

TITLE III - PUBLIC SERVICES  
MISCELLANEOUSCHAPTER 111  
TELECOMMUNICATIONS COMMISSION

111.01 Purpose  
111.02 Definitions  
111.03 Commission Established  
111.04 Term of Office and Compensation  
111.05 Election of Officers

111.06 Treasurer  
111.07 Meetings  
111.08 Powers of the Commission  
111.09 Duties

111.01 PURPOSE. The Council desires to assure full compliance with its cable TV franchise, FCC, State and local laws and regulations and interpret and apply such to the benefit of the City and its residents, and to assure that quality and updated services be delivered throughout the City, and that the public interest be protected in all matters relating to the cable service delivering systems.

111.02 DEFINITIONS. Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the following meanings. The definitions shall also control and be applied to a Grantee's cable communication franchise.

1. "Affiliate" means an entity which owns or controls, is owned or controlled by or is under common ownership with a Grantee.
2. "Basic Service" means any service tier which includes the retransmission of local television broadcast signals representing at least one of each of the three major broadcast networks (NBC, ABC, and CBS), at least one public television channel, and retransmission of one or more channels available at no cost to Grantee via satellite broadcast and all PEG channels.
3. "FCC" means the Federal Communications Commission.
4. "Franchise" means a legal contract between the City and a person or company, which contract contains terms and conditions for constructing and operating a cable communication system.

5. "Grantee" means a person holding a franchise to operate a cable communication system within the corporate limits of the City.
6. "PEG channels" means channels dedicated to public service, educational or governmental purposes.
7. "Subscriber" means a person who purchases cable television services.

111.03 COMMISSION ESTABLISHED. There is hereby created and established as an administrative agency of the City, pursuant to Chapter 392 of the Code of Iowa, to be entitled the Telecommunications Commission, hereinafter referred to as the Commission. The Commission shall consist of five (5) citizens of the City, except that the member recommended by the School Board may reside anywhere in the Community School District, appointed by the Mayor, subject to approval of the Council. A majority of the members shall be subscribers to a telephone and television system at the time of their appointment. In its appointments the Council shall endeavor to develop a Commission versed and competent in telecommunication administration, finances and regulation. Anyone who is an owner, affiliate, shareholder, employee or agent of a city cable franchise holder, any prospective franchise holder or any public or private utility is ineligible to serve as a member of the Commission. It is recommended that one member be an officer, agent, employee or Board member of the public school system, recommended by the School Board. There shall be one member of the Council and one member of the Electric Utility Board appointed as liaison members of the Commission with no voting right.

*(Ord. 740 - Oct. 97 Supp.)*

*(Ord. 755 - Jul. 98 Supp.)*

111.04 TERM OF OFFICE AND COMPENSATION. The term of each member shall be six (6) years except that the first appointees shall be appointed two (2) for a term of two (2) years and three (3) for a term of four (4) years. Terms commence on January 1. If the Council fails to make an appointment upon expiration of a term, the incumbent shall continue to serve until an appointment is made. If any member fails to attend at least two-thirds (2/3) of the regularly scheduled Commission meetings in a twelve-month period, the Commission may request the Council to declare that member's seat vacant. Attendance of all members shall be entered in the minutes. Members shall receive compensation of ten dollars (\$10.00) for each regular or special meeting attended of the Commission both in and out of town, provided such funds have been duly budgeted and such budget approved by the Council. Actual expenses incurred by members in performance of duties may be reimbursed in accordance with such procedures as are established by the Commission and the Treasurer.

111.05 ELECTION OF OFFICERS. Members of the Commission are authorized, empowered and directed to elect one of their members to serve as President of the Commission, and are further authorized and empowered to elect such other officers from their membership as the Commission may determine to be necessary. The City Coordinator shall be advisor to the Commission and City staff shall perform secretarial and administrative duties for the Commission as requested by the Commission.

111.06 TREASURER. The official serving as Treasurer of the City is the treasurer of the Commission and receives and disburses all funds under the control of the Commission as ordered by it, but receives no additional compensation for such services.

111.07 MEETINGS. The members shall meet as necessary but at least annually in January. A quorum of three (3) members shall be required for members to conduct their business. All meetings and proceedings of the Commission shall conform with applicable open meetings law requirements. The Commission shall file with the Council a copy of the minutes of each regular and special meeting within ten (10) days after such meeting.

111.08 POWERS OF THE COMMISSION. The powers of the Commission shall be:

1. To exercise all powers and duties provided elsewhere in this chapter, Chapter 152, and other applicable ordinances.
2. To establish and promulgate such rules for the implementation of the provisions of this chapter and as necessary to carry out its functions as it shall deem necessary or useful, provided such rules shall not exceed the scope of the provisions of this chapter and shall not be in conflict with any provisions of this chapter.
3. Primary responsibility for the continuing administration of the cable tv franchise, City Cable Ordinance and implementation of complaint procedures.
4. The Commission will have the authority to:
  - A. Administer oaths and affirmations;
  - B. Issue subpoenas;
  - C. Examine witnesses;
  - D. Rule upon questions of evidence;

Supp. Aug-94

- E. Take or cause depositions to be taken;
- F. Conduct proceedings in accordance with this law;
- G. Exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
- H. Hold conferences for the settlement or simplification of the issues by consent of the parties; and
- I. Take actions and make decisions or recommend decisions in conformity with this law.

5. Reasonable, necessary and convenient powers for the design, establishment, lease or construction, operation, management and control of a municipal cable system and related facilities (including but not limited to coordinating the use of the facilities of the cable system as a "load management system" for the municipal electric utility) and which may legally be delegated to the Commission, except as such powers may be expressly limited by statute or ordinance and this chapter may be liberally construed to further the design, establishment, lease or construction, operation, management and control of the municipal cable system.

6. The Commission may not pledge the credit or taxing power of the City. All contracts and agreements entered into by the Commission shall be in the name and on behalf of the City and shall be binding on the City without review or approval of Council. However, any provisions of this chapter to the contrary notwithstanding, any contract or agreement entered into by the Commission pursuant to Chapter 28E of the Code of Iowa, or statutes amendatory thereof or supplementary thereto, or any construction contract or agreement subject to the provisions of Division VI of Chapter 384 of the Code of Iowa, or any statutes amendatory thereof or supplementary thereto shall be binding on the City only upon review and approval by the Council. No such contract or agreement may conflict with the provisions of Division V of Chapter 384 or Chapter 388, of the Code of Iowa, or any action taken pursuant to the provisions of the same.

7. Any and all property, real, personal or mixed, acquired by the Commission with regard to a cable system shall be held in the name and on behalf of the City.

Supp. Aug-94

8. In exercising any or all of the powers and duties granted or directed herein, the Commission shall determine and comply with all applicable Federal or State Constitutional, Statutory or Regulatory provisions, including but not limited to rules and regulations promulgated by the FCC.

111.09 DUTIES. The duties of the Commission shall include but not be limited to:

1. Receive and investigate such complaints, disputes or disagreements as may be directed or referred to the City between subscribers or potential subscribers and Grantees of cable television franchises; and enforce FCC customer service standards and other regulations of the City related to franchises.

2. Resolve disputes or disagreements between subscribers or potential subscribers and a Grantee of a cable television franchise should such parties be unable to first resolve their dispute. The Commission shall conduct a public hearing upon any petition by any person seeking resolution of a dispute concerning the operation of any franchise granted hereunder. A Grantee shall be provided with a copy and shall be given not less than 10 days notice of a hearing on such petition. The hearing shall be conducted pursuant to rules adopted by the Commission. Following a hearing the Commission shall issue its finding or determination which shall be final. Any person aggrieved may seek relief therefrom in the District Court of Iowa as provided by law.

3. Review and audit all reports, records, communications or other documents submitted to the City by a cable television Grantee as required.

4. The Commission, by its Treasurer, is authorized, empowered and directed to maintain corporate books of account with regard to all receipts and expenditures by the Commission with regard to a municipal cable system and is further directed to separately account for all transfers received from other funds of the City, City utilities or enterprises or other City agencies or departments. To the extent that the Commission determines according to generally accepted accounting principles that the cable system has generated surplus funds, such surplus funds are to be used to reimburse any City, City utility or enterprise or other City fund to the extent the Commission has previously received transfers from such funds. If such reimbursements are current, such surplus funds of the Commission are transferred

Supp. Aug-94

to the general fund of the City on the approval of the Council. The Commission within sixty (60) days after the end of each fiscal year of the Commission shall file with the Council a written report outlining all receipts and expenditures by the Commission with regard to the cable system during the preceding fiscal year. The Commission shall file such other reports in the forms and at the times directed by the Council.

5. Solicit, receive and accept on behalf of the City applications for subscriptions to a municipal cable system, and act as an agent of the City by implementing the provisions of a subscription agreement with each subscriber to the telecommunication services, which agreement consists of an application for subscription to the cable system and an operating code for the cable system.

6. Propose and implement amendments to the application for subscription and the operating code for the municipal cable system, including, but not limited to, amendments establishing and adjusting reasonable and necessary deposits, fees and charges for the services of the telecommunication system, such amendments to be effective only upon the occurrence of the following events:

A. The filing of such amendments with the Clerk; and

B. The occurrence of one of the following events:

(1) The approval of such amendments by resolution of the Council; or

(2) The passage of the 30th day following the filing of such amendments with the Clerk; and

C. The passage of the 30th day following the deposit in the United States mails of written notice of such amendments to all then current telecommunications subscribers;

7. Establish the initial programming and channel coverage of the municipal telecommunication system and adjust such programming and channel coverage as the Commission may determine to be necessary, notice of the establishment of such programming and channel coverage and any adjustments thereto being filed with the Clerk but effective without approval by the Council, and the Council being guided by the following principles:

Supp. Aug-94

- A. The telecommunications system should deliver to its subscribers the broadest range of "pay" communication services as are economically feasible within the system design approved by the Council;
- B. The telecommunication system should deliver to its subscribers communication services representing the broadest spectrum of political, religious, economic, social and cultural viewpoints as are economically feasible within the system design approved by the Council;
8. Collect all such deposits, fees and charges from subscribers to the municipal telecommunication system as mandated in the application for subscription and operating code with regard to the municipal system as amended; and receive all funds allocated to and for the use of the municipal telecommunication system by the City; and disburse any and all funds, fees, charges or deposits collected or received by the Commission for the use and benefit of the municipal telecommunication system.
9. The Commission shall not implement any material design changes in the municipal cable system or alter the geographical coverage of the municipal system unless proposals for such changes and the plans and specifications therefor are filed with the Clerk and either are approved by resolution of the Council or the Council has not by resolution disapproved such design, plans, and specifications by the 30th day after their filing with the Clerk.
10. Regulate basic cable service rates of cable television franchises in the City in accordance with FCC guidelines and as prescribed elsewhere in the Code of Ordinances.
11. To administer sanctions as authorized by this chapter for failure to comply with the terms of this chapter or any franchise agreement and to make such recommendations for action by the Council as otherwise required by this chapter;
12. From time to time as the Commission shall deem appropriate make recommendations to the Council for any amendments to this chapter and Chapter 151 deemed by the Commission to be advisable. (Amended by Ordinance No. 739)

(Chapter 111 added by Ordinance No. 656)

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