

Chapter 4-1

JUNK YARDS

Sections:

- 4-1-1 Definition**
- 4-1-2 Junk Yards Not Permitted**
- 4-1-3 Collection Of Junk Prohibited**
- 4-1-4 Municipal Infraction**
- Section 4-1-1 Definition**

JUNK YARD OR SALVAGE YARD: As used herein, junk yard or salvage yard shall have the same meaning and shall mean any business, whether for profit or not, engaged in the business of salvaging or storing junked motor vehicles or machinery, appliances, or other items of tangible personal property unless such business is conducted entirely within the confines of a building.

JUNK: Any material or article having lost its value for the original purpose for which it was created or manufactured and which has a value only for the salvage of its material or parts.

Section 4-1-2 Junk Yards Not Permitted

Junk yards or salvage yards, as defined in this Chapter shall not be permitted within the City limits within the City of Storm Lake.

Section 4-1-3 Collection Of Junk Prohibited

No person shall collect or accumulate junk within the City limits of the City of Storm Lake, Iowa unless such collection of junk is housed entirely within closed structures and provided such enclosed collection of junk does not constitute a nuisance.

Section 4-1-4 Municipal Infraction

A violation of any of the provisions of this Chapter shall constitute a Municipal infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

Chapter 4-2

INDUSTRIAL PROPERTY IMPROVEMENT TAX EXEMPTIONS

Sections:

4-2-1	Purpose
4-2-2	Definitions
4-2-3	Amount Of Exemption
4-2-4	Application For Exemption
4-2-5	Prior Approval
4-2-6	Repeal Of Exemption
4-2-7	Ineligibility For Exemption

Section 4-2-1 Purpose

The purpose of this Chapter is to implement the provisions of Chapter 427B of the 1993 Code of Iowa and as such Chapter may later be amended, in order to provide for a partial exemption from property taxation of the actual value added to industrial real estate by the new construction of industrial real estate and the acquisition of or improvement to machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph (e), of the Code of Iowa, as amended.

Section 4-2-2 Definitions

(A) "ACTUAL VALUE ADDED": The actual value added as of the first year for which the exemption is received, except that actual value added by improvements to machinery and equipment means the actual value as determined by the assessor as of January first of each year for which the exemption is received.

(B) "NEW CONSTRUCTION": New buildings and structures, including new buildings and structures, which are constructed as additions to existing buildings and structures. New construction does not include reconstruction of an existing building or structure which does not constitute complete replacement of an existing building or structure or refitting of an existing building or structure, unless the reconstruction of an existing building or structure is required due to economic obsolescence and the reconstruction is necessary to implement recognized industry standards for the manufacturing and processing of specific products, and the reconstruction is required for the owner of the building or the structure to continue to competitively manufacture or process those products which determination shall receive prior approval from the City Council of the City upon the recommendation of the Iowa Development Commission. New construction does not include the rezoning of or the acquisition of undeveloped real property.

(C) "NEW MACHINERY AND EQUIPMENT": The exemption shall also apply to new machinery and equipment assessed as real estate pursuant to Section 427A.1, subsection (1), paragraph (e), of the Iowa Code, unless the machinery or equipment is part of the normal replacement or operating process to maintain or expand the existing operational status.

Section 4-2-3 Amount Of Exemption

(A) The actual value added to industrial real estate for the reasons specified in Section 4-2-2 is eligible to

receive a partial exemption of taxation for a period of five (5) years. The amount of actual value added which is eligible to be exempt for taxation shall be as follows:

- For the first (1) year, seventy-five percent (75%);
- For the second (2) year, sixty-percent (60%);
- For the third (3) year, forty-five percent (45%);
- For the fourth (4) year, thirty percent (30%); and
- For the fifth (5) year, fifteen percent (15%).

(B) However, the granting of the exemption under this Section for new construction constituting complete replacement of an existing building or structure shall not result in the assessed value of the industrial real estate being reduced below the assessed value of the industrial real estate before the start of the new construction added.

Section 4-2-4 Application For Exemption

An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the local assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and other information deemed necessary by the Director of Revenue.

Section 4-2-5 Prior Approval

A person may submit a proposal to the City Council of the City to receive prior approval for eligibility for a tax exemption on new construction. The City Council, by ordinance, may give its prior approval of tax exemption for new construction if the new construction is in conformance with the zoning plans for the City. The prior approval shall also be subject to the hearing requirements of Section 362.3 of the 1985 Code of Iowa. Such prior approval shall not entitle the owner to exemption from taxation until the new construction has been completed and found to be qualified real estate. However, if the tax exemption for new construction is not approved, the person may submit an amended proposal to the City Council to approve or reject.

Section 4-2-6 Repeal Of Exemption

When, in the opinion of the City Council, continuation of the exemption granted by this Chapter ceases to be of benefit to the City, the City Council may repeal this Ordinance, but all existing exemptions shall continue until their expiration.

Section 4-2-7 Ineligibility For Exemption

A property tax exemption under this Act shall not be granted if the property for which the exemption is claimed has received any other property tax exemption authorized by law.

Chapter 4-3

SOLICITORS

Sections:

4-3-1	License Required
4-3-2	Definitions
4-3-3	Exemptions
4-3-4	Application For License
4-3-5	Issuance Of License
4-3-6	Fees
4-3-7	Bond Required
4-3-8	Display Of License
4-3-9	License Not Transferable
4-3-10	Revocation Of License
4-3-11	Expiration Of License
4-3-12	Sale From Vacant Lots
4-3-13	Municipal Infraction
Section 4-3-1	License Required

Any person engaging in peddling, soliciting, fund raising, or in the business of a transient merchant in this City without first obtaining a license as herein provided shall be in violation of this Ordinance.

Section 4-3-2 Definitions

For the use within this Ordinance the following terms are defined:

(A) "PEDDLER": Any person, firm or corporation carrying goods or merchandise who sells or offers for sale for immediate delivery such goods or merchandise from house-to-house or upon the public street.

(B) "SOLICITOR": Any person, firm or corporation who solicits or attempts to solicit from house-to-house or upon the public street in order for goods or merchandise to be delivered at a future date.

(C) "FUND RAISER": Any person, firm or corporation who solicits funds for any organization unless such organization has for more than one (1) year preceding the fund raising drive had an established office within the City of Storm Lake, Iowa.

(D) "TRANSIENT MERCHANT": Any person, firm or corporation who engages in a temporary or itinerant merchandising business and for, and in the course of, such business hires, leases, or occupies any building, structure, truck, trailer, parking lot or vacant lot whatsoever. A temporary association with a local merchant, dealer, trader or auctioneer, or conduct of such transient business in connection with, as a part of, or in the name of any local merchant, dealer, trader, or auctioneer shall not exempt any person, firm, or corporation from being considered a transient merchant. Any business operating out of a truck, trailer, parking lot or vacant lot shall be considered as engaging in a temporary or itinerant merchandising business.

Section 4-3-3 Exemptions

(A) The provisions of this Ordinance shall not apply to people delivering newspapers, YMCA, YWCA, local Boy Scouts, Girl Scouts, Campfire Girls, Future Farmers of America, 4-H Clubs and students of Storm Lake Community School District, St. Mary's Parochial School System or Buena Vista College conducting projects sponsored by their organizations, Storm Lake volunteer firemen, Storm Lake policemen, farmers who offer for sale products of their own raising, milk delivery men who only incidently solicit additional business or make special sales, and persons customarily calling on businesses or institutions for the purpose of selling products for resale or institutional use.

(B) Authorized representatives of educational institutions, religious and charitable organizations that are exempt from taxation under Section 501 of the Internal Revenue Code desiring to solicit money or to distribute literature shall be exempt from the requirements of Section 4-3-4 through Section 4-3-8 of this Ordinance. All such organizations shall be required to submit in writing to the City Clerk the name and purposes of the cause for which such solicitations are sought, names and addresses of the officers and any three (3) directors of the organization, the period during which such activities are to be carried on, and whether any commission fees or wages are to be charged by the solicitor for his/her efforts and the amount thereof.

If the Clerk shall find that the organization is a bona fide educational institution or a religious or charitable organization, he/she shall issue to the applicant, free of charge, a license containing the above information.

Section 4-3-4 Application For License

Any application in writing shall be filed with the City Clerk for a license under this Ordinance. Such application shall set forth the name and address of the principal for whom he/she is soliciting, if any, the applicant's name, permanent and local address, business address, if any, physical description, recent photograph, and right thumb print. The application shall also set forth the applicant's business, the last three (3) places of such business, and the length of time sought to be covered by the license. A fee, in the amount set by Council Resolution, for each applicant shall be paid at the time of filing such application to cover the cost of investigating the facts stated therein.

(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-3-5 Issuance Of License

If the City Clerk finds the application is made out in conformance with Section 4-3-4 of this Ordinance and the facts stated therein are correct, he/she shall issue a license and charge a fee therefor as determined by Section 4-3-6 of this Ordinance; provided, however, if the Clerk finds that the applicant has made fraudulent, incorrect or deceptive statements, or has conducted business in an unlawful manner, he/she shall not issue a license to said applicant. Said applicant may file with the Clerk a request for hearing before the City Council on the issue of whether or not a license should be issued to said applicant. If the Council finds, after hearing, that the applicant has made fraudulent or incorrect statements, or has otherwise conducted business in an unlawful manner, they may deny the applicant's request for a license under this Ordinance.

Section 4-3-6 Fees

Every licensee shall pay a fee, in the amount set by Council Resolution, in addition to the investigating fee before a license shall be issued:
(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-3-7 Bond Required

Before a license under this Ordinance shall be issued, each principal shall post a bond, by a surety company authorized to engage in the business of insuring the fidelity of others in Iowa, in the amount of one thousand dollars (\$1,000.00) with the Clerk to the effect that the registrant and the surety company shall consent to the forfeiture of the principal sum of the bond or such part hereof as may be necessary (1) to indemnify the town for any penalties or costs occasioned by the enforcement of this Ordinance, and (2) to make payment of any judgment rendered against the registrant as a result of a claim or litigation arising out of or in connection with such registrant peddling or soliciting. Said bond shall not be retired until a lapse of one (1) year from the expiration of the license which it covers.

Section 4-3-8 Display Of License

Each solicitor or peddler at all times while doing business in this City keep in his/her possession the license provided for in Section 4-3-5 of this Ordinance, and shall, upon request of prospective customers, exhibit the license as evidence that he/she has complied with all requirements of this Ordinance. Each transient merchant shall display publicly the license in his/her place of business.

Section 4-3-9 License Not Transferable

Licenses issued under the provisions of this Ordinance are not transferable in any situation and are to be applicable only to the person filing the application.

Section 4-3-10 Revocation Of License

The City Council, after notice and hearing, may revoke any license issued under this Ordinance where the licensee in the application for the license or in the course of conducting his/her business has made fraudulent or incorrect statements or has violated this Ordinance or has otherwise conducted business in an unlawful manner.

Section 4-3-11 Expiration Of License

All licenses granted under this Ordinance shall expire at six o'clock (6:00) P.M. of the last day for which the license is issued.

Section 4-3-12 Sale From Vacant Lots

No person, corporation or other entity shall offer for sale from any vacant lot within the City not owned

by the seller, any merchandise of any type, specifically including motor vehicles and boats, at retail, wholesale or casual sales, unless the seller shall have a written lease with the owner of the property or, alternatively, a written letter of authorization from the owner permitting the seller to use the property for display of the seller's merchandise, and which lease and/or letter of authorization must be available for inspection upon the premises where the merchandise is being offered for sale at all times when the merchandise is displayed for sale. As used herein, a vacant lot shall mean a lot with no improvements or a lot with improvements which are not occupied by the owner, the owner's agent or the owner's tenant. A vacant lot shall specifically not include the parking lot of any business currently in operation or any apartment complex or residence which is currently occupied.

Section 4-3-13 Municipal Infraction

A violation of any of the provisions of this Chapter shall constitute a Municipal Infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

Chapter 4-4

URBAN REVITALIZATION AREAS

Sections:

- 4-4-1 Urban Revitalization Plan Dated 5/17/82**
- 4-4-2 Urban Revitalization Plan Dated 12/6/82**
- 4-4-3 Urban Revitalization Plan Dated 10/17/88**
- 4-4-4 Urban Revitalization Area And Plan**
- 4-4-5 Division Of Tax Levied On Taxable Property, Industrial Park Urban Renewal Area**
- Section 4-4-1 Urban Revitalization Plan Dated 5/17/82**

The following described area is hereby declared to be an Urban Revitalization Area pursuant to the authority of Chapter 404 of the 1981 Code of Iowa and subject to the provisions of Urban Revitalization Plan approved by the City Council on May 17, 1982:

(A) All that part of the Subdivision of Government Lot Two (2), Section Two (2), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M. located North of the Illinois Central Railroad R.O.W.;

(B) All of Oates and Skewis Second Addition to the City of Storm Lake;

(C) All of Block Four (4), Oates and Skewis First Addition to the City of Storm Lake;

(D) All of the Auditor's Subdivision of the Southwest Quarter Northwest Quarter (SW1/4NW1/4) of Section Two (2), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M. lying South of East 4th Street in the City of Storm Lake, except for those areas which are platted as a part of Gaherty and Prichard First Addition to the City of Storm Lake and as a part of Oates and Skewis First Addition to the City of Storm Lake.

The areas defined above shall remain a designated Urban Revitalization Area for ten (10) years from and after January 18, 1982. A copy of said Urban Revitalization Plan shall remain on file in the office of the City Clerk and the City Clerk shall provide a certified copy of said Plan to the Buena Vista County Assessor.

Section 4-4-2 Urban Revitalization Plan Dated 12/6/82

The following area is hereby declared to be an Urban Revitalization Area pursuant to the authority of Chapter 404 of the 1981 Code of Iowa and subject to the provisions of the Urban Revitalization Plan approved by the Storm Lake City Council on February 7, 1983:

Blocks One (1), Two (2), Three (3), and Four (4) of the Industrial Park Addition to the City of Storm Lake, Iowa.

The area defined above shall remain a designated Urban Revitalization Area for ten (10) years from and after July 19, 1982. A copy of said Urban Revitalization Plan shall remain on file in the office of the City Clerk and the City Clerk shall provide a certified copy of said Plan to the Buena Vista County Assessor.

Section 4-4-3 Urban Revitalization Plan Dated 10/17/88

The following area is hereby declared to be an Urban Revitalization Area pursuant to the authority of Chapter 404 of the 1987 Code of Iowa and subject to the provision of the Urban Revitalization Plan approved by the Storm Lake City Council on October 17, 1988:

Lot Fifteen (15) of the Auditor's Subdivision of the Southwest Quarter of the Northwest Quarter (SW1/4NW1/4) of Section Four (4), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M.(Government Lot 4).

The area defined above shall remain a designated Urban Revitalization Area for ten (10) years from and after October 17, 1988. A copy of said Urban Revitalization Plan shall remain on file in the office of the City Clerk and the City Clerk shall provide a certified copy of said plan to the Buena Vista County Assessor.

Section 4-4-4 Urban Revitalization Area And Plan

The Storm Lake Urban Revitalization District includes the entire area within the corporate limits as of the effective date of the Plan, except that part of the City that is located south of Richland Avenue and east of Flindt Drive. The excepted area has been designated as an Urban Renewal Area and is not included in the Storm Lake Urban Revitalization Area.

The area shall be eligible for tax abatement under the revitalization plan until January 1, 2015.
(Ord. 23-O-2004-2005, Amended, 04/04/2005; Ord. 14-O-2001-2002, Amended, 03/04/2002)

Section 4-4-5 Division Of Tax Levied On Taxable Property, Industrial Park Urban Renewal Area

1. For purposes of this Ordinance, the following terms shall have the following meanings:

(a) Original Project Area shall mean that portion of the City of Storm Lake, Iowa described in the Urban Renewal Plan for the Storm Lake Industrial Park Urban Renewal Area approved by Resolution No. 33-R-91-92 on September 16, 1991, which Original Project Area includes the lots and parcels located within the area legally described as follows:

A part of the South Half (S1/2) of Section One (1), Township Ninety North (T 90 N), Range Thirty-Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.) lying North of the Illinois Central Railroad, and a part of the Northeast Quarter (NE1/4) of Section Twelve (12), Township Ninety North (T 90 N), Range Thirty-Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.) lying North of the Illinois Central Railroad, more particularly described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW1/4) Section One (1), Township

Ninety North (T 90 N), Range Thirty Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.), thence South 00°32' East along the West line of said Southwest Quarter (SW1/4) a distance of One Thousand Two Hundred Seven and Seven Tenths Feet (1,207.7') to the point of beginning; thence North 90°00' East a distance of Two Thousand Six Hundred Forty-Two and Six Hundredths Feet (2,642.06') to the North-South Centerline of said Section One (1); thence South 00°34' East along the North-South Centerline of said Section One (1) a distance of Four Hundred Seven and Eighteen Hundredths Feet (407.18'); thence North 90°00' East a distance of Two Thousand Six Hundred Thirty-Eight and Seventy-Two Hundredths Feet (2,638.72') to the East line of said Section One (1); thence South 00°31' East along the East line of said Section One (1) a distance of One Thousand Eighty-Seven and Seven Tenths Feet (1,087.7') to the Southeast corner of said Section One (1), said point also being the Northeast corner of Section Twelve (12), Township Ninety North (T 90 N), Range Thirty-Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.); thence South 00°20'20" East along the East line of said Northeast Quarter (NE1/4) Section Twelve (12) a distance of Two Hundred Sixty-Six and Five Hundredths Feet (266.05') to the North Right of Way Line of the Illinois Central Railroad; thence North 77°07" West along the North Right of Way Line of said Railroad a distance of Five Thousand Four Hundred Twenty-Seven and Seven Tenths Feet (5,427.7') to the West line of the Southwest Quarter (SW1/4) said Section One (1); thence North 00°32' West along the West line of said Section One (1) a distance of Five Hundred Fifty and Seventy-One Hundredths Feet (550.71') to the point of beginning.

The above parcel contains 115.46 acres in total.

MCS Industrial Addition to Storm Lake, Iowa.

AND

A part of the Southeast Quarter (SE1/4) of Section Two (2), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., Buena Vista County, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) corner of the Southeast Quarter (SE1/4) of said Section Two (2); thence South 89°45'20" West along the North line of said Southeast Quarter (SE1/4), a distance of 2,131.17 Feet to a point on the Easterly right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence Southerly along the Easterly right of way line of said Railroad on a curve whose short chord bearings are as follows: South 29°31'40" East, a distance of 57.05 Feet; thence South 23°07'17" East, a distance of 601.83 Feet; thence South 16°32'54" East, a distance of 56.08 Feet; thence continuing along the Easterly line of said Railroad right of way South 15°59'20" East, a distance of 675.12 Feet to a point on the Northerly line of the Illinois Central Railroad right of way; thence South 89°44'44" East, along the Northerly line of said Railroad, a distance of 824.23 Feet; thence South 1°56'40" West, a distance of 238.22 Feet; thence South 76°34'40" East, a distance of 872.88 Feet to a point on the East line of said Southeast Quarter (SE1/4); thence North along the East line of said Southeast Quarter (SE1/4) a distance of 1,759.60 Feet to the point of beginning containing 62.91 acres and subject to all easements of record.

The East line of the Southeast Quarter (SE1/4) of said Section Two (2) is assumed to bear due North and South in the above description.

(b) Amendment No. 1 Area shall mean that portion of the City of Storm Lake, Iowa described in Amendment No. 1 to the Urban Renewal Plan for the Storm Lake Industrial Park Urban Renewal Area approved by Resolution No. 25-R-2004-2005 on October 18, 2004, which Amendment No. 1 Area includes all the lots and parcels located within the area legally described as follows:

All of the property within the corporate limits that is located South of Richland Avenue and East of Flindt Drive. The area also includes the full right-of-way of all streets

forming the boundary.

- (c) Amended Project Area shall mean that portion of the City of Storm Lake, Iowa included within the Original Project Area and the Amendment No. 1 Area, which Amended Project Area includes the lots and parcels located within the area legally described as follows: All of the property within the corporate limits that is located South of Richland Avenue and East of Flindt Drive. The area also includes the full right-of-way of all streets forming the boundary.
2. The taxes levied on the taxable property in the Amended Project Area, legally described in Section 1 hereof, by and for the benefit of the State of Iowa, City of Storm Lake, County of Buena Vista, Storm Lake Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.
 3. As to the Original Project Area, that portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts taxing property in the Original Project Area upon the total sum of the assessed value of the taxable property in the Original Project Area as shown on the assessment roll as of January 1, 1990, being the first day of the calendar year preceding the effective date of Ordinance No. 5-O-91-92, shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for said taxing district into which all other property taxes are paid. The taxes so determined shall be referred herein as the "base period taxes" for such area.
- As to Amendment No. 1 Area, base period taxes shall be computed in the same manner using the total assessed value shown on the assessment roll applicable to property in such area as of January 1 of the calendar year preceding the effective date of this Ordinance.
4. That portion of the taxes each year in excess of the base period taxes for the Amended Project Area, determined for each sub-area thereof as provided in Section 3 of this Ordinance, shall be allocated to and when collected be paid into the special tax increment fund previously established by the City of Storm Lake to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed or otherwise, including bonds issued under authority of Section 403.9 or Section 403.12 of the Code of Iowa, incurred by the City of Storm Lake, Iowa to finance or refinance, in whole or in part, urban renewal projects undertaken within the Amended Project Area pursuant to the Urban Renewal Plan, as amended, except that taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Section 298.2, but only to the extent authorized in Section 403.19(2), and taxes for payment of bonds and interest of each taxing district shall be collected against all taxable property within the Amended Project Area without any limitation as hereinabove provided.
 5. Unless or until the total assessed valuation of the taxable property in the areas of the Amended Project Area exceeds the total assessed value of the taxable property in said areas shown by the assessment rolls referred to in Section 3 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Amended Project Area shall be paid into the fund for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.
 6. At such time as the loans, monies advanced, bonds and interest thereon and indebtedness of the City of Storm Lake referred to in Section 4 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Amended Project Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

(Ord. 11-O-2004-2005, Amended, 11/15/2004)

Chapter 4-5

TAXICABS

Sections:

4-5-1	Definitions
4-5-2	License
4-5-3	License Fee
4-5-4	Application For License
4-5-5	Personal Qualifications
4-5-6	Equipment Regulations
4-5-7	Insurance Requirements
4-5-8	Additional Regulations
4-5-9	Municipal Infraction
4-5-10	Special Provisions Relating to the Operation of a Rickshaw
Section 4-5-1	Definitions

(A) "TAXICAB" means any motor vehicle or conveyance kept for hire.

(B) "PERSON" means every natural person, firm, co-partnership, association or corporation.

(C) "OWNER" means a person who holds the legal title of a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this Chapter.

(D) "DRIVER" means every person who drives or is in actual physical control of a vehicle.

(E) "RICKSHAW", ALSO KNOWN AS PEDICAB, is defined as a bicycle or other opened or closed vehicle with three or more wheels operated by one individual for the purpose of or capable of transporting passengers for hire in seats or a platform made a part of the rickshaw. This definition shall not include a bicycle built for two where the operators are seated one behind the other nor shall it include the operation of a bicycle with trainer or beginner wheels affixed thereto nor shall it include a wheelchair or other vehicle with a purpose of operation by or for the transportation of a disable person nor shall it include a tricycle built for a child or an adult with a seat for only one operator and no passenger nor shall it include a bicycle with a trailer attached suitable for carrying small children unless the bicycle operator is being paid. A rickshaw is included within the definition of taxicab.

(Ord. 14-O-2008-2009, Amended, 06/01/2009)

Section 4-5-2 License

It shall be unlawful for any person to operate a taxicab within the limits of the City, unless such person shall first obtain a license therefor. All taxicab owners shall obtain such a license and they shall in all other respects fully comply with the requirements of this Chapter.

Section 4-5-3 License Fee

The annual license fee for each owner engaged in operating taxicabs shall be in the amount set by Council Resolution.

(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-5-4 Application For License

Applications for a taxicab license shall be filed with the Clerk, and shall be issued by the Council. Applications shall be in writing, signed by the applicant, and shall contain the following:

- (A) The name and address of the applicant.
- (B) The location and legal description of the principal place of business or base of operations of the taxicab stand.
- (C) The description and number of taxicabs to be operated.
- (D) Such further and additional information as may be requested by the Council.

Section 4-5-5 Personal Qualifications

An applicant for such a license shall be at least eighteen (18) years of age, of sound physique, good eyesight, not subject to epilepsy or any other infirmity of body or mind which would affect his or her ability to properly operate a taxicab. He or she must be able to read and write the English language and must show that he or she is familiar with the traffic laws of the City. Applicant must be of good moral character and not addicted to the use of intoxicating liquor or controlled substances. The foregoing qualifications apply equally as well to all hired drivers of applicant as to the said applicant personally. In addition to the foregoing, all drivers of taxicabs must be licensed chauffeurs under the laws of the State.

Section 4-5-6 Equipment Regulations

An applicant for such a license shall operate only taxicabs that are in good repair and safe operating condition. The applicant shall be the owner of the taxicab or taxicabs. All taxicabs operated under this Chapter shall be inspected at least once every ninety (90) days as to lights, brakes, horn, steering, tires, and operating condition and a certificate of a reputable auto mechanic shall be filed with the Clerk showing that the said taxicabs are in safe operating condition.

Section 4-5-7 Insurance Requirements

Any person operating a taxicab, shall at all times carry liability insurance for the benefit and protection of any person whether passenger or other person for personal injury or property damage, by reason of the negligent operation of the said taxicab or taxicabs. Said negligent operation of the said taxicab to include the negligence of employees. The said liability insurance is to be in a minimum indemnifying amount of one million dollars (\$1,000,000) per occurrence and the original of the insurance policy is to be deposited

with the Clerk, during the period of operation under the license, as herein provided for, and the said policy is to be approved by the said Clerk.
(Ord. 14-O-2008-2009, Amended, 06/01/2009)

Section 4-5-8 Additional Regulations

- (A) All taxicabs operated under this Chapter are to be kept clean and sanitary.
- (B) No taxicab driver shall be permitted to use foul, abusive or offensive language, or use intoxicants or drugs while on duty, or engage in any illegal activity.
- (C) All taxicab drivers shall be duly licensed motor vehicle operators under the laws of the State of Iowa and shall be required to obey the provisions of this Code and the provisions of Chapter 321 and 321J of the Iowa Code at all times.
- (D) All taxicabs operated under the provisions of this Chapter will be required to file their rates in the office of the City Clerk.
(Ord. 14-O-2008-2009, Amended, 06/01/2009)

Section 4-5-9 Municipal Infraction

A violation of any of the provisions of this Chapter shall constitute a Municipal infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

Section 4-5-10 Special Provisions Relating to the Operation of a Rickshaw

The following special requirements shall apply to the operation for hire of a rickshaw within the City of Storm Lake, Iowa:

- (A) The provisions of 4-5-6 as related to rickshaws are modified to delete the requirement that the bicycle be equipped with a horn and substituting "a reputable bicycle repair shop" in place of the phrase "reputable auto mechanic".
- (B) All rickshaws shall be operated with a slow-moving vehicle sign mounted on the rear of the rickshaw which shall be clearly visible to traffic approaching from the rear of the rickshaw.
- (C) Rickshaws shall not be operated on the sidewalk or Lake Trail within the City of Storm Lake. Rickshaws may operate on the streets of Storm Lake but on any street which has 4 lanes, rickshaws may only be operated in the outside lanes other than when turning left.
- (D) Rickshaws shall not be operated during rain or snow events. If precipitation occurs after a trip has begun, the operator of the rickshaw shall return as quickly as possible to the location where the passengers can be discharged.
- (E) All rickshaws shall be equipped with tail lights or LED flashing lights so that they are clearly visible as well as a head light or forward LED flasher. All such lights must be utilized between the hours of dusk and dawn and must be visible from the front and from the rear for a minimum of 200 feet.

(F) All of the requirements relating to rickshaws shall be equally applicable to a horse-drawn carriage for hire other than the requirement that the carriages be certified by a reputable auto mechanic/bicycle repair shop. The operators of any horse-drawn carriage must provide the City with a manure management plan which ensures that no horse manure will be left on the streets or in other public places.
(Ord. 14-O-2008-2009, Add, 06/01/2009)

Chapter 4-6

CABLE TELEVISION REGULATION

Sections:

4-6-1	Definitions
4-6-2	Use Of Property
4-6-3	Taxes
4-6-4	Insurance
4-6-5	Construction And Performance Bond
4-6-6	Liquidated Damages
4-6-7	New Developments
4-6-8	Repairs
4-6-9	Hold Harmless
4-6-10	Assignment
4-6-11	Insolvency Of Grantee
4-6-12	Default Of Grantee
4-6-13	Termination
4-6-14	Compliance With Applicable Laws
4-6-15	Installation And Maintenance Of Property Of The Grantee
4-6-16	Interference
4-6-17	Installation Of Cables
4-6-18	Restoration Of Ground Surface
4-6-19	Alteration Of Grade
4-6-20	Temporary Removal Of Cables
4-6-21	Tree-Trimming
4-6-22	Line Extensions
4-6-23	Service Requirements
4-6-24	Performance Standards
4-6-25	Channel Capacity And Performance
4-6-26	Installation And Maintenance Of Subscriber Terminals In City Buildings And Schools
4-6-27	Telecast Of Education Activities
4-6-28	Program Alteration
4-6-29	Emergency Override
4-6-30	Subscriber Rates And Charges
4-6-31	Service Rules And Regulations
4-6-32	Service Agreements
4-6-33	Complaint Procedure
4-6-34	Rights Of Individuals
4-6-35	Payment Of Franchise Fee
4-6-36	Injury To Property Of The Grantee
4-6-37	Intercepting Signals Of The Grantee
4-6-38	Penalty
4-6-39	Filing Of Reports
4-6-40	Filing Of Maps And Plats
4-6-41	Access
4-6-42	Discrimination Prohibited
4-6-43	Reservations

Section 4-6-1 Definitions

The following words and phrases, when used in this Chapter, shall, for the purposes of this Chapter, have the meanings ascribed to them in this Section:

(A) "BASIC SERVICES": Any or all of the different combinations of basic program services as described in the grantee's franchise ordinance including the delivery of local broadcast signals, satellite signals, local origination and access signals, covered by the entry level monthly charges paid by subscribers, excluding the optional premium services for which separate charges are made.

(B) "CABLE COMMUNICATION SYSTEM, CABLE TELEVISION SYSTEM OR CATV SYSTEM": A system of antennas, cables, wire, lines, towers, wave-guides or other converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying and distributing, audio, video and other forms of electronic or electrical signals, located in the City. Said definition shall not include any facility that serves or will serve only subscribers in one or more multiple unit dwellings under common ownership, control or management and does not use City rights of way.

(C) "CHANNEL": The segment of the electromagnetic spectrum to which a source of television transmission is assigned.

(D) "CITY": The City of Storm Lake, Iowa. When the context so requires, the term "City" shall mean and include the City, its officers, agents, employees, servants and independent contractors.

(E) "FCC": The Federal Communications Commission.

(F) "FRANCHISE": The rights, privileges, and authority granted by the City to the grantee hereunder and shall include all of the terms and conditions of this Chapter.

(G) "GRANTEE": Any corporation or other business entity which holds a franchise to provide cable television service in Storm Lake, Iowa, or its successors and assigns. When the context so requires, the term "grantee" shall mean and include the grantee, its officers, agents, employees, servants and independent contractors.

(H) "PERSON": Any individual, or any corporation, business, or mixed, owned by a private person, including property owned by a public utility not owned or operated by the City.

(I) "PROPERTY OF THE GRANTEE": All property, real, personal or mixed, owned or used by the grantee however arising from or related to or connected with the franchise.

(J) "PUBLIC PROPERTY": All property, real, personal or mixed, owned or used by the City, including property owned or used by a public utility owned or operated by the City.

Section 4-6-2 Use Of Property

The grantee may use public property within the City, and with the written consent of the owner thereof, private property within the City, in furtherance of such activities within the City as may now or hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system, subject, however, to the following restrictions:

(A) The grantee shall comply with all governmental laws, ordinances, rules or regulations as may now or hereinafter be applicable thereto.

(B) 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:

1. Impair the owner's interest in or title thereto;
2. Impair the mortgage or lease as may now or hereinafter be applicable thereto;
3. Adversely affect the then value or character thereof;
4. Cause or be likely to cause structural damage thereto, or any part thereof;
5. Cause or be likely to cause any damage or injury to any utility service available thereto;
6. Create a public or private nuisance, cause any offensive or obnoxious vibration, noise, odor or undesirable effect or interfere with the safety, comfort or convenience of the owner thereof, and person lawfully on or about the same;
7. Violate the rules, regulations and requirements or any person furnishing utilities or services thereto;
or
8. Make void or voidable any insurance then in force affecting the same or cause an increase in the rates applicable thereto.

Section 4-6-3 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.

Section 4-6-4 Insurance

(A) The grantee shall, at all times during the term of the franchise, carry and require their contractors to carry:

1. 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 cable television system. The amount of such insurance shall be not less than one hundred thousand dollars (\$100,000.00) as to any one person, five hundred thousand dollars (\$500,000.00) as to any one occurrence for injury or death to persons, and one hundred thousand dollars (\$100,000.00) for damages to property, with, as to grantee, excess liability coverage of at least five million dollars (\$5,000,000.00).
2. Workmen's compensation insurance, as provided by the laws of the State as amended.

3. Automobile insurance with limits of not less than one hundred thousand dollars/three hundred thousand dollars (\$100,000.00/ \$300,000.00) of public liability coverage and automobile property damage insurance with a limit of not less than one hundred thousand dollars (\$100,000.00) covering all automotive equipment, with, as to grantee, so-called umbrella coverage of at least five million dollars (\$5,000,000.00).

(B) 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 of said material alteration or cancellation shall become effective.

(C) Copies of all insurance policies required hereunder shall be furnished and filed with the City prior to the commencement of operations or the expiration of prior policies, as the case may be.

(D) 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, invitees or other persons. Said expenses shall include all out-of-pocket expenses, such as attorney's fees, and shall include the value of any service rendered by the City Attorney or any other officers or employees of the City.

Section 4-6-5 Construction And Performance Bond

(A) The grantee shall construct or reconstruct its cable television system required by the terms of grantee's franchise ordinance within eighteen (18) months of the effective date of the franchise ordinance. All construction and reconstruction of grantee's system facilities shall be in compliance with the rules and regulations of the Federal Communications Commission (FCC) and of this Chapter.

(B) Within thirty (30) days after the award of a franchise, the grantee shall file with the City a performance bond in the amount of fifty thousand dollars (\$50,000.00). This bond shall be maintained throughout the reconstruction of the system pursuant to subsection (A) hereof.

(C) In the event the grantee fails to comply with any law, ordinance or regulation governing the franchise, or fails to well and truly observe, fulfill and perform each term and condition of the franchise, as it relates to the conditions relative to the construction or reconstruction of the system, including the grantee's design proposal which is incorporated herein by reference, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee, plus a reasonable allowance for attorney's fees, including the City's legal staff, the costs, up to the full amount of the bond. This subsection shall be an additional remedy for any and all violations outlined in Section 4-6-12.

(D) Upon completion of construction or reconstruction of a system in the City, to the satisfaction of the City Council, the amount of the bond shall be reduced to five thousand dollars (\$5,000.00) and shall be maintained throughout the remaining term of the franchise to insure the faithful performance by the grantee of all provisions of this franchise.

(E) The bond shall contain the following endorsement:

"It is hereby understood and agreed that this bond may not be canceled by the surety nor the intention not

to renew be stated by the surety until thirty (30) days after receipt by the City, by registered mail, a written notice of such intent to cancel and not to renew."

(F) Upon receipt of a thirty (30) day notice, this shall be construed as default granting the City the right to call in the bond.

Section 4-6-6 Liquidated Damages

By acceptance of a franchise granted hereunder, the grantee understands and agrees that failure to comply with any time and performance requirements, as stipulated in this Chapter or in the franchise, will result in damage to the City, and that it is and will be impracticable to determine the actual amount of such damage in the event of delay or nonperformance. The grantee therefore agrees that it shall pay to the City government the following amounts which shall be chargeable to the performance bond if such amounts are not paid by the grantee within thirty (30) days of written notice by the City that the grantee is required to pay such amounts.

(A) For failure to complete system construction in accordance with Section 4-6-5, unless the City Council by motion or resolution specifically approves the delay due to the occurrence of conditions beyond grantee's control, grantee shall pay two hundred fifty dollars (\$250.00) per day for each day, or part thereof, said deficiency continues.

(B) For failure to provide, upon written request, data, documents, reports, information, grantee shall pay fifty dollars (\$50.00) per day, or part thereof, for so long as each violation occurred or continues.

(C) For failure to provide in a continuing manner the services required under Section 4-6-32 of this Chapter, unless the City Council specifically approves a request by the grantee for a delay or change, the grantee shall pay to the City two hundred fifty dollars (\$250.00) per day, or part thereof, that such noncompliance continues.

(D) If grantee fails to make the improvements within the time period established by the City Council pursuant to Section 4-6-7, grantee shall pay to the City two hundred fifty dollars (\$250.00) for each day, or part thereof, that such noncompliance continues.

Section 4-6-7 New Developments

(A) The City Council shall have the authority to order a public hearing from time to time on the provision of additional channel capacity by the grantee or on the inclusion in the grantee's CATV system of state-of-the-art technology or upgraded facilities.

(B) If after such a hearing, the City Council determines (1) that there exists a reasonable need and demand for additional channel capacity and/or state-of-the-art technology or upgraded facilities, and (2) that provision has been made or will be made for adequate rates which will allow a grantee a fair rate of return on its investment (including the investment required to provide the additional channels and/or the state-of-the-art technology or upgraded facilities), and will not result in economic waste for the grantee, the City Council may order grantee to provide a specified number of additional channels and/or specified state-of-the-art technology or upgraded facilities. Without implying any limitations as to other provisions of this Chapter, failure of the grantee to act in accordance with such order is hereby deemed to be in violation of a material provision within the meaning of Section 4-6-12(A)1 of this Chapter.

Section 4-6-8 Repairs

During the term of the franchise, the grantee shall, at its own expense, make all necessary repairs and replacement 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.

Section 4-6-9 Hold Harmless

During the term of a franchise, the grantee absolutely forever 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 ever be claimed against the City by any person whatsoever, or on account of any actual or alleged loss, damage or injury to any property 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 resulting from acts of the grantee;
- (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.

Section 4-6-10 Assignment

A grantee shall not assign or transfer any right granted under its franchise ordinance to any other person, company or corporation without prior consent of the City Council, which consent shall not be unreasonably withheld; provided that a grantee shall have the right to assign the provisions of its franchise to a corporation wholly owned by the grantee or its parent company.

Section 4-6-11 Insolvency Of Grantee

In the event that a 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.

Section 4-6-12 Default Of Grantee

(A) In addition to all other rights and powers retained by the City under a franchise or otherwise, the City Council reserves the right to forfeit and terminate a franchise and all rights and privileges of the grantee thereunder in the event of a material breach of its terms and conditions. A material breach by grantee shall include, but not be limited to, the following:

1. Violation of any material provision of the franchise or any material rule, order, regulation or determination of the City Council made pursuant to the franchise;
2. Attempt to evade any material provision of the franchise or practices any fraud or deceit upon the City or its subscribers or customers;
3. Failure to begin or complete system construction or system extension as provided under the franchise;
4. Failure to provide the types of services promised therein;
5. Failure to restore service after ninety-six (96) consecutive hours of interrupted service of a major portion of the system, except when approval of such interruption is maintained from the City Administrator; or
6. Material misrepresentation of fact in the application for or negotiation of the franchise.

(B) The foregoing shall constitute a material breach if the violation occurs but it is without fault of the grantee or occurs as a result of circumstances beyond its control. Grantee shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its shareholders, directors, officers or employees.

(C) The City Administrator shall make a written demand that a grantee comply with any such provision, rule, order or determination under or pursuant to a franchise. If the violation by the grantee continues for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City Administrator may place the issue of termination of the franchise before the City Council. The City Administrator shall cause to be served upon the grantee, at least twenty (20) days prior to the date of such City Council hearing, a written notice of intent to request such termination and the time and place of the hearing. Public notice shall be given not more than twenty (20) days prior to the hearing and shall include a description of the issue which the City Council is to consider.

(D) The City Council shall hear and consider the issue and shall hear any person interested therein, and shall determine in its discretion, whether or not any violation by a grantee has occurred.

(E) If the City Council shall determine the violation by a grantee was the fault of grantee and within its control, the City Council may, by resolution, declare that the franchise of the grantee shall be forfeited and terminated unless there is compliance within such period as the City Council may fix provided no opportunity for compliance need be granted for fraud or misrepresentation.

(F) The issue of forfeiture and termination shall automatically be placed upon the City Council agenda at the expiration of the time set by it for compliance. The City Council then may terminate the franchise forthwith upon finding that grantee has failed to achieve compliance or may further extend the period, in its discretion.

Section 4-6-13 Termination

In the event of termination or non-renewal of the franchise, grantee, at its own expense, shall remove all coaxial cable, amplifiers and any other items of equipment which may have been installed from time to time; provided, however, that in the event of a sale or transfer of grantee's system to a successor or substituted grantee, grantee shall be prohibited from performance under the terms of this Section.

Section 4-6-14 Compliance With Applicable Laws

During the term of a franchise, the grantee shall comply with all governmental laws, ordinances, rules or regulations as may now be or hereinafter applicable to the construction, operation, maintenance, repair, replacement, renewal, reconstruction and removal of a cable television 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 hereinafter be consistent with generally accepted principles applicable to the operation of a cable television system.

Section 4-6-15 Installation And Maintenance Of Property Of The Grantee

During the term of a franchise, the property of the grantee shall be constructed, operated, maintained, repaired, replaced, renewed, reconstructed, and removed in accordance with generally accepted engineering principles 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.

Section 4-6-16 Interference

A grantee's cable television system shall be so designed, engineered and maintained so as not to interfere with the radio and television reception of persons who are not subscribed of the grantee.

Section 4-6-17 Installation Of Cables

A 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. A grantee shall install its cable on the existing poles owned by other holders of public licenses and franchises with the City whenever possible for the installation of its cable. When installation of cable on poles is insufficient, or when holders of other public licenses or franchises have both installed underground cable, then in that event, the cable used by the grantee shall be installed underground.

Section 4-6-18 Restoration Of Ground Surface

In case of any disturbance of pavement, sidewalk, driveway or other surfacing, a 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.

Section 4-6-19 Alteration Of Grade

In the event that, during the term of a franchise, the City shall elect to alter, or change the grade of any street, alley, or public way, a 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.

Section 4-6-20 Temporary Removal Of Cables

A 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 charges.

Section 4-6-21 Tree-Trimming

A 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 and grantee shall be responsible for removing all resultant trimmings.

Section 4-6-22 Line Extensions

A grantee shall be obligated to make cable service available to all dwelling units in the City at the normal installation charge and monthly rates subject to only the following exceptions:

(A) Service need not be available at the normal installation charge in any area that has a dwelling unit density or less than thirty-five (35) homes per street mile.

(B) Any potential subscriber(s) in an area of less than thirty-five (35) dwelling units per street mile may receive cable service upon payment of an installation charge equal to the actual cost per subscriber of extending the cable plant to provide service less the cost the company would have incurred per subscribed had the density been thirty-five (35) dwelling units per street mile.

Section 4-6-23 Service Requirements

(A) During the term of the franchise, the grantee shall put, keep and maintain all parts of the system in good condition and furnish reasonable, adequate and efficient cable television service to subscriber terminals.

(B) Upon termination of service to any subscriber, a grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his/her request.

(C) Grantee shall render efficient service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during period of minimum system use. Repairs shall be considered promptly made if made within the guidelines set forth in subsection 4-6-33(C).

(D) Grantee shall not allow its cable or other operations to interfere with, obstruct or hinder in any manner, the operation of the various utilities serving the residents of the City.

(E) The grantee shall continue, through the term of the franchise, to maintain the technical, operational and maintenance standards and quality of service set forth in this Chapter and in a grantee's franchise ordinance. Should the City Council find that the grantee has failed to maintain these standards and quality of service, the grantee shall make such improvements as identified by the City Council. Failure to make such improvements within ninety (90) days will constitute a breach of condition, for which the remedy of Section 4-6-12 is applicable.

Section 4-6-24 Performance Standards

The grantee shall produce a picture in black and white or in color that is of high quality accompanied by proper sound of 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.

Section 4-6-25 Channel Capacity And Performance

During the term of the franchise, the cable television system of a grantee shall conform to the channel capacity and performance requirements contained in the then current regulations of the FCC, or to the channel capacity and performance requirements of the grantee's franchise ordinance, whichever is greater and/or sets forth a higher standard.

Section 4-6-26 Installation And Maintenance Of Subscriber Terminals In City Buildings And Schools

During the franchise, a grantee shall at its sole cost, install and maintain a subscriber terminal 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.

Section 4-6-27 Telecast Of Education Activities

A 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 activity.

Section 4-6-28 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.

Section 4-6-29 Emergency Override

A grantee shall equip its system with an emergency override system which shall have the capability of interrupting all channels, including pay services, so that emergency broadcast messages may be transmitted to all viewers. The emergency broadcast system shall only be used at the request of the Mayor, Mayor Pro Tem, City Administrator or Police Chief of the City or the Buena Vista County Civil Defense Director.

Section 4-6-30 Subscriber Rates And Charges

A grantee shall have the right, privilege and authority to charge reasonable rates and charges to its subscribers for its services and to change such rates and charges from time to time, except to the extent that subscriber rates and charges are regulated by a grantee's franchise ordinance.

Section 4-6-31 Service Rules And Regulations

A 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.

Section 4-6-32 Service Agreements

The grantee shall have the right to prescribe a reasonable form of service agreement for use between a grantee and its subscribers. Such service agreement shall be consistent with the terms and conditions of the franchise. No service agreement shall contain any terms or conditions which directly or by effect prevent a subscriber from canceling all services at the end of any month.

Section 4-6-33 Complaint Procedure

(A) The City Administrator or the City Administrator's designee is specified by the City Council as having primary responsibility for the continuing administration of the franchise and implementation of complaint procedures.

(B) A grantee shall maintain an office or designated agent within the City, for the purpose of receiving

and resolving complaints regarding the quality of service, equipment malfunctions, and similar matters and requests for repairs or adjustments.

The provisions of this Section shall be complied with if a grantee maintains an office which may be reached by a local toll-free telephone call on a twenty-four (24) hour basis, has a service technician in the Storm Lake area and provides the City Clerk's office with the name, address and phone number of a person in the City who will act as a grantee's agent to receive inquiries or complaints from subscribers during normal business hours.

(C) A grantee shall maintain a repair and maintenance crew capable of making an initial response to subscriber complaints or requests for service within eight (8) hours after receipt of the complaint or request. No charge shall be made to the subscriber for this service unless such maintenance or repair is required as a result of damage caused by subscriber. A grantee may charge for service calls to the subscriber's home that are not a result of cable failure upon approval of a rate and equitable procedure by the City Council.

(D) The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the City Administrator's office. A grantee shall furnish a notice of such procedures to each subscriber at the time of initial subscription to the system and annually thereafter.

(E) A grantee shall keep a maintenance service record 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. Such maintenance service record, or a printout thereof if such record is computerized, shall be made available upon request for inspection by representatives of the City Administrator's office. All service complaint entries shall be retained on file for a period consisting of the most recent two (2) years.

(F) When there have been similar complaints made, or where there exists other evidence, which, in the judgment of the City, casts doubt on the reliability or quality of cable service, the City shall have the right and authority to require a grantee to test, analyze and report on the performance of the system. A grantee shall fully cooperate with the City in performing such testing and shall prepare results and a report, if requested, within thirty (30) days after notice. Such report shall include the following information:

1. The nature of the complaint or problem which precipitated the special tests.
2. What system component was tested.
3. The equipment used and procedures employed in testing.
4. The method, if any, in which such complaint or problem was resolved.
5. Any other information pertinent to said tests and analyses which may be required.

(G) The City Administrator may require that tests and analyses shall be supervised by a professional engineer with the requisite expertise in cable television operations and not a member of the staff of the grantee. The aforesaid engineer shall sign all records of the special tests and forward to the City Administrator such records with a report interpreting the results of the tests and recommending actions to be taken by a grantee and the City Administrator.

(H) The City Administrator's right under this Section, shall be limited to requiring tests, analyses and reports covering specific subjects and characteristics based on said complaints or other evidence when and under such circumstances as the City Administrator has reasonable grounds to believe that the complaints or other evidence requires that tests be performed to protect the public against substandard

cable service.

Section 4-6-34 Rights Of Individuals

(A) A grantee shall not deny service, deny access or otherwise discriminate against subscribers, channel users or general citizens on the basis of race, color, religion, national origin, or sex. A grantee shall comply at all times with all other applicable Federal, State and local laws and regulations, and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this Chapter by reference.

(B) A grantee shall strictly adhere to the equal employment opportunity requirements of Federal, State and local regulations and as amended from time to time.

(C) No signals shall be transmitted from a subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of the subscriber. The request for such permission shall be contained in a separate document with a prominent statement that the subscriber is authorizing the permission in full knowledge of its provision. The authorization shall be revocable at any time by the subscriber without penalty of any kind whatsoever. Such authorization is required for each type and classification of two-way cable communications activity planned; provided, however, that a grantee shall be entitled to conduct system wide or individually addressed "sweeps" for the purpose of verifying system integrity, controlling return-path transmission, or billing for pay services.

(D) The grantee or any of its agents or employees shall not, without providing subscribers the opportunity to prohibit or restrict such disclosure, sell or otherwise make available to any party for any purpose other than as may be necessary for a grantee to conduct its business of providing the services to which such subscriptions have been made:

1. Lists of the names and addresses of such subscribers or;
2. Any list which identified the individual viewing habits of subscribers.

Section 4-6-35 Payment Of Franchise Fee

A grantee shall pay to the City during the period of its franchise a franchise fee in such amounts as may be provided for by the franchise ordinance. All franchise fees shall be based upon gross or net receipts received on a month-by-month basis, and shall be payable quarterly within thirty (30) days following the end of each calendar quarter of the year. A grantee shall provide to the City along with said payment a current count of the number of subscribers as of the billing cut-off date in the last month in the preceding calendar quarter.

In addition, within ninety (90) days after the completion of a grantee's fiscal year, the grantee shall provide to the City a certified statement of revenue by grantee's certified public accountants. A grantee shall also permit the City at any time to have independent certified public accountants audit a grantee's records to verify the accuracy of the certified statement of revenue, and if the independent audit should discover a discrepancy in the amount of the franchise fee payable to the City which is five percent (5%) or more in excess of the franchise fee documented by the certified statement of revenue from grantee's certified public accountants, the grantee shall reimburse the City for the costs of the independent audit.

Section 4-6-36 Injury To Property Of The Grantee

No person shall wrongfully or unlawfully injure the property of the grantee.

Section 4-6-37 Intercepting Signals Of The Grantee

No person shall wrongfully or unlawfully intercept the signals of the grantee.

Section 4-6-38 Penalty

Any person violating any of the provisions of Sections 4-6-36 or 4-6-37 of this Chapter shall, upon conviction, be subject to a fine of not to exceed one hundred dollars (\$100.00) or imprisonment not exceeding thirty (30) days.

Section 4-6-39 Filing Of Reports

On or before April 1 of each year, a grantee shall file with the City a copy of FCC Form 325 for the preceding calendar year.

Section 4-6-40 Filing Of Maps And Plats

On or before April 1 of each year, a 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.

Section 4-6-41 Access

A grantee shall and does hereby grant to the City the right to enter upon 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.

Section 4-6-42 Discrimination Prohibited

A 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.

Section 4-6-43 Reservations

The right is reserved to the City Council or its successors or equivalent 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.

Chapter 4-6A

REGULATION OF RATES FOR CABLE TELEVISION BASIC SERVICE TIER AND RELATED EQUIPMENT

Sections:

4-6A-1	Legal Authority
4-6A-2	Rate Regulation Proceedings
4-6A-3	FCC Certification
4-6A-4	Cable Programming Service Tier
4-6A-5	Powers to Enforce
4-6A-6	Controlling Ordinance Provisions

Section 4-6A-1 Legal Authority

The City of Storm Lake (hereincalled "the City") has the legal authority to administer and shall enforce against any non-municipally owned cable television system operator, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission (FCC), concerning Cable Rate Regulation, 47 C.F.R. Sections 76.900 et seq., as they currently read and hereafter may be amended, which are herewith incorporated by reference.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Section 4-6A-2 Rate Regulation Proceedings

Any rate regulation proceedings conducted under Section 1 hereto shall provide a reasonable opportunity for consideration of the view of any interested party, including but not limited to, the City or its designee, the Cable Operator, subscribers and residents of the franchise area. In addition to all other provisions required by the laws of the State of Iowa and the City of Storm Lake for such proceedings, and in order to provide for such opportunity for consideration of the views of any interested party, the City shall take the following actions:

(A) The City shall publish notice as provided in Code of Iowa Chapter 362.4, and shall mail, by certified mail, to the Cable Operator a notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.

(B) Said notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in question; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such views; that a decision concerning the reasonableness of the cable television rates in question will be governed by the FCC Rules and Regulations; and that the decision of the City is subject to review by the FCC.

(C) The City shall conduct a public proceeding to determine whether or not the rates or proposed rate increase are reasonable. The City may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the City or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may extend the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give

notice accordingly.

(D) In the course of the rate regulation proceeding, the City may require additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the City shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry. The City may request proprietary information, provided that the City shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the Cable Operator. The City may exercise all powers under the laws of evidence applicable to administrative proceedings under the laws of the State of Iowa and of the City of Storm Lake to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents and deposition.

(E) Upon termination of the rate regulation proceeding, the City shall adopt and release a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable, and, if unreasonable, its remedy, including prospective rate reduction, rate prescription and refunds.

(F) The City may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase.

(G) Consistent with FCC Rules and Regulations, the City's decision may be reviewed only by the FCC.

(H) The City shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the City shall be verified by an appropriate official of the cable television systems supervising the preparation of the response on behalf of the entity, and submitted by way of Affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Section 4-6A-3 FCC Certification

The City has filed with the FCC the required certification form (FCC Form 328) on or before September 1, 1993. As soon hereafter as appropriate, the City shall notify the Cable Operator that the City has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Section 4-6A-4 Cable Programming Service Tier

With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, the FCC Rules and Regulations, and over which the City is not empowered to exercise rate regulation, the Cable Operator shall give notice to the City of any change in rates for the cable programming service tier or tiers, any change in the charge for equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program services included in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Section 4-6A-5 Powers to Enforce

The City may delegate its powers to enforce this Law to municipal employees or officers ("cable official"). The cable official will have the authority to: (1) administer oaths and affirmations; (2) issue subpoenas; (3) examine witnesses; (4) rule upon questions of evidence; (5) take or cause depositions to be taken; (6) conduct proceedings in accordance with this Law; (7) exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings; (8) hold conferences for the settlement or simplification of the issues by consent of the parties; and (9) take actions and make decisions or recommend decisions in conformity with this Law.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Section 4-6A-6 Controlling Ordinance Provisions

If any ordinances or parts of ordinances, specifically including 4-6-30, are inconsistent with the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

(Ord. No. 4-O-93-94, Enacted, 02/12/94)

Chapter 4-7

BURGLAR AND FIRE ALARM SYSTEMS

Sections:

4-7-1	Definitions
4-7-2	Alarm Business Permit
4-7-3	Alarm Agent Permit
4-7-4	Alarm Permit
4-7-5	Exemptions
4-7-6	Application Fees
4-7-7	Application Contents
4-7-8	Permit Procedure
4-7-9	Permit Renewal
4-7-10	Revocation And Suspension Of Permits
4-7-11	Notice Of Decisions
4-7-12	Right To Appeal
4-7-13	Procedure On Appeal
4-7-14	Posting And Presentation Of Permits
4-7-15	Alarm System Standards
4-7-16	False Alarms
4-7-17	Service Available
4-7-18	Responsibility For Alarm Response
4-7-19	Alarm Devices Terminating Point
4-7-20	Municipal Infraction

Section 4-7-1 Definitions

For the purposes of this Ordinance the following words and phrases shall be construed to have the meanings set forth unless it is apparent from the context that a different meaning is intended.:

(A) "BURGLAR ALARM SYSTEM" means a method of detecting and signaling the presence, entry or attempted entry of an intruder into protected premises.

(B) "FIRE ALARM SYSTEM" means a method of detecting and signaling the presence of fire, the products of combustion, or heat in a protected premises.

(C) "ALARM SYSTEM" means either a fire, burglar or hold-up alarm system.

(D) "PROTECTED PREMISES" means that part of a building to which protection is afforded by an alarm system.

(E) "ALARM BUSINESS" means the business of selling, leasing, maintaining, inspecting, servicing, repairing, replacing, altering, moving or installing any alarm system.

(F) "ALARM AGENT" means any person employed by an alarm business, either directly or indirectly, whose duties include any of the following: Selling, maintaining, leasing, servicing, inspecting, repairing, altering, replacing, moving or installing on any building, place or premises, any alarm system.

(G) "CENTRAL STATION" means premises, usually maintained by an alarm company, equipped to

receive and display signals from intruder alarm systems.

(H) "AUDIBLE ALARM" means an alarm system, which when actuated, generates an audible sound on the premises. This audible alarm may or may not be combined with a method of transmitting a signal to a remote point.

(I) "SILENT ALARM" means an alarm signal transmitted in such a manner that any intruder into the premises is not aware of the signal.

(J) "FALSE ALARM" means an alarm signal necessitating response by police, fire or other public safety agency where an emergency situation does not exist.

(K) "SUBSCRIBER" means a person who contracts for or receives service or maintenance with respect to an alarm system from an alarm business.

(L) "PERSON" means individual, corporation or organization.

(M) "CITY" means the City of Storm Lake or such officers or employees as may be designated by this Ordinance to have specific duties in relation to this Ordinance.

Section 4-7-2 Alarm Business Permit

No person shall conduct an alarm business in the absence of a currently valid alarm business permit issued pursuant to the provisions of this Ordinance.

Section 4-7-3 Alarm Agent Permit

No person shall conduct himself as an alarm agent in the absence of a currently valid alarm agent permit issued pursuant to the provisions of this Ordinance. A person holding a currently valid alarm business permit is exempt from the requirement for an alarm agent permit.

Section 4-7-4 Alarm Permit

No person shall have or maintain at premises under his control or ownership an alarm system in the absence of a currently valid alarm system permit issued pursuant to the provisions of this Ordinance.

Section 4-7-5 Exemptions

No person needs to be licensed as an alarm business or as an alarm agent to install, maintain, service, inspect, repair, alter, move or replace any alarm system at premises under his control or ownership, or if he is the regular employee of the person controlling or owning the premises. No alarm system permit is required if an alarm signal is transmitted only to the residence of the person in control of or owning the premises or the residence of someone in his regular employment or if the alarm signal is not audible on the exterior of the protected premises.

Section 4-7-6 Application Fees

(A) Applications: Applications for alarm business permits or alarm agent permits shall be filed with the Chief of Police on forms provided for that purpose. Applications for alarm permits shall be filed with the Chief of Police in the case of burglar alarm systems and the Fire Chief in the case of fire alarm systems. An application fee may only be such an amount as to fairly compensate the City for the cost of processing the application and issuing the license.

(B) Fees: Each application for an alarm business permit shall be accompanied by receipt for a non-refundable permit fee, in the amount set by Council Resolution, from the City Treasury.

Each application for an alarm agent permit shall be accompanied by a receipt for a non-refundable permit fee, in the amount set by Council Resolution, from the City Treasury.

No fee will be charged for an alarm system permit.
(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-7-7 Application Contents

Applications for alarm business permits and alarm agent permits shall be on a form prescribed by the Chief of Police. The applicant shall supply such information as shall be reasonably necessary to evaluate and act upon the permit application. An application for an alarm system permit shall be on a form prescribed by the Police Chief or the Fire Chief and shall specify the name, address and telephone number of the persons who will render service or repairs during any hour of the day or night.

Section 4-7-8 Permit Procedure

(A) Alarm business and alarm agent permits. After reviewing an application for an alarm business or alarm agent permit, the Police Chief shall have reasonable time to investigate the application and the background of the applicant to the extent deemed necessary. Thereafter, the permit shall be issued unless the Police Chief finds that (1) the applicant has submitted an application that contains a misstatement or omission of any material fact, or (2) that some matter or activity in the background of the applicant reasonably related to the activities to be engaged in is such that a reasonable person would conclude that there would be an undue risk to the public health or safety if the permit were granted, or (3) the applicant has been convicted of a felony or is not of good moral character. If the permit is denied, the reasons for denial shall be set forth in writing and provided to the applicant or his/her designee.

(B) Alarm system permits. All alarm systems in operation at the time of passage of this Ordinance and all alarm systems installed following passage shall have a permit. Those conducting alarm businesses shall be responsible for procuring and processing applications for their subscribers and promptly transmitting such completed applications to the Police Chief if a burglar system and the Fire Chief if a fire alarm system. Where the alarm system is in operation prior to the effective date of this Ordinance and is not serviced by an alarm business, the person, owning, using or possessing such system shall be responsible for obtaining the permit and shall make direct application to the Police Chief or Fire Chief.

Section 4-7-9 Permit Renewal

Alarm business and alarm agent permits issued pursuant to this Ordinance shall expire annually on December 31. All applications for renewal of such permits shall be filed with the Police Chief on forms provided for that purpose.

A fee, in the amount set by Council Resolution, shall be paid to the City Clerk for renewal of an alarm business permit and a fee, in the amount set by Council Resolution, shall be paid to the City Clerk for renewal of an alarm agent permit. A renewal shall be granted unless a suspension or revocation has occurred or unless grounds for a suspension or revocation exists, in which case renewal may be denied. If renewal is denied, notice of the denial shall be given as provided in Section 4-7-10. A denial of a renewal permit may be appealed as provided in Sections 4-7-12 and 4-7-13.

(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-7-10 Revocation And Suspension Of Permits

A permit granted under this Ordinance may be suspended or revoked by the Police Chief if he shall find that the business operations of the permittee are being, or have been, conducted in violation of State Statute or in violation of any provisions of this Ordinance, or that a misstatement or an omission of material fact has been made by the permittee, or that there exists any other grounds for revocation which are specified in this Ordinance. For the purpose of this Section the holder of an alarm business permit shall be responsible for the conduct of its officers, agents or employees. An alarm system permit may be revoked where such device actuates excessive false alarms and thereby constitutes a public nuisance.

A permit, however, may not be revoked or suspended, except as noted in Section 4-7- 17 relating to intentionally caused fire alarms, until a hearing has been held before the Police Chief. Written notice of the time and place of hearing shall be served upon the permittee at least seven (7) days prior to the date set for such hearing if such notice is personally served. Such notice shall contain a brief statement of the grounds to be relied on for revoking or suspending such permit. Notice shall be given either by personal delivery to the person to be notified, or by deposit in the United States mail in a sealed envelope, postage prepaid, addressed to such person to be notified at the business address appearing upon the application for the permit. If notice is given by mail as herein provided, it shall be deemed given at least seven (7) days prior to the date set for such hearing. Any person aggrieved by the action of the Police Chief may appeal to the City Council within the time and manner provided in this Ordinance. In the case of the revocation or suspension of a fire alarm system permit, the Fire Chief shall have the authority and duties enumerated for the Police Chief.

Section 4-7-11 Notice Of Decisions

Within ten (10) days after reaching a determination (a) with reference to an application for a permit, or (b) after a hearing concerning suspension or revocation of a permit, the Police Chief, or the Fire Chief in the case of a fire alarm system permit, shall serve a written copy of his decision on the applicant or permittee either by personal service or by mailing a copy of his decision, postage prepaid, to the applicant or permittee at the address set forth in writing or otherwise specified in writing by the applicant or permittee. If served by mail, the decision shall be deemed to be served upon its deposit in the United States mail. The copy of the decision shall apprise the applicant or permittee of his right to appeal and of the time limitations and procedures specified in this Ordinance.

Section 4-7-12 Right To Appeal

An applicant or permittee aggrieved by the decision of the Police Chief or the Fire Chief shall have the right to appeal to the City Council. Notice of appeal must be filed with the City Clerk within fifteen (15) days after service of the decision. The notice of appeal shall briefly state the basis for such appeal.

Section 4-7-13 Procedure On Appeal

Upon receipt of the notice of appeal with the required fee, the City Clerk shall place the matter on the agenda of the next regularly scheduled meeting of the City Council. The City Council shall set the matter for hearing at least fourteen (14) days, but not more than twenty-eight (28) days, in the future. The City Clerk shall thereupon give the appealing party written notice of the time and place of the hearing. If the appealing party deems additional time is necessary to prepare his presentation to the Council the hearing shall be continued by the Council to a later date, not to exceed thirty (30) days beyond the date previously set.

At the time and place set for hearing upon the appeal from the decision of the Police Chief or the Fire Chief, the City Council shall give the appealing party a reasonable opportunity to be heard in order to show cause why the determination by the Police Chief or the Fire Chief should not be upheld. In cases where a permit has been denied, the burden of proof to show that the action taken by the Police Chief or the Fire Chief was arbitrary, capricious, or in excess of the authority of that Chief, shall be upon the appealing party. In cases where a permit has been suspended or revoked, or a permit renewal denied, the burden of proof shall be upon the City to establish that appropriate grounds existed for such action. The determination of the City Council shall be final and conclusive.

Section 4-7-14 Posting And Presentation Of Permits

An alarm business permit shall be posted at all times at the premises from which the alarm business is conducted. A person acting as an alarm agent shall carry his alarm agent permit on his person at all times while he is so engaged and shall display said permit to any police officer or fireman upon request.

Section 4-7-15 Alarm System Standards

The Police Chief may propose regulations prescribing minimum standards for the construction, maintenance and operation of burglar alarm systems and requiring inspection and approval of all such systems. The Fire Chief may have the same authority in relation to fire alarm systems. Such standards shall have the full force and effect of law upon adoption by resolution by the City Council after a public hearing. No permit shall be issued for any device that does not comply with said regulations as finally adopted. Copies of these standards shall be furnished to all licensed alarm businesses and shall be available for inspection in the office of the Police Chief or Fire Chief.

Section 4-7-16 False Alarms

A report on a form provided by the Police Chief or the Fire Chief shall be filed with the Police Department or Fire Department within forty-eight (48) hours, Sundays and holidays excepted, with regard to each and every false alarm transmitted to that department and such additional information as may be

reasonably required by the Chief of that department shall be supplied with regard thereto. The report shall be made by the alarm system permittee in all other instances.

If any false alarm occurs as a result of any defect of the alarm equipment, including the method of sounding or transmitting the alarm signal or from any defect in installation of the equipment, including the method of sounding or transmitting the alarm signal, the report of the false alarm shall include a statement as to the action taken to remedy this false alarm cause.

The Police Chief and the Fire Chief are given authority to determine if an excessive number of false alarms results from the operation of any alarm system. When such a determination is made, the Police Chief or the Fire Chief shall inform the subscriber or the proprietor, owner or operator of that alarm system that an excessive number of false alarms have occurred. If in the opinion of the Police Chief or the Fire Chief, excessive numbers of false alarms continue to occur, the Chief has the authority to suspend or revoke the license. Such a suspension or revocation shall then follow the procedures in Section 4-7-10, 4-7-12 and 4-7-14 of this Ordinance.

In the event of a false alarm caused intentionally by any alarm business, alarm agent or the owner, operator, proprietor, or employee of a premises where an alarm system is installed, the Police Chief or the Fire Chief may revoke or suspend the permit at once. Such a suspension or revocation shall then follow the procedures in Section 4-7-10, 4-7-11, 4-7-12 and 4-7-13 of this Ordinance.

The subscriber or proprietor utilizing any single alarm shall be liable to the City for the sum, in the amount set by Council Resolution, for each false police alarm activated by any person whether known or not, and the subscriber or proprietor utilizing any single alarm shall also be liable to the City for the sum, in the amount set by Council Resolution, for each false police alarm in excess of four (4) in any twelve (12) month period caused by equipment malfunction. The subscriber or proprietor utilizing a fire alarm system shall be liable to the City for the sum, in the amount set by Council Resolution, for each false fire alarm in excess of one (1) in any twelve (12) month period, whether intentionally activated by any person whether known or not, or due to equipment malfunction. Failure to pay the charge for false alarms within fifty (50) days after notice thereof shall be grounds for revocation of the alarm permit.

(Ord. No. 08-95-96, Amended, 02/05/96)

(Ord. 12-O-2004-2005, Amended, 12/06/2004)

Section 4-7-17 Service Available

Each alarm business shall have licensed employees and supplies and equipment so located as to be able to respond to a request for repair or adjustment of any alarm system that such an alarm business sold, maintained or inspected within four (4) hours of the request for this service. They shall respond within four (4) hours of the request except that if a request occurs within the hours that the protected premise is open for business or otherwise substantially occupied, repair or adjustment may be made anytime prior to closing of the protected premise.

Section 4-7-18 Responsibility For Alarm Response

Every person who has on premises under his control or ownership an alarm system, audible or silent, shall, upon notification that the alarm system is giving a signal, proceed immediately to the premises and render all necessary service. Provided, however, that the owner or person in control of the premises may enter into an agreement with an alarm business or a licensed private detective agency or watch service to respond in his stead.

Section 4-7-19 Alarm Devices Terminating Point

A burglar or fire alarm may only terminate at the Buena Vista County Communication Center and shall be subject to the rules and regulations governing such center established by the Buena Vista County Communications Commission, the Buena Vista County Board of Supervisors, or the Buena Vista County Sheriff.

Section 4-7-20 Municipal Infraction

A violation of any of the provisions of this Chapter shall constitute a Municipal infraction subject to the penalties and alternative relief authorized by Title 1, Chapter 20 of this Code and by Section 364.22 of the Code of Iowa.

Chapter 4-8

TAX EXEMPTION FOR SPECULATIVE SHELL BUILDINGS

Sections:

- 4-8-1 **Definitions**
- 4-8-2 **Purpose**
- 4-8-3 **Amount of Exemption**
- 4-8-4 **Exemption Effective**
- 4-8-5 **Application for Exemption**
- 4-8-6 **Industrial Property Exemption**

Section 4-8-1 **Definitions**

a. (1) "Community Development Organization" means an organization, which meets the membership requirements of subparagraph (2), formed within the City of Storm Lake or Buena Vista County or a multi-community group for one or more of the following purposes:

- (a) To promote, stimulate, develop and advance the business prosperity and economic welfare of the community, area or region and its citizens.
- (b) To encourage and assist the location of new business and industry.
- (c) To rehabilitate and assist existing business and industry.
- (d) To stimulate and assist in the expansion of business activity.

(2) For purposes of this definition, a community development organization must have at least fifteen (15) members with representation from the following:

- (a) A representative from government at the level or levels corresponding to the community development organization's area of operation.
- (b) A representative from a private sector lending institution.
- (c) A representative of a community organization in the area.
- (d) A representative of business in the area.
- (e) A representative of private citizens in the community, area or region.

b. "New Construction" means new buildings or structures and includes new buildings or structures which are constructed as additions to existing buildings or structures. "New construction" also includes reconstruction or renovations of an existing building or structure (to the extent of value added) which constitutes complete replacement of an existing building or structure or refitting of an existing building or structure, if the reconstruction or renovation of the existing building or structure is required due to economic obsolescence, if the reconstruction or renovation is necessary to implement recognized industry standards for the manufacturing or processing of products, and the reconstruction or renovation is required in order to competitively manufacture or process products or for community development organizations to market a building or structure as a speculative shell building, which determination must receive prior

approval from the City Council.

c. "Speculative Shell Building" means a building or structure owned and constructed or reconstructed by a community development organization without a tenant or buyer for the purpose of attracting an employer or user which will complete the building to the employer's or user's specification for manufacturing, processing, or warehousing the employer's or user's product line.

(Ord. 06-O-97-98, Add, 11/17/1997)

Section 4-8-2 Purpose

The City Council, by this Chapter, and pursuant to the authority of Section 427. 1(27) Code of Iowa approves of exemption from property taxation as provided herein for all new construction of speculative shell buildings by community development organizations for speculative purposes or the portion of value added to buildings being reconstructed renovated by community development organizations in order to become speculative shell buildings.

(Ord. 06-O-97-98, Add, 11/17/1997)

Section 4-8-3 Amount of Exemption

The actual value added to the prior value of the same real estate is eligible to receive an exemption for taxation beginning with the year in which the building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value and all subsequent years until the property is leased or sold. If any portion of the shell building is leased or sold, the portion of the shell building which is leased or sold shall not be entitled to an exemption for subsequent years.

(Ord. 06-O-97-98, Add, 11/17/1997)

Section 4-8-4 Exemption Effective

The exemption shall be effective for the assessment year in which the speculative shell building is first assessed for property taxation or the assessment year in which the reconstruction or renovation first adds value. Eligibility for an exemption as a speculative shell building shall be determined as of January 1, of the assessment year.

(Ord. 06-O-97-98, Add, 11/17/1997)

Section 4-8-5 Application for Exemption

An application shall be filed for each project resulting in actual value added for which an exemption is claimed. The application for exemption shall be filed by the owner of the property with the city clerk of the City of Storm Lake, Iowa, and with the Buena Vista County Assessor by February 1 of the assessment year in which the value added is first assessed for taxation. Applications for exemption shall be made on forms prescribed by the Director of Revenue and shall contain information pertaining to the nature of the improvement, its cost, and any other information deemed necessary by the Director of Revenue.

(Ord. 06-O-97-98, Add, 11/17/1997)

Section 4-8-6 Industrial Property Exemption

Upon the sale of the shell building, the shell building shall be considered new construction of the purposes of Chapter 4-2 of the Municipal Code of Storm Lake, Iowa, if used for purposes set forth in Chapter 4-2.

(Ord. 06-O-97-98, Add, 11/17/1997)

Chapter 4-9

REGULATORY SCHEME FOR CABLE TELEVISION FRANCHISE WHICH ARE INITIALLY GRANTED OR WHICH ARE RENEWED ON OR AFTER MARCH 1, 1999

Sections:

4-9-1	INTENT
4-9-2	DEFINITIONS
4-9-3	FRANCHISE TO INSTALL AND OPERATE
4-9-4	FRANCHISE REQUIRED
4-9-5	TERM OF THE FRANCHISE
4-9-6	FRANCHISE TERRITORY
4-9-7	FEDERAL, STATE AND CITY JURISDICTION
4-9-8	FRANCHISE NON-TRANSFERABLE
4-9-9	PURCHASE BY CITY UPON EXPIRATION OR REVOCATION
4-9-10	EMERGENCY USE
4-9-11	GEOGRAPHICAL COVERAGE
4-9-12	NONEXCLUSIVE FRANCHISE
4-9-13	MULTIPLE FRANCHISES
4-9-14	FRANCHISE APPLICATIONS
4-9-15	CONSIDERATION OF INITIAL APPLICATIONS
4-9-16	FRANCHISE RENEWAL
4-9-17	CONSUMER PROTECTION AND SERVICE STANDARDS
4-9-18	RATE REGULATION
4-9-19	FRANCHISE FEE
4-9-20	DESIGN AND CONSTRUCTION REQUIREMENTS
4-9-21	TECHNICAL STANDARDS
4-9-22	TRIMMING OF TREES
4-9-23	USE OF GRANTEE FACILITIES
4-9-24	PROGRAMMING DECISIONS
4-9-25	INDEMNIFICATION
4-9-26	INSURANCE
4-9-27	RECORDS REQUIRED AND GRANTOR' S RIGHT TO INSPECT
4-9-28	ANNUAL REPORTS
4-9-29	FRANCHISE VIOLATION
4-9-30	FORCE MAJEURE; GRANTEE' S INABILITY TO PERFORM
4-9-31	ABANDONMENT OR REMOVAL OF FRANCHISE PROPERTY
4-9-32	EXTENDED OPERATION AND CONTINUITY OF SERVICES
4-9-33	RECEIVERSHIP AND FORECLOSURE
4-9-34	RIGHTS RESERVED TO GRANTOR
4-9-35	RIGHTS OF INDIVIDUALS
4-9-36	SEVERABILITY

Section 4-9-1 INTENT

- a. The City of Storm Lake, Iowa, pursuant to Applicable Laws, is authorized to grant one or more nonexclusive Franchises to construct, operate, maintain and reconstruct Cable Television Systems within the City limits.

- b. The City Council finds that the development of Cable Television Systems has the potential

of having great benefit and impact upon the residents of the City. Because of the complex and rapidly changing technology associated with cable television, the City Council further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers which should be vested in the City or such Persons as the City shall designate. It is the intent of this Ordinance and subsequent amendments to provide for and specify the means to attain the best possible cable television service to the public and any Franchises issued pursuant to this Ordinance shall be deemed to include this finding as an integral part thereof.

Section 4-9-2 DEFINITIONS

1. For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. All capitalized terms used in the definition of any other term shall have their meaning as otherwise defined in this Section. The words “ shall” and “ will” are mandatory and “ may” is permissive. Words not defined shall be given their common and ordinary meaning.

2.

3. a. “Applicable Laws” means any law, statute, charter, ordinance, rule, regulation, code, license, certificate, franchise, permit, writ, ruling, award, executive order, directive, requirement, injunction (whether temporary, preliminary or permanent), judgment, decree or other order issued, executed, entered or deemed applicable by any Governmental Authority.

4.

5. b. “Basic Cable Service” means any Service Tier which includes the retransmission of local television broadcast signals. Basic Cable Service as defined herein shall not be inconsistent with 47 U.S.C. 543(b)(7).

6.

c. “Cable Act” means the Cable Communications Policy Act of 1984, Pub. L. No. 98-549, 98 Stat. 2779 (1984) (codified at 47 U.S.C. 521-611 (1982 & Supp. V 1987)) as amended by the Cable Television Consumer Protection and Competition Act of 1992, Pub. L. No. 102-385 and the Telecommunications Act of 1996, Pub. L. No. 104-458 and as the same may, from time to time, be amended.

d. “Cable Television System”, “System” or “Cable System” means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide Cable Service which includes Video Programming and which is provided to multiple Subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one (1) or more television broadcast stations;

2. A facility that serves Subscribers without using any public rights-of-way;

3. A facility of a common carrier which is subject, in whole or in part, to the provisions of 47 U.S.C. 201-226, except that such facility shall be considered a Cable System (other than for purposes of 47 U.S.C. 541©) to the extent such facility is used in the transmission of Video Programming directly to Subscribers, unless the extent of such use is solely to provide interactive on-demand services;

4. An open video system that complies with 47 U.S.C. 573 and is not otherwise exempt from the City's authority to grant and regulate franchises pursuant to Section 364.2(4) of the Iowa Code.

5. Any facilities of any electric utility used solely for operating its electric utility system.

e. "Cable Service" means:

1. The one-way transmission to Subscribers of (i) Video Programming, or (ii) Other Programming Service; and

2. Subscriber interaction, if any, which is required for the selection or use of such Video Programming or Other Programming Service.

f. "Channel" or "Cable Channel" means a portion of the electromagnetic frequency spectrum which is used in a Cable System and which is capable of delivering a television channel as defined by the Federal Communications Commission.

g. "Class IV Channel" means a signaling path provided by a Cable System to transmit signals of any type from a Subscriber terminal to another point in the Cable System.

h. "Council" means the City Council of the City of Storm Lake, Iowa.

i. "Franchise" means an initial authorization, or renewal thereof, (including a renewal of an authorization which has been granted subject to 47 U.S.C. 546), issued by the City, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement or otherwise, which authorizes the construction or operation of a Cable System.

j. "Franchise Agreement" means a Franchise granted pursuant to this Ordinance containing the specific provisions of the Franchise granted, including references, specifications, requirements and other related matters for the construction or operation of a Cable System.

k. "Franchise Fee" means any tax, fee or assessment of any kind imposed by the City on a Grantee or cable Subscriber, or both, solely because of their status as such. The term "Franchise Fee" does not include: (i) any tax, fee or assessment of general applicability (including any such tax, fee or assessment imposed on both utilities and cable operators or their services, but not including a tax, fee or assessment which is unduly discriminating against cable operators or cable Subscribers); (ii) capital costs which are required by the Franchise Agreement to be incurred by the Grantee for PEG Access Facilities; (iii) requirements or charges incidental to the awarding or enforcing of the Franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages; or (iv) any fee imposed under Title 17 of the United States Code.

l. "Governmental Authority" means any Court or other federal, state, county, municipal or other governmental department, commission, board or agency.

m. "Grantee" means any Person receiving a Franchise pursuant to this Ordinance as represented

by its agents, officers, designees, or any lawful successor, transferee or assignee.

- n. "Grantor" or "City" means the City of Storm Lake, Iowa. The City Administrator shall be responsible for the continuing administration of the Franchise.
- o. "Gross Revenues" means all revenue derived directly or indirectly by the Grantee, its affiliates, subsidiaries, parents, or any Person in which Grantee has a financial interest of five percent (5%) or more, arising from or attributable, to the sale or exchange of Cable Service by the Grantee within the City. Gross Revenues shall be the basis for computing the Franchise Fees imposed pursuant to Section 1.20 hereof. Gross Revenues does not include uncollected amounts for Cable Service, or support for PEG Access Facilities collected from Subscribers.
- p. "Installation" means the connection of the System from the tap to the point of connectivity to a Subscriber's terminal for the provision of Cable Service.
- q. "Normal Business Hours" means those hours during which most similar businesses in the City are open to serve customers. In all cases, "Normal business Hours" must include some evening hours at least one night per week and/or some weekend hours.
- r. "Normal Operating Conditions" means those service conditions which are within the control of the Grantee. Those conditions which are not within the control of the Grantee include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages and unusually severe or unusual weather conditions. Those conditions which are ordinarily within the control of the Grantee include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the System.
- s. "Other Programming Service" means information that a Grantee makes available to all Subscribers generally and has the same meaning as set forth at 47 USC Section 522.
- t. "Person" means any individual or any association, firm, general partnership, limited partnership, joint stock company, joint venture, trust, corporation, limited liability company or other legally recognized entity, private or public, whether for-profit or not-for-profit.
- u. "Public, Educational or Government Access Facilities" or a PEG Access Facilities" means:
 - 1. Channel capacity designated for public, educational or governmental use; and
 - 2. Facilities and equipment for the use of such channel capacity.
- v. "Section" means any Section, subsection or provision of this Ordinance.
- w. "Service Area" or "Franchise Area" means the entire geographic area within the City as it is now constituted or may in the future be constituted, unless otherwise specified in the Franchise Agreement.

- x. "Service Interruption" means the loss of picture or sound on one or more Cable Channels.
- y. "Service Tier" means a category of Cable Service or other services provided by a Grantee and for which a separate rate is charged by the Grantee.
- z. "State" means the State of Iowa.
- aa. "Street" means the surface of and the space above and below each of the following which have been dedicated to the public or are hereafter dedicated to the public and maintained under public authority or by others and located within the City limits; streets, roadways, highways, avenues, paths, lanes, alleys, sidewalks, boulevards, permit to be included within the definition of Street from time to time.
- bb. "Subscriber" means any Person who or which lawfully elects to subscribe to Cable Service provided by the Grantee by Means of or in connection with the Cable System whether or not a fee is paid for such service.
- cc. "Video Programming" means programming provided by, or generally considered comparable to programming provided by a television broadcast station.

Section 4-9-3 FRANCHISE TO INSTALL AND OPERATE

- a. A Franchise granted by the City under the provisions of this Ordinance shall encompass the following purposes:
 - 1. To engage in the business of providing Cable Service to Subscribers within the Service Area.
 - 2. To erect, install, construct, repair, rebuild, reconstruct, replace, maintain and retain cables, lines, related electronic equipment, supporting structures, appurtenances and other property in connection with the operation of a Cable System in, on, over, under, upon, along and across Streets within the Service Area.
 - 3. To maintain and operate said Franchise properties for the origination, reception, transmission, amplification and distribution of television and radio signals for the delivery of Cable Services.
 - 4. To set forth the obligations of a Grantee under the Franchise Agreement.
- b. Nothing contained in this Ordinance relieves a Person from liability arising out of failure to exercise reasonable care to avoid injuring Grantee' s facilities while performing work connected with grading, regrading or changing the line of a Street or public place or with the construction or reconstruction of a sewer or water system.

Section 4-9-4 FRANCHISE REQUIRED

It shall be unlawful for any Person other than the City (unless required by Applicable Laws), to construct, install or operate a Cable Television System in the City in, on, over, under, upon, along or across any Street without a Franchise properly granted pursuant to the provisions of this Ordinance.

Section 4-9-5 TERM OF THE FRANCHISE

- a. An initial or renewal Franchise granted hereunder shall be for the term established in the Franchise Agreement and shall not exceed fifteen (15) years.
- b. A Franchise granted hereunder may be renewed upon application by the Grantee pursuant to the provisions of this Ordinance and Applicable Laws.

Section 4-9-6 FRANCHISE TERRITORY

Any Franchise granted pursuant to this Ordinance shall be valid within the Service Area.

Section 4-9-7 FEDERAL, STATE AND CITY JURISDICTION

- a. This Ordinance shall at all times be construed and enforced in a manner consistent with Applicable Laws.
- b. In the event that the State or Federal government discontinues preemption in any area of cable communications over which it currently exercises jurisdiction, Grantor reserves all of its rights to adopt rules and regulations in those areas to the extent permitted by Applicable Laws.
- c. This Ordinance shall be effective after its passage, approval and publication and shall apply to all Franchises granted or renewed after the effective date of this Ordinance.
- d. The rights of all Grantees are subject to the policing powers of the City to adopt and enforce ordinances necessary to the health, safety and welfare of the public. All Grantees shall comply with all Applicable Laws enacted by the City pursuant to that power.
- e. No Grantee shall be relieved of its obligation to comply with any of the provisions of this Ordinance or any Franchise granted pursuant to this Ordinance by reason of any failure of the City to enforce prompt compliance.
- f. This Ordinance and any Franchise granted pursuant to this Ordinance shall be construed and enforced in accordance with the substantive laws of the City, State of Iowa and applicable federal laws, including the Cable Act.
- g. This Ordinance complies with all Iowa statutes. To the extent Iowa Statutes imposes requirements not addressed within this Ordinance or any Franchise granted hereunder, such requirements shall be considered part of this Ordinance as if fully set forth herein.

- h. Grantee and the City shall conform to State laws and rules regarding cable communications not later than one year after they become effective, unless otherwise stated, and shall conform to federal laws and regulations regarding cable communications as they become effective.

Section 4-9-8 FRANCHISE NON-TRANSFERABLE

a. Grantee shall not voluntarily or involuntarily, by operation of law or otherwise, sell, assign, transfer, or otherwise dispose of, in whole or in part, the Franchise and/or Cable System without the prior written consent of the Grantor and then only upon such reasonable terms and conditions as may be allowed under Applicable Laws.

Any attempt to sell, assign, transfer, lease, sublet or otherwise dispose of all or any part of the Franchise and/or Cable System or Grantee's rights therein without the prior written consent of the Grantor shall be null and void and shall be grounds for termination of the Franchise pursuant to Section 4-9-29 hereof and the applicable provisions of any Franchise Agreement.

b. In the case of any sale or transfer of ownership of any Franchise and/or Cable System, the City shall have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in this Ordinance and Applicable Laws and such other reasonable information as the City may request. If the City fails to render a final decision on the request within 120 days from receipt by the City of all required information, such request shall be deemed granted unless the requesting party and the City agree to an extension of time.

c. Grantee shall notify Grantor in writing of any foreclosure or any other judicial sale of all or a substantial part of the property and assets comprising the Cable System of the Grantee or upon the termination of any lease or interest covering all or a substantial part of said property and assets. Such notification shall be considered by

Grantor as notice that a change in control or ownership of the Franchise has taken place and the provisions under this Section governing the consent of Grantor to such change in control or ownership shall apply.

d. For the purpose of determining whether it shall consent to such change, transfer or acquisition of control, Grantor may inquire into the qualifications of the prospective transferee or controlling party, and Grantee shall assist Grantor in any such inquiry. In seeking Grantor's consent to any change of ownership or control, Grantee shall have the responsibility of insuring that the transferee completes an application in form and substance reasonably satisfactory to Grantor, which application shall include the information required under this Ordinance and Applicable Laws of this Ordinance. An application shall be submitted to Grantor not less than one hundred twenty (120) days prior to the date of transfer. City shall notify the Grantee in accordance with Applicable Laws of any question concerning the accuracy of the information provided, or such information shall be deemed accepted. The transferee shall be required to establish to the satisfaction of the City that it possesses the legal, technical and financial

qualifications to operate and maintain the System and comply with all Franchise requirements for the remainder of the term of the Franchise. If, after considering the legal, financial and technical qualities of the transferee and determining that they are satisfactory, the Grantor finds that such transfer is acceptable, the Grantor shall permit such transfer and assignment of the rights and obligations of such Franchise as may be in the public interest. The consent of the Grantor to such transfer shall not be unreasonably withheld.

- e. The granting of a security interest or mortgage in all or part of the Franchise or Cable System by a Grantee shall not require the consent of the Grantor. Any financial institution having a security interest in any and all of the property and assets of Grantee as security for any loan made to Grantee for the construction and/or operation of the Cable System shall notify the Grantor that it or its designee satisfactory to the Grantor shall take control of and operate the Cable Television System, in the event of a default in the payment or performance of the debts, liabilities or obligations of Grantee to such financial institution. Further, said financial institution shall also submit a plan for such operation of the System within thirty (30) days of assuming such control that will insure continued service and compliance with all Franchise requirements during the term the financial institution or its designee exercises control over the System. The financial institution or its designee shall not exercise control over the System for a period exceeding one (1) year unless extended by the Grantor in its reasonable discretion and during said period of time it shall have the right to petition the Grantor to transfer the Franchise to another Grantee.

Section 4-9-9 PURCHASE BY CITY UPON EXPIRATION OR REVOCATION

In accordance with Applicable Laws, at the expiration, cancellation, revocation or termination of any Franchise Agreement for which the City has lawfully denied renewal under Applicable Laws, the City shall have the right to purchase the entire Cable System upon the payment to Grantee of the fair market value of the Cable System determined on the basis of the going concern value of the Cable System (exclusive of any value attributable to the Franchise itself).

Section 4-9-10 EMERGENCY USE

In the case of any emergency or natural disaster, Grantee shall, upon request of the City or emergency management personnel, make its Cable System and related facilities available to the City during the period of the emergency or natural disaster, to provide emergency alert services consistent with Applicable Laws.

Section 4-9-11 GEOGRAPHICAL COVERAGE

- a. Grantee shall design, construct and maintain the Cable Television System to have the capability to pass every dwelling unit in the Service Area having a minimum density equivalent of nine (9) residential units per one quarter (1/4) cable plant mile, measured from the closest point of connectivity to Grantee's System from which it is feasible to extend service to the area. Grantee shall be responsible for providing sufficient information to

Grantor to evaluate whether the System must be extended.

- b. After service has been established by activating trunk and/or distribution cables for any portion of the Service Area, Grantee shall provide Cable Service under Normal Operating Conditions to any requesting Subscriber within that Service Area within thirty (30) days from the date of request, provided that the Grantee is able to secure all private easements and rights-of-way necessary to extend service to such Subscriber within such thirty (30) day period on reasonable terms and conditions.

Section 4-9-12 NONEXCLUSIVE FRANCHISE

Any Franchise granted under this Ordinance shall be nonexclusive. The Grantor specifically reserves the right to grant, at any time, such additional Franchises for a Cable Television System or any component thereof, as it deems appropriate, subject to Applicable Laws. The Grantor also specifically reserves the right to operate a municipal Cable Television System pursuant to Applicable Laws and shall not be required to grant a Franchise to the City for the operation of a municipal Cable Television System unless specifically required by Applicable Laws.

Section 4-9-13 MULTIPLE FRANCHISES

- a. Grantor may grant one or more Franchises for a Service Area. Grantor may, in its sole discretion, limit the number of Franchises granted, based upon, but not necessarily limited to, the requirements of Applicable Laws and specific local considerations; such as:
 1. The capacity of the public rights-of-way to accommodate multiple coaxial cables in addition to the cables, conduits and pipes of the utility systems, such as electrical power, telephone, gas and sewage.
 2. The impact on the City of having multiple Franchises.
 3. The financial capabilities of the applicant.
- b. Each Grantee awarded a Franchise to provide Cable Service in the City shall offer service to all residences in the City, subject to the density requirements of Section 4-9-11, within a reasonable period of time, in accordance with construction and service schedules mutually agreed upon between Grantor and Grantee, and consistent with Applicable Laws. Any additional Franchise granted by City for a Service Area included in an existing Franchise Agreement shall contain terms and conditions no more favorable or less burdensome than those in the existing Franchise Agreement pertaining to (i) the Service Area; (ii) PEG Access Facilities; or (iii) Franchise Fees.
- c. The City may, in its sole discretion, require developers of new residential housing with underground utilities to provide conduit to accommodate cables for a minimum of two (2) Cable Systems.
- d. Grantor may require that any new Grantee be responsible for its own underground trenching

and the costs associated therewith (including the cost of acquisition of additional right-of-way), if, in Grantor's reasonable opinion, the rights-of-way in any particular area cannot feasibly and reasonably accommodate additional cables.

- e. Any additional Franchise granted by the City to provide Cable Service in a part of the City in which a Franchise has already been granted (such as a newly annexed area) and where an existing Grantee is providing Cable Service shall require the new Grantee to provide service throughout its Service Area within a reasonable time and in a sequence which does not discriminate against lower income residents as prohibited by Applicable Laws.

Section 4-9-14 FRANCHISE APPLICATIONS

Any Person desiring an initial Franchise for a Cable Television System shall file an application with the City. A reasonable application fee in an amount established by the City shall accompany the initial application for the reasonable and necessary costs of the process of awarding the Franchise. Such application fee shall not be deemed to be "franchise fees" within the meaning of Section 622 of the Cable Act (47 U.S.C. 542), and such payments shall not be deemed to be (i) "payments in kind" or any involuntary payments chargeable against the Franchise Fees to be paid to the City by Grantee pursuant to Section 4-9-19 hereof and applicable provisions of a Franchise Agreement, or (ii) part of the Franchise Fees to be paid to the City by Grantee pursuant to Section 4-9-19 hereof and applicable provisions of a Franchise Agreement.

Section 4-9-15 CONSIDERATION OF INITIAL APPLICATIONS

- a. Upon receipt of any application for an initial Franchise, the City Administrator shall prepare a report and make written recommendations respecting such application to the City Council.
- b. A public hearing shall be set prior to any initial Franchise grant, at a time and date approved by the Council. The Council shall make a decision based upon the evidence received at the hearing as to whether or not the Franchise(s) should be granted, and, if granted subject to what conditions. The Council may grant one (1) or more initial Franchises, or may decline to grant any Franchise in accordance with Applicable Laws.

Section 4-9-16 FRANCHISE RENEWAL

Franchise renewals shall be in accordance with Applicable Laws. Grantor and Grantee, by mutual consent, may enter into renewal negotiations at any time during the term of the Franchise. To the extent consistent with Applicable Laws, a reasonable non-refundable renewal application fee in an amount established by the City may be required to accompany any renewal application to the extent consistent with Applicable Laws.

Section 4-9-17 CONSUMER PROTECTION AND SERVICE STANDARDS

Grantee shall, at a minimum, comply with the following consumer protection standards under Normal Operating Conditions:

- a. Cable System office hours and telephone availability:
1. Grantee will maintain a local, toll-free or collect call telephone access line which will be available to its Subscribers 24 hours a day, seven (7) days a week.
 - (i) Trained Grantee representatives will be available to respond to customer telephone inquiries during Normal Business Hours.
 - (ii) After Normal Business Hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after Normal Business Hours must be responded to by a trained Grantee representative on the next business day.
 2. Under Normal Operating Conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90%) percent of the time under Normal Operating Conditions, measured on a quarterly basis.
 3. The Grantee shall not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards, unless an historical record of complaints indicates a failure to comply.
 4. Under Normal Operating Conditions, the customer will receive a busy signal less than three percent (3%) of the time.
 5. Customer service center and bill payment locations will be open at least during Normal Business Hours and will be conveniently located.
- b. Installations, outages and service calls. Under Normal Operating Conditions, each of the following four standards will be met no less than ninety-five percent (95%) of the time measured on a quarterly basis:
1. Standard Installations will be performed within seven (7) business days after an order has been placed. “Standard” Installations are those that are located up to 125 feet from the existing distribution system.
 2. Excluding conditions beyond the control of Grantee, Grantee will begin working on “service interruptions” promptly and in no event later than 24 hours after the interruption becomes known. The Grantee must begin actions to correct other service problems the next business day after notification of the service problem.
 3. The “appointment window” alternatives for Installations, service calls, and other Installation activities will be either a specific time or, at maximum, a four-hour time block during Normal Business Hours. (The Grantee may schedule service calls and other Installation activities outside of Normal Business Hours for the express

convenience of the customer.)

4. Grantee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
5. If Grantee's representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

c. Communications between Grantee and Subscribers:

1. Notifications to Subscribers:

- (i) The Grantee shall provide written information on each of the following areas at the time of Installation of service at least annually to all Subscribers, and at any time upon request:

- (A) Products and services offered;
- (B) Prices and options for programming services and conditions of subscription to programming and other services;
- (C) Installation and service maintenance policies;
- (D) Instructions on how to use the Cable Service;
- (E) Channel positions of the programming carried on the System; and
- (F) Billing and complaint procedures, including the address and telephone number of the Grantor's cable office.

- (ii) Customers will be notified of any changes in rates, programming services or Channel positions as soon as possible through announcements on the Cable System and in writing. Notice must be given to Subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the Grantee. In addition, the Grantee shall notify Subscribers thirty (30) days in advance of any significant changes in the other information required by Section 1.18©(1)(i). A Grantee shall not be required to provide prior notice of any rate change that is the result of a regulatory fee, Franchise Fee, or any other fee, tax, assessment, or charge of any kind imposed by any Governmental Authority on the transaction between the Grantee and the Subscriber.

2. Billing:

- (i) Bills will be clear, concise and understandable. Bills must be fully itemized,

with itemizations including, but not limited to, Basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.

(ii) In case of a billing dispute, the Grantee must respond to a written complaint from a Subscriber within thirty (30) days.

3. Refunds: Refund checks will be issued promptly, but no later than either:

(i) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

(ii) The return of the equipment supplied by the Grantee if service is terminated.

4. Credits: Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

Section 4-9-18 RATE REGULATION

The City reserves the right to regulate rates for Cable Service offered over the Cable System, to the extent not prohibited by Applicable Laws. The Grantee shall be subject to the rate regulation provisions provided for herein, and those of the Federal Communications Commission (FCC) at 47 C.F.R., Part 76, Subpart N, as the same may be amended from time to time. The City shall follow the rules relating to cable rate regulation promulgated by the FCC at 47 C.F.R., Part 76, Subpart N, as the same may be amended from time to time.

Section 4-9-19 FRANCHISE FEE

- a. Following the issuance and acceptance of a Franchise, the Grantee shall pay to the Grantor a Franchise Fee in the amount set forth in the Franchise Agreement. Nothing herein shall be construed to prohibit a Grantee from itemization of the Franchise Fee on Subscriber bills consistent with 47 U.S.C. 542© and 47 C.F.R. 76.985.
- b. The Grantor, on an annual basis, shall be furnished a statement within sixty (60) days of the close of the calendar year, certified by an officer of the Grantee reflecting the total amounts of Gross Revenues and all payments, and computations of the Franchise Fee for the previous calendar year. Upon ten (10) days prior written notice, Grantor shall have the right to conduct an independent audit of Grantee's records. If such audit indicates a Franchise Fee underpayment of five percent (5%) or more, the Grantee shall assume all reasonable costs of such an audit and shall remit to Grantor all applicable Franchise Fees due and payable together with interest thereon at the lesser of the maximum rate permitted by Applicable Laws or 18% per annum.
- c. Except as otherwise provided by law, no acceptance of any payment by the Grantor shall be construed as a release or as an accord and satisfaction of any claim the Grantor may have for further or additional sums payable as a Franchise Fee under this Ordinance or any Franchise

Agreement or for the performance of any other obligation of the Grantee.

- d. In the event that any Franchise Fee payment or recomputed amount is not made on or before the dates specified in the Franchise Agreement, Grantee shall pay as additional compensation an interest charge, computed from such due date, at an annual rate equal to the lesser of the maximum rate permitted by Applicable Laws or 18% per annum during the period for which payment was due.
- e. Franchise Fee payments shall be made in accordance with the schedule indicated in the Franchise Agreement.

Section 4-9-20 DESIGN AND CONSTRUCTION REQUIREMENTS

- 1. a. Grantee shall not construct any Cable System facilities until Grantee has secured the necessary permits from Grantor, or other applicable Governmental Authorities.
- 2.
- 3. b. In those areas of the City where transmission or distribution facilities of all the public utilities providing telephone and electric power service are underground, the Grantee likewise shall construct, operate and maintain its transmission and distribution facilities therein underground.
- 4.
- 5. c. In those areas of the City where Grantee's cables are located on the above-ground transmission or distribution facilities of the public utility providing telephone or electric power service, and in the event that the facilities of both such public utilities subsequently are placed underground, then within a reasonable period of time the Grantee likewise shall construct, operate and maintain its transmission and distribution facilities underground, at Grantee's cost. Certain of Grantee's equipment, such as pedestals, amplifiers and power supplies, which normally are placed above ground, may continue to remain in above-ground closures, however, the City specifically reserves all of its rights to approve above-ground or underground locations for pedestals subject to Applicable Laws.
- 6.
- 7. d. Construction Codes and Permits.
- 8.
- 9. 1. Grantee shall obtain all necessary permits from City before commencing any construction, upgrade or extension of the System, including the opening or disturbance of any Street, or private or public property within City.
Grantee shall adhere to all state and local laws and building and zoning codes currently or hereafter applicable to construction, operation or maintenance of the System in City and give due consideration at all times to the aesthetics of the property.
- 10.
- 11. 2. Upon at least one (1) days written notice to a Grantee, the City shall have the right to inspect all construction or installation work performed pursuant to the provisions of the Franchise and to make such tests at its own expense as it shall find necessary to ensure compliance with the terms of the Franchise and applicable provisions of local, state and federal law in such a manner so as to minimize disruption of Service to Subscribers.
- 12.

13. e. Repair of Streets and Property. Any and all Streets or public property or private property, which are disturbed or damaged during the construction, repair, replacement, relocation, operation, maintenance or reconstruction of the System shall be promptly and fully restored by Grantee, at its expense, to a condition as reasonably good as that prevailing prior to Grantee's work and otherwise as required by Title X, Chapter 9 of this Code. If Grantee shall fail to promptly perform the restoration required herein after written notice and an opportunity to cure, City shall have the right to put the Streets, public, or private property back into a condition as good as that prevailing prior to Grantee's work. City reserves its rights to pursue reimbursement for such restoration from Grantee.

14.

15. f. Conditions on Street Use.

16.

17. 1. Nothing in this Franchise shall be construed to prevent City from constructing, maintaining, repairing or relocating sewers; grading, paving, maintaining, repairing, relocating and/or altering any Street; constructing, laying down, repairing, maintaining or relocating any water mains; or constructing, maintaining, relocating, or repairing any sidewalk or other public work.

18.

19. 2. All System transmission and distribution structures, lines and equipment erected by the Grantee within City shall be located so as not to unreasonably obstruct or unnecessarily interfere with the usual and customary use of Streets, alleys and other public ways and places, and to cause minimum interference with the rights of property owners who abut any of the said Streets, alleys and other public ways and places, and not to unreasonably interfere with existing public utility installations. The Grantee shall furnish to and file with City Administrator the maps, plats, and permanent records of the location and character of all facilities constructed, including underground facilities, and Grantee shall file with City updates of such maps, plats and permanent records annually if changes have been made in the System.

20.

21. 3. If at any time during the period of this Franchise, City shall elect to alter, or change the grade or location of any Street, alley or other public way or repair or relocate its own underground utilities, the Grantee shall, at its own expense, upon reasonable notice by City, remove and relocate its poles, wires, cables, conduits, manholes and other fixtures of the System, and in each instance comply with the standards and specifications of City. If City reimburses other occupants of the Street, Grantee shall be likewise reimbursed.

22.

23. 4. The Grantee shall not place poles, conduits, or other fixtures of System above or below ground where the same will unreasonably interfere with any gas, electric, telephone, water or other utility fixtures and all such poles, conduits, or other fixtures placed in any Street shall be so placed as to comply with all requirements of City.

24.

25. 5. The Grantee shall, on request of any Person holding a moving permit issued by City, temporarily move its wires or fixtures to permit the moving of buildings with the expense of such temporary removal to be paid in advance by the Person

requesting the same, and the Grantee shall be given not less than ten (10) days advance notice to arrange for such temporary changes.

26.

27. 6. If there should be a conflict between the provisions of this Section and the provisions of Chapter 10-9, the more restrictive provisions shall apply.

Section 4-9-21 TECHNICAL STANDARDS

- a. The Grantee shall construct, install, operate and maintain its System in a manner consistent with all Applicable Laws and the Federal Communications Commission technical standards, and any standards set forth in its Franchise Agreement. In addition, the Grantee shall provide to the Grantor, upon request, a written report of the results of the Grantee's periodic proof of performance tests conducted pursuant to Federal Communications Commission standards and guidelines.
- b. Grantee shall at all times fully comply with the provisions of the Federal Communications Commission technical standards at Section 76, Subpart K of the Code of Federal regulations.
- c. All Installation of electronic equipment shall be of a permanent nature, durable installed in accordance with the provisions of the National Electrical and Safety Code and National Electrical Code, as amended, and as may from time to time be amended. All construction practices shall be in accordance with all applicable sections of the Occupational Safety and Health Act of 1970, as amended, as well as all other Applicable Laws.
- d. Antennae and their supporting structures (towers) shall be painted, lighted, erected and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other Applicable Laws.
- e. All of Grantee's plant and equipment, including, but not limited to, the antenna site, headend and distribution system, towers, house connections, structures, poles, wire, coaxial cable, fixtures and appurtenances shall be installed, located, erected, constructed, reconstructed, replaced, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not to endanger or unreasonably interfere with improvements the City may reasonably deem appropriate to make or to unreasonably interfere in any manner with the rights of any property owner, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic.
- f. Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices preventing failures and accidents which are likely to cause damage, injury or nuisance to the public.

Section 4-9-22 TRIMMING OF TREES

Grantee shall have the authority, provided they give the City and adjacent property owners ten (10) days written notice in advance, to trim trees, in accordance with all applicable utility

restrictions, ordinance and easement restrictions, upon and hanging over Streets and public places of the City so as to prevent the branches of such trees from coming in contact with the wires and cables of Grantee. City representatives shall have authority to supervise and approve all trimming of trees conducted by Grantee, except in cases of emergency where advance notification by Grantee may not be possible.

Section 4-9-23 USE OF GRANTEE FACILITIES

The City shall have the right to install or maintain any wires and fixtures desired by the City upon the poles and within the underground pipes and conduits of Grantee. If the City desires to utilize Grantee's facilities, the City and Grantee shall enter into a mutually acceptable separate agreement for the provision thereof. Any such agreement shall contain rates, terms, and conditions that are no more favorable nor less burdensome than the rates, terms, and conditions made available by Grantee to any other Person. The Grantee may deny use of its facilities if the City's proposed installation or maintenance is not technically feasible, exceeds available space, or otherwise interferes with the existing or future operations of Grantee.

Section 4-9-24 PROGRAMMING DECISIONS

All programming decisions shall be at the sole discretion of Grantee; provided, however, that if a Grantee shall have committed to providing a particular mix, quality or level of programming services in its Franchise agreement and that Grantee anticipates the need to change that mix, quality, or level of programming, it must request permission of the City to make such change as provided in 47 U.S.C. §545. The City must act within one hundred twenty (120) days of such a request and approval shall not be unreasonably withheld. Failure of the City to act within one hundred twenty (120) days shall be deemed approval of the proposed change.

Section 4-9-25 INDEMNIFICATION

Grantee shall indemnify, defend and hold the City, its officers, boards, commissions, agents and employees (collectively the "Indemnified Parties") harmless from and against any and all lawsuits, claims, causes of action, actions, liability, demands, damages, judgments, settlements, losses, expenses (including reasonable attorneys' fees) and costs that any of the Indemnified Parties acting within the performance of the official duties of the position and not resulting from malfeasance in office, willful neglect of duty or bad faith, may at any time suffer, sustain or incur arising out of, based upon or in any way connected with the grant of a Franchise to Grantee, the operation of Grantee's System and/or the acts and/or omissions of Grantee or its agents or employees, whether or not pursuant to the Franchise. This indemnity shall apply, without limitation, to any action or cause of action for invasion of privacy, defamation, antitrust, errors and omissions, fire, violation or infringement of any copyright, trademark, trade names, service mark, patent, or any other right of any Person by a Grantee, but shall exclude any claim or action arising out of the acts or omissions of the Indemnified Parties or related to any City programming or other access programming for which the Grantee is not legally responsible.

An Indemnified Party shall promptly submit a written request to Grantee of any claim or legal proceeding which gives rise to Grantee's indemnification obligations under this Section. An

Indemnified Party shall be offered the opportunity to participate in the defense, compromise, settlement or other resolution or disposition of any claim or proceeding. The Indemnified Party shall fully cooperate with Grantee regarding any such matter.

Section 4-9-26 INSURANCE

- a. Within sixty (60) days following the grant of a Franchise, the Grantee shall obtain, pay all premiums for and make available to the City at its request copies of a general comprehensive liability insurance policy insuring, indemnifying, defending and saving harmless the Indemnified Parties from any and all claims by any Person whatsoever on account of injury to or death of a Person or Persons occasioned by the operations of the Grantee under any Franchise granted hereunder, or alleged to have been so caused or occurred with a minimum coverage equal to the statutory requirements of Section 115.24(14) of the Iowa Administrative Code.
- b. All insurance policies called for herein shall be in a form satisfactory to the City with a company authorized to do business in the State of Iowa with a rating by A.M. Best & Co. of not less than “ A,” and shall require thirty (30) days written notice of any cancellation to both the City and the Grantee. The Grantee shall, in the event of any such cancellation notice, obtain, pay all premiums for, and file with the City, written evidence of the issuance of replacement policies within thirty (30) days following receipt by the City or the Grantee of any notice of cancellation.
- c. If Grantee sells or transfers the Cable System, or in the event of expiration, termination or revocation of a Franchise, insurance tail coverage shall be purchased and filed with the City for the then applicable amounts, providing coverage for the time periods according to applicable statutes of limitation, insurance for any issues attributable to the period Grantee held its Franchise.
- d. It shall be the obligation of Grantee to promptly notify the City of any pending or threatened litigation that would be likely to adversely affect the Indemnified Parties.

Section 4-9-27 RECORDS REQUIRED AND GRANTOR’ S RIGHT TO INSPECT

- a. Grantee shall at all times maintain and upon request provide to City:
 1. A full and complete set of plans, records and “ as-built” maps showing the location of the Cable Television System installed or in use in the City, exclusive of Subscriber service drops and equipment provided in Subscribers’ homes. To the extent technically feasible, Grantee shall also make records and maps available to City in electronic format compatible with the City’ s computer system.
 2. If requested by Grantor, a summary of service calls, identifying the number, general nature and disposition of such calls, on a monthly basis. A summary of such service calls shall be submitted to the Grantor within thirty (30) days following its request in a form reasonably acceptable to the Grantor.

- b. Upon reasonable notice, and during Normal Business Hours, Grantee shall permit examination by any duly authorized representative of the Grantor, of all Cable System property and facilities, together with any appurtenant property and facilities of Grantee situated within or without the City, and all records relating to the Franchise, provided they are necessary to enable the Grantor to carry out its regulatory responsibilities under Applicable Laws, this Ordinance and the Franchise Agreement. Grantee shall have the right to be present at any such examination.
- c. The City shall also have the right to inspect, upon twenty-four (24) hours written notice, at any time during Normal Business Hours at Grantee's office, all books, records, maps, plans, financial statements, service complaint logs, performance test results, and records of request for service of Grantee. To the extent not inconsistent with Applicable Laws, Grantee shall have the right to withhold confidential, proprietary, trade secret and privileged information. Grantor shall provide any Grantee with reasonable advance notice of any request by a third party for disclosure of information designated by that Grantee as confidential, proprietary, trade secret or privileged.
- d. Copies of all petitions, applications, communications and reports submitted by Grantee or on behalf of or relating to Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other Governmental Authority having jurisdiction with respect to any matters affecting the Cable System authorized pursuant to this Ordinance and any Franchise shall be submitted upon request to the City. Copies of responses from the Governmental Authority to Grantee shall likewise be furnished upon request to the City.

Section 4-9-28 ANNUAL REPORTS

- a. Grantee shall, within ninety (90) days of each calendar year end, submit a written end of the year report to Grantor with respect to the preceding calendar year containing the following information:
 - 1. A Summary of the previous year's (or in the case of the initial reporting year, the initial year's) activities in development of the Cable System, including but not limited to Cable Services commenced or discontinued during the reporting year;
 - 2. A list of Grantee's officers, members of its board of directors, and other principals of Grantee; and
 - 3. A list of stockholders or other equity investors holding five percent (5%) or more of the voting interest in Grantee.
- b. All reports required under this Ordinance, except those required by law to be kept confidential, shall be available for public inspection in the Grantee's offices during Normal Business Hours.
- c. All reports and records required under this Ordinance shall be furnished at the sole expense

of Grantee, except as otherwise provided in this Ordinance or the Franchise agreement.

Section 4-9-29 FRANCHISE VIOLATION

In the event Grantor believes that Grantee has breached or substantially violated any material provision of this Ordinance or a Franchise granted hereunder, or has practiced fraud or deceit upon the Grantor, Grantor may act in accordance with the following procedures:

Grantor may notify Grantee of the alleged violation or breach and demand that Grantee cure the same within a reasonable time, which shall not be less than ten (10) days in the case of an alleged failure of the Grantee to pay any sum or other amount due the Grantor under this Ordinance or the Grantee's Franchise and thirty (30) days in all other cases. If Grantee fails either to cure the alleged violation or breach within the time prescribed or to commence correction of the violation or breach within the time prescribed and thereafter diligently pursue correction of such alleged violation or breach, the Grantor shall then give written notice of not less than fourteen (14) days of a public hearing to be held before the Council. Said notice shall specify the violations or breaches alleged to have occurred. At the public hearing, the Council shall hear and consider relevant evidence and thereafter render findings and its decision. In the event the Council finds that a material violation or substantial breach exists and that Grantee has not cured the same in a satisfactory manner or has not diligently commenced to cure of such violation or breach after notice thereof from Grantor and is not diligently proceeding to fully cure such violation or breach, the Council may revoke and terminate the Franchise or impose any other remedy permitted by the Franchise Agreement or Applicable Laws. Grantee may appeal on such action to any court and/or regulatory agency of competent jurisdiction and the Franchise shall remain in full force and effect during the pendency of any such appeal.

Section 4-9-30 FORCE MAJEURE; GRANTEE'S INABILITY TO PERFORM

In the event Grantee's performance of any of the terms, conditions or obligations required by this Ordinance or a Franchise granted hereunder is prevented by a cause or event not within Grantee's reasonable control, such inability to perform shall be deemed excused for the period of such inability and no penalties or sanctions shall be imposed as a result thereof. For the purpose of this Section, causes or events not within the reasonable control of Grantee shall include, without limitation, acts of God, strikes, sabotage, riots or civil disturbances, restraints imposed by order of a governmental agency or court, failure or loss of utilities, explosions, acts of public enemies, and natural disasters such as floods, earthquakes, landslides and fires.

Section 4-9-31 ABANDONMENT OR REMOVAL OF FRANCHISE PROPERTY

- a. A Grantee shall not abandon any portion of its Cable System without giving at least three (3) months prior written notice to Grantor. A Grantee shall not abandon any portion of the Cable System without compensating Grantor for any damages resulting to the City from the abandonment.
- b. Grantor, upon such terms as Grantor may reasonably impose, may give Grantee permission to abandon, without removing, any System facility or equipment laid, directly constructed,

operated or maintained in, on, under or over the Franchise Area. Unless such permission is granted or unless otherwise provided in this Ordinance, the Grantee shall remove all abandoned facilities and equipment upon receipt of written notice from Grantor and shall restore any affected street to its former state at the time such facilities and equipment were installed, so as not to impair its usefulness. In removing its plant, structures and equipment, Grantee shall refill, at its own expense, any excavation made by or on behalf of Grantee and shall leave all Streets and other public ways and places in as good condition as that prevailing prior to such removal without materially interfering with any electrical or telephone cable or other utility wires, poles or attachments. Grantor shall have the right to inspect and approve the condition of the Streets, public ways, public places, cables, wires, attachments and poles prior to and after removal. The liability, indemnity and insurance provisions of this Ordinance and any security fund provided for in the Franchise Agreement shall continue in full force and effect during the period of removal and until full compliance by Grantee with the terms and conditions of this Section.

- c. Upon abandonment of any Franchise property in place, the Grantee, if required by the Grantor, shall submit to Grantor a bill of sale and/or other an instrument, reasonably satisfactory in form and content to the Grantor, transferring to the Grantor the ownership of the Cable System property abandoned.
- d. At the expiration of the term for which the Franchise is granted, or upon its earlier revocation or termination, as provided for herein and/or in the Franchise Agreement, in any such case without renewal, extension or transfer, the Grantor shall have the right to require Grantee to remove, at its own expense, all above-ground portions of the Cable Television System from all Streets and public ways within the City within a reasonable period of time, which shall not be less than one hundred eighty (180) days, except to the extent Grantee is authorized or utilizing the System pursuant to other Applicable Laws.
- e. Notwithstanding anything to the contrary set forth in this Ordinance, the Grantee may, with the consent of the Grantor, abandon any underground Franchise property in place so long as it does not materially interfere with the use of the Street or public rights-of-way in which such property is located or with the use thereof by any public utility or other cable Grantee.

Section 4-9-32 EXTENDED OPERATION AND CONTINUITY OF SERVICES

Upon the expiration, revocation or termination of the Franchise, Grantee may continue to operate the Cable Television System for a period of time not to exceed six (6) months from the date of such expiration, revocation or termination under the terms and conditions of this Ordinance and the Franchise and to provide the regular Subscriber service and any and all of the services that may be provided at that time.

Section 4-9-33 RECEIVERSHIP AND FORECLOSURE

- a. A Franchise granted hereunder shall, at the option of Grantor, cease and terminate one hundred twenty (120) days after appointment of a receiver or receivers, or trustee or trustees, to take over and conduct the business of Grantee, whether in a receivership, reorganization,

bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days, or unless: (1) such receivers or trustees shall have, within one hundred twenty (120) days after their election or appointment, fully complied with all the terms and provisions of this Ordinance and the Franchise granted pursuant hereto, and the receivers or trustees within said one hundred twenty (120) days shall have remedied all the defaults and violations under the Franchise and/or this Ordinance or provided a plan for the remedy of such defaults and violations which is satisfactory to the Grantor; and (2) such receivers or trustees shall, within said one hundred twenty (120) days, execute an agreement duly approved by the court having jurisdiction in the premises, whereby such receivers or trustees assume and agree to be bound by each and every term, provision and limitation of the Franchise and this Ordinance.

- b. In the case of a foreclosure or other judicial sale of the Franchise property, or any material part thereof, Grantor may give notice of termination of any Franchise granted pursuant to this Ordinance upon Grantee and the successful bidder at such sale, in which the event the Franchise granted and all rights and privileges of the Grantee hereunder shall cease and terminate thirty (30) days after such notice has been given, unless (1) Grantor shall have approved the transfer of the Franchise in accordance with the provisions of the Franchise and this Ordinance; and (2) such successful bidder shall have covenanted and agreed with Grantor to assume and be bound by all terms and conditions of the Franchise.
- c. Upon termination or revocation of this franchise, the City may in a lawful manner and upon the payment of an equitable price lawfully obtain, purchase, condemn, acquire, take over and hold the system.

Section 4-9-34 RIGHTS RESERVED TO GRANTOR

- a. In addition to any rights specifically reserved to the Grantor by this Ordinance, the Grantor reserves to itself every right and power which is required to be reserved by a provision of any ordinance or under the Franchise.
- b. The Grantor shall have the right to waive any provision of the Franchise, except those required by Applicable Laws, if the Grantor, in its reasonable opinion, determines (1) that it is in the public interest to do so, and (2) that the enforcement of such provision will impose an undue hardship on the Grantee or the Subscribers. Waiver of any provision in one instance shall not be deemed a waiver of such provision subsequent to such instance nor be deemed a waiver of any other provision of the Franchise unless the statement so recites.

Section 4-9-35 RIGHTS OF INDIVIDUALS

- a. Grantee shall not deny Cable Service, deny access, or otherwise discriminate against Subscribers, Channel users, or general citizens on the basis of race, color, religion, disability, national origin, age, gender or sexual preference. Grantee shall comply at all times with all other Applicable Laws, relating to nondiscrimination.

- b. Grantee shall adhere to the applicable equal employment opportunity requirements of Applicable Laws, as now written or as amended from time to time.
- c. Neither Grantee, nor any Person, agency, or entity shall, without the Subscriber's consent, tap or arrange for the tapping, of any cable, line, signal input device, or Subscriber outlet or receiver for any purpose except routine maintenance of the System, or detection of unauthorized service.
- d. In the conduct of providing its Cable Services, Grantee shall take reasonable steps to prevent the invasion of a Subscriber's or general citizen's right of privacy or other personal rights through the use of the System as such rights are delineated or defined by Applicable Laws. Grantee shall not, without lawful court order or other applicable valid legal authority, utilize the System's interactive two-way equipment or capability for unauthorized personal surveillance of any Subscriber or general citizen.
- e. No signals of a Class IV Channel may be transmitted from a Subscriber terminal for purposes of monitoring individual viewing patterns or practices without the express written permission of a Subscriber. The request for permission must be contained in a separate document with a prominent statement that the Subscriber is authorizing the permission in full knowledge of its provisions. The written permission must be for a limited period of time not to exceed one year which is renewable at the option of the Subscriber. No penalty may be invoked for a Subscriber's failure to provide or renew the authorization. The authorization is revocable at any time by the Subscriber without penalty of any kind. The permission must be required for each type or classification or Class IV Channel cable communications activity planned.
 - 1. No information or data obtained by monitoring transmission of a signal from a Subscriber terminal, including but not limited to the lists of the names and addresses of the Subscribers or lists that identify the viewing habits of Subscribers may be sold or otherwise made available to any Person other than to Grantee and its employees for internal business use, or to the Subscriber who is the subject of that information, unless the Grantee has received specific written authorization from the Subscriber to make the data available.
 - 2. Written permission from the Subscriber is not required for the systems conducting system wide or individually addressed electronic sweeps for the purpose of verifying system integrity or monitoring for the purpose of billing. Confidentiality of this information is subject to paragraph 1 above.

Section 4-9-36 SEVERABILITY

If any provision of this Ordinance is held by any Governmental Authority of competent jurisdiction, to be invalid or unenforceable as conflicting with any Applicable Laws now or hereafter in effect, or is held by such Governmental Authority to be modified in any way in order to conform to the requirements of any such Applicable Laws, such provision shall be considered a separate, distinct, and independent part of this Ordinance, and such holding shall not affect the validity and enforceability of all other provisions hereof. In the event that such Applicable Laws are subsequently repealed, rescinded, amended or otherwise changed, so that the provision hereof which had been held invalid or modified is no longer in conflict with such laws, said provision shall thereupon return to full force and effect and shall thereafter be binding on Grantor and Grantee,

provided that Grantor shall give Grantee thirty (30) days written notice of such change before requiring compliance with said provision or such longer period of time as may be reasonably required for Grantee to comply with such provision.

(07-O-98-99 Added 5/17/99)