

## CHAPTER 112

### CABLE TELEVISION FRANCHISE

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112.01 **TERMS.** For the purpose of this Ordinance, the following terms, phrases, words, and abbreviations shall have the meanings below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

1. "Cable system" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designed to provide cable service and other service to subscribers.
2. "Franchising Authority" means the City of Guthrie Center, Iowa or the lawful successor, transferee or assignee thereof.
3. "Grantee" means Guthrie Telecommunications Network, Inc., or the lawful successor, transferee or assignee thereof.
4. "Basic revenues" mean the monthly cable service revenues received by Grantee from subscribers for basic cable service on an annual basis; provided, however, that such phrase shall not include revenues received from any national advertising carried on the cable system, nor shall such phrase include any taxes on cable service which are imposed directly or indirectly on any subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.
5. "Public way" means the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, 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 Franchising Authority in the City which shall entitle the Franchising Authority

and the Grantee to the use thereof for the purpose of installing, operating, repairing and maintaining the Cable System.

112.02 **GRANT.** The Franchising Authority hereby grants to Grantee a non-exclusive franchise to construct and operate a Cable System in, along, among, upon, across, above, over, under or in any manner connected with Public Ways within the Franchising Authority 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.

112.03 **TERM.** The franchise granted pursuant to this chapter shall be for a renewed term of twenty-five (25) years from its passage and final adoption.

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 said Public Ways.

112.05 **RESTORATION OF PUBLIC WAYS.** If during the course of Grantee's construction, operation or maintenance of the cable system there occurs a disturbance of any Public way by Grantee, it shall, at its 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 **REQUIRED EXTENSIONS OF SERVICE.** The Cable System as constructed as of the date of the passage and final adoption of this Ordinance substantially complies with the material provisions hereof. Grantee is hereby authorized to extend the Cable System as necessary, as desirable, or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least nine (9) subscribers within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for system extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not adversely affect the operation, financial condition, or market development of the Cable System.

112.07 **SAFETY REQUIREMENTS.** Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All such work shall be performed in substantial accordance with applicable Federal Communications Commission or other federal, state and local regulations. The Cable System shall not

unreasonably endanger or interfere with the safety of persons or property in the Franchising Authority.

**112.08 FRANCHISE FEE.** Grantee shall pay to the City a franchise fee equal to three percent (3 %) of Basic Revenues received by Grantee from the operation of the Cable System on an annual basis. The franchise fee payment shall be due and payable ninety (90) days from close of the preceding calendar year. Each payment shall be accompanied by a brief report from a representative of Grantee showing the basis for the computation.

**112.09 RENEWAL OF FRANCHISE.** The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's franchise shall be governed by and comply with the provisions of the Cable Communications Policy Act of 1984, as amended.

**112.10 TRANSFER OF FRANCHISE.** 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 Grantee, without the prior consent of the Franchising Authority, such consent not to be unreasonably withheld. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any right, title, or interest of Grantee in the franchise or Cable System in order to secure indebtedness.

**112.11 INSURANCE REQUIREMENTS.** Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the franchise, Comprehensive General Liability insurance providing an amount of \$300,000 for bodily injury, (including accidental death) to anyone person, and subject to an aggregate limit in the amount of \$500,000 for anyone occurrence, and the amount of \$500,000 for property damage.

**112.12 NOTICE OF VIOLATION.** In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the franchise, it shall notify Grantee of the exact nature of the alleged noncompliance. Grantee shall have thirty (30) days from receipt of the notice to respond to the Franchising Authority to cure such default, or in the event that, by the nature of default, such default cannot be cured within the thirty (30) day period, to initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date that they will be completed.

**112.13 ACTS OF GOD.** The Grantee shall not be held in default or noncompliance with the provisions of the franchise or suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

112.14 **NOTICE.** Unless expressly otherwise agreed between the parties, every notice or response to be served upon the Franchising Authority or 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 by certified or registered mail, postage prepaid, at a post office or branch thereof regularly maintained by the U.S. Postal Service. The notices or responses to the Franchising Authority shall be addressed as follows:

City of Guthrie Center, Iowa  
102 N. 1<sup>st</sup> St  
Guthrie Center, IA 50115

The notices or responses to the Grantee shall be addressed as follows:

Guthrie Telecommunications Network, Inc.  
114 East Main St, PO Box 189  
Panora, IA 50216

The Franchising Authority and the Grantee may designate such other address or addresses from time to time by giving notice to the other.

112.15 **SEVERABILITY** If any section, sentence paragraph, term or provision hereof is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory authority having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect for the term of the franchise or any renewal or renewals thereof.