

CHAPTER 113

CHAPTER 114

CABLE TELEVISION REGULATIONS

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114.01 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. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.
2. “FCC” means the Federal Communications Commission.
3. “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.
4. “Grantee” means Coon Creek Telecommunications Corp., a corporation organized and existing under the laws of the State of Iowa, its successors and assigns. When the context so requires, the term “Grantee” means and includes the Grantee, its officers, agents, employees, servants and independent contractors.
5. “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.

6. “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.

7. “Switched digital video system” means any telecommunications infrastructure that receives and redistributes signals transmitting programs broadcast by one or more television or networks and distributes such signals, utilizing existing telecommunication infrastructure, to subscribing members of the public who pay for such services.

114.02 USE OF PROPERTY. The Grantee may use public property for a term of twenty-five (25) years within the City with the written consent of the City Administrator and/or Public Works Director, and, with the 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 switched digital video 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.

114.03 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.

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

1. **General Business Insurance.** 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 in connection with the system. 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, as to Grantee, so-called umbrella coverage of at least \$2,000,000, and shall name the City as additional insured.
2. **Worker's Compensation.** Worker's Compensation Insurance as provided by the laws of the State of Iowa, as amended.
3. **Auto Insurance.** 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, as to Grantee, so-called umbrella coverage of at least \$2,000,000, and shall name the City as additional insured for claims in conjunction with the construction, erection, operation and maintenance of the system.
4. **Change Notice.** 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 or invitees. Said expenses shall include all out-of-pocket expenses such as attorney legal fees, and shall include the value of any services rendered by the City Attorney or any other officers or employees of the City.

114.05 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.

114.06 HOLD HARMLESS. During the term of the franchise, the Grantee absolutely assumes and agrees to pay the City for, and the Grantee indemnifies 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 be claimed against the City by any person whatsoever occasioned by reason of any conduct undertaken pursuant to this chapter, or on 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.

114.07 LIABILITY. The City shall not be liable for any damages occurring to the property of the Grantee caused by employees of the City in the performance of their duties except for damages to Grantee's facilities caused by the negligence of these employees while they are conducting City business. The City shall not be liable for the interruption of service by action of City employees in the performance of their duties, nor shall the City be held liable for the failure of the Grantee to be able to perform normal services due to acts of God or other factors beyond the control of the City.

114.08 ASSIGNMENT. The Grantee shall not assign or transfer any right granted under this chapter to any other person without prior consent of the Council, which consent shall not be unreasonably withheld, provided that 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 or other wholly owned subsidiary or affiliate of Coon Creek Telecommunications Corp., is a general partner or affiliate without the prior consent of the City.

114.09 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.

114.10 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.

114.11 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.

114.12 COMPLIANCE WITH APPLICABLE LAWS. During the term of the franchise, the Grantee shall comply with all governmental laws, ordinances, rules or regulations as may be applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction, and removal of a switched digital video 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 switched digital video system.

114.13 INSTALLATION AND MAINTENANCE OF PROPERTY OF THE GRANTEE. During the term of the franchise, the property of the Grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles so as not to endanger or interfere with the lives of persons or to interfere with improvements which the City may deem proper to make or to unnecessarily hinder or obstruct pedestrian or vehicular traffic or use of public property or private property.

114.14 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 within the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. 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.

114.15 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.

114.16 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.

114.17 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.

114.18 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.

114.19 LINE EXTENSIONS. It shall be the obligation of the Grantee to serve all residents of the City except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically infeasible or economically non-compensatory. For purposes of determining compliance with the provisions of this section, and to provide for a reasonable and nondiscriminatory policy governing extensions of cable service within the City, Grantee shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there is an

average of fifty (50) homes per each linear mile of new cable construction. In the event the requirements of this section are not met, extensions of service shall be required only on a basis which is reasonable and compensatory.

114.20 SERVICE REQUIREMENTS. During the term of the franchise, the Grantee shall furnish reasonable, adequate and efficient cable television service to subscriber terminals. This requirement may be temporarily suspended due to circumstances beyond the reasonable control of the Grantee.

114.21 CONSTRUCTION SCHEDULE. The Grantee shall reasonably make service available to all residents of the City, subject to the line or extension provisions of Section 114.20 within 18 months after the granting of its franchise by the City. In the event that the City shall annex further territories as authorized by law, the Grantee shall extend energized trunk cable to the remaining portions of the City so annexed within a reasonable time acceptable to the Council. Nothing contained in this section shall preclude the requirements of Sections 114.20 and 114.22 of this chapter from being in force.

114.22 PERFORMANCE STANDARDS. The Grantee shall produce a picture in color that is of high quality 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.

114.23 CHANNEL CAPACITY AND PERFORMANCE. During the term of the franchise, the switched digital video system of the Grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC.

114.24 INSTALLATION AND MAINTENANCE OF SUBSCRIBER TERMINALS IN MUNICIPAL BUILDINGS, PUBLIC SCHOOLS, FIRE STATION, PUBLIC LIBRARY AND HOSPITALS. During the franchise, the Grantee shall at its sole cost, install and maintain a subscriber terminal along with free monthly service in such buildings owned or used by the City, and in such buildings owned or used by recognized educational authorities within the City, both public and private, as may be designated by the governing body having jurisdiction thereof. Such subscriber terminals shall be placed in such location within such buildings as may be designated by the governing body having jurisdiction thereof. This provision is meant to apply only to those buildings accessible to Grantee's system. The Grantee shall also comply with FCC regulations governing the availability and maintenance of access channels for public, educational, governmental and leased access usage, including

regulations governing provision by the Grantee of equipment and facilities for access use. The Grantee shall provide technical and production assistance to access users as needed. This section requires the subscriber to also be a subscriber of all Coon Creek Telecommunications Corp. land-line telecommunication services.

114.25 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.

114.26 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.

114.27 SUBSCRIBER RATES AND CHARGES. Except as otherwise provided in the franchise, the Grantee shall have the right, privilege and authority to change the rates and charges fixed in this section to its subscribers for its services and notify the City of said rate changes. At turn-on, single-user rates and charges may be as follows:

DESCRIPTION	CHARGE
Standard Installation Cost	Not to exceed \$90.00 per Standard Installation
Basic Monthly Service Charge (initial outlet)	Not to exceed \$49.95
Basic Monthly Service Charge (each additional outlet)	Not to exceed \$10.00

Multi-user rates and charges may be negotiated between the Grantee and the subscriber, but in no event shall the multi-user rates and charges for any subscriber exceed the aggregate of rates and charges.

114.28 LOCAL OFFICE AND COMPLAINT PROCEDURES. During the term of the franchise, and any renewal thereof, the Grantee shall maintain an area business office or agent for the purpose of receiving and resolving all complaints regarding quality of service, equipment malfunctions and similar matters. The provisions of this section shall be complied with if the Grantee maintains a local, toll-free telephone number and provides the Mayor’s office with the name, address and telephone number of the person who will act as the Grantee’s agent to receive complaints regarding quality of service, equipment malfunctions and similar matters. The area office shall be open to receive inquiries or complaints from subscribers during the hours of 8:30 a.m. to 4:30 p.m., five days per week. Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within three (3)

business days of their receipt. The Grantee shall keep a maintenance service log which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint and the time and date thereof. This log shall be made available for periodic inspection by the City.

114.29 CHANGE OF SUBSCRIBER RATES AND CHARGES.

1. Grantee's rates and charges presently in effect for installation, moving of equipment and for basic monthly service are hereby approved by the City. A current schedule of rates will be kept on file with the City Clerk.
2. For the purposes of this section, "basic service" is the provision of television broadcast signals and distribution of local access and original channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production service, per-channel or per-program charges to subscriber, rental of channels, sale of channel time, provision of commercial service such as security systems, or any other services of the system, the rates and charges for which shall not require approval of the City.
3. Grantee shall have the right to change the rates for basic monthly service, provided any increase does not exceed the increase in the Consumer Price Index for the previous twelve months as determined by the Bureau of Labor Statistics. Should Grantee wish to increase rates beyond the Consumer Price Index increase, approval shall rest with the City Council. Such approval will result in improved switched digital video service to the community or permit Grantee a fair rate of return on its investment.
4. Before approving an increase in excess of that permitted by subsection 3, the City shall hold a public hearing thereon, and shall cause to be published for two consecutive weeks in a newspaper of general circulation in the City a public notice setting forth the proposed rates and charges and the date, time, and place of the public hearing. At such public hearing, any interested party shall have the right to give testimony and present evidence on the rates and charges proposed.
5. Before instituting an increase equal to or less than the Consumer Price Index increase, Grantee will furnish to the Council a copy of the new rates and charges, as well as information regarding Bureau of Labor Statistics figures on the Consumer Price Index. Such notification shall precede any increase by not less than 30 days and not more than 60 days.

The Grantee shall pay all costs and expenses incurred by the City in connection with said application and said hearing.

114.30 SERVICE RULES AND REGULATIONS. The Grantee shall have the right to prescribe reasonable service rules and regulations and operating rules for the conduct of its business. Such rules and regulations shall be consistent with the terms and conditions of the franchise. The Grantee shall file such rules and regulations, and all amendments thereto, with the City.

114.31 SERVICE AGREEMENTS. The Grantee shall have the right to prescribe a reasonable form of service agreement for use between the Grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise.

114.32 PAYMENTS TO CITY. The Grantee shall, during the first year of operation under the franchise, pay to the City three percent (3%) of its annual "basic monthly service" revenue for the service rendered to customers located within the City. Thereafter the fee shall become one percent (1%) as calculated above. All payments as required by the Grantee to the City shall be made annually and shall be due forty-five (45) days after the close of the year.

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

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

114.35 FILING OF REPORTS. On or before April 1 of each year, the Grantee shall file with the City copies of any required FCC filings for the preceding calendar year.

114.36 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, provided however, said maps and plats shall not be public record and shall be kept confidential by the City.

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

114.38 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.

114.39 DISCRIMINATION PROHIBITED. The Grantee shall not grant any undue preference or 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.

114.40 ARBITRATION. Any controversy between the City and the Grantee regarding the rights, duties and liabilities of either party under the franchise shall be settled by arbitration. This section shall not apply to termination proceedings under Section 114.11. Such arbitration shall be before three (3) disinterested arbitrators, one (1) named by the City, one (1) named by the Grantee, and one (1) named by the two (2) thus chosen. The decision of the arbitrators shall be conclusive and shall be enforced in accordance with the laws of the State.

114.41 RESERVATIONS. The right is reserved to the Council to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power.

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