in the franchise shall not be sold, transferred, assigned or otherwise encumbered, other than to an entity controlling, controlled by or under common control with the Grantee, without the prior consent of the City. Such consent shall not be unreasonably withheld. Within thirty (30) days after receiving the request for transfer, the City shall, in accordance with FCC rules and regulations, notify the Grantee in writing of the information it requires to determine the legal, financial, and technical qualifications of the transferee. The entity seeking the approval of the City to obtain the purchase, transfer, assignment, or control of the cable system shall comply with the requirements for new applicants as stipulated in Section 113.07 of this Code of Ordinances.

112.12 NOTICES. Unless expressly otherwise agreed between the parties, every notice or response required by this chapter to be served upon the City or the Grantee shall be in writing, and shall be deemed to have been duly given to the required party five (5) business days after having been posted in a properly sealed and correctly addressed envelope when hand delivered or sent by certified or registered mail, postage prepaid.