

## CHAPTER 113

### CABLE TELEVISION FRANCHISE

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**113.01 PURPOSE.** The purpose of this chapter is to provide for the regulation of cable television systems within the City, which operate pursuant to the City franchise; to establish standards, regulations, and procedures for the establishment, construction, operation and maintenance of cable television franchises; and to establish conditions for the use of City streets, alleys, sidewalks, and other City-owned right-of-way and City-owned property.

**113.02 DEFINITIONS.** For purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section.

1. “Additional service” means any communications service provided by the franchisee over its cable television system for which a special charge is made based on program or service content, time or spectrum space usage,

and includes all service offered by the franchisee that is not included with the basic service.

2. “Basic service” means all communication services provided by the franchisee including the delivery system, covered by the regular monthly charge paid by all subscribers, excluding pay channels.

3. “Cable television system” means any facility that, in whole or in part, receives directly or indirectly over the air and amplifies or otherwise modifies the signals transmitting programs broadcast by one or more television or radio stations and distributes such signals, by wire or cable, to subscribing members of the public who pay for such service.

4. “Channel” means the segment of the electromagnetic spectrum to which a source of television transmission is assigned.

5. “City” means the City of Robins, Iowa. When the context so requires, the term means and includes the City, its officers, agents, employees, servants, and independent contractors, and includes all areas hereafter annexed by the City.

6. “FCC” means the Federal Communications Commission and any legally appointed or elected successor.

7. “Franchise” means the rights, privileges, and authority granted by the City to the Grantee hereunder and includes all of the terms and conditions of this chapter.

8. “Full cable service” means all basic services and additional services offered by Grantee.

9. “Grantee” means USA Communications. When the context so requires, the term Grantee means and includes the Grantee, its officers, agents, employees, servants, and independent contractors thereof. The terms “Grantee” and “franchisee” are synonymous.

10. “Private property” means all property, real, personal, or mixed, owned as a private person, including property owned by a public utility and owned or operated by the City.

11. “Property of Grantee” means all property, real, personal, or mixed, owned by Grantee hereunder.

12. “Public property” means all property, real, personal, or mixed, owned by the City, including property owned by a public utility owned or operated by the City.

13. “Service area” means the geographic area within the incorporated limits of the City, including all dwelling units.

14. “Substantially completed” means that sufficient distribution facilities have been installed by the franchisee so as to permit the offering of the full cable service to at least ninety percent (90%) of the dwelling units in the service area.

**113.03 TERM OF FRANCHISE.** The term of a franchise, unless otherwise cancelled or revoked pursuant to the provisions of this chapter, shall be fifteen (15) years from the effective date of the grant thereof.<sup>†</sup>

**113.04 COMPLIANCE WITH APPLICABLE LAW.** Grantee shall at all times during the life of any franchise granted hereunder be subject to all lawful exercise of the police power by the City and other duly authorized regulatory State and Federal bodies and shall comply with any and all ordinances which the City has adopted or shall adopt applying to the public generally.

**113.05 GRANT OF FRANCHISE.** The regulatory ordinance codified in this chapter, which grants to USA Communications the nonexclusive right to construct, operate, and maintain a cable television system in the City, was passed and adopted by the Council after a public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment upon the legal, character, financial, technical, and other qualifications of Grantee. Therefore, the City hereby grants to Grantee, a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in upon, along, across, above, and over and under the highways, streets, alleys, sidewalks, public way and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other televisions conductors and fixtures necessary for the maintenance and operation in the City of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes herein set forth.

**113.06 FCC CERTIFICATE.** Grantee shall apply to the Federal Communication commission for a certificate of compliance within a reasonable period of time, but not to exceed ninety (90) days from the effective date of the franchise granted hereunder. Within ninety (90) days of the effective date of the franchise granted hereunder, Grantee shall file with the appropriate authorities and

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<sup>†</sup> **EDITOR'S NOTE:** By Ordinance No. 0386-8, adopted March 24, 1986, the City granted to Farmers Mutual Telephone Company a cable television franchise. Said right and franchise were renewed upon request to the City by USA Communications, the successor to Farmers Mutual Telephone Company, for an additional 15 years, by Ordinance No. 0008, adopted by the City on November 6, 2000. Extended for an addition 10 years, Ordinance No. 1102, adopted March 7, 2011.

utilities all initial papers and applications necessary to comply with the terms of this chapter. Within one hundred eighty (180) days of the effective date of FCC certification, Grantee shall begin construction of the cable television system, and pursue such construction with reasonable diligence. Within ten (10) months of the effective date of FCC certification, Grantee shall have substantially completed construction of the system within the service area. Within twelve (12) months of the effective date of the certification, Grantee shall have completed installation of its entire system and shall have commenced the operation thereof. The Council may, in its discretion, extend the time for Grantee to perform any act required herein. The time for performance shall be extended or excused, as the case may be, in the event of a legal challenge to Grantee's ability to provide on its cable television system broadcast signals not available off-the-air in the City, or in the event construction is delayed by acts of God, earthquake, lightening, flood, fire, explosion, vandalism, civil disturbance, late delivery of equipment, supplies or machinery by suppliers, late performance by suppliers of services, or other similar cause determined by the satisfaction of the Council to be reasonably beyond Grantee's control.

**113.07 CONSTRUCTION AND PERFORMANCE BONDS.** Within thirty (30) days after the effective date of the franchise, Grantee shall obtain and maintain at its cost and expense, and file with the City Clerk, a corporate surety bond in a company authorized to do business in the State of Iowa and found acceptable by the Council, in the amount of five thousand dollars (\$5,000.00), to guarantee the timely construction and full activation of the cable television system. The bond shall provide, but not be limited to, the following condition: There shall be recoverable by the City, jointly and severally from the principal and surety, any and all damages, loss or costs suffered by the City resulting from the failure of Grantee to satisfactorily complete and fully activate the cable television system within twelve (12) months from the issuance of a Certificate of Compliance for the system by the FCC pursuant to the terms and conditions of Section 113.06. Any extension to the prescribed time limit must be authorized by the Council. Such extension shall be authorized only when the Council finds that such extension is necessary and appropriate due to causes beyond the control of Grantee. The construction bond shall be terminated only after the Council finds that Grantee has satisfactorily completed and fully activated the cable television system pursuant to the terms and conditions of Section 113.06. The rights reserved to the City with respect to the construction bond are in addition to all other rights of the City, whether reserved by the franchise or authorized by law, and no action, proceeding or exercise of a right with respect to such construction bond shall affect any other right the City may have. Within thirty (30) days after the effective date of the franchise, Grantee shall file with the Clerk a performance bond in the amount of five thousand dollars (\$5,000.00) to be maintained in full amount at all times in a surety company approved by the City as security for the faithful performance by

Grantee of all the provisions of the franchise, and compliance with all orders, permits, and directions of the City, and the payment by Grantee of any claims, liens, and taxes due the City which arise by reason of the construction, operation or maintenance of the system. If Grantee fails to pay to the City any compensation required pursuant to this chapter within the time fixed, or fails, after ten (10) days' notice, to pay to the City any taxes due and unpaid; or fails to repay to the city, within such ten (10) days, any damages, costs or expenses which the City shall be compelled to pay by reason of any act or default of Grantee in connection with this franchise; or fails, after three (3) days' notice of such failure by the City Clerk, to comply with any provisions of this chapter which the Council reasonably determines can be remedied by an expenditure of the security, the City may immediately be entitled to payment, with interest and any penalties, from the bond company, which amount shall be promptly paid by the bond company.

**113.08 GENERAL FRANCHISE REQUIREMENTS.** The owner of property damaged by the installation, construction, operation or removal of Grantee's facilities shall be justly compensated for such damages. The cost of the installation, construction, operations or removal of Grantee's facilities shall be borne by Grantee. The safety, functioning and appearance of public and private property and the convenience and safety of persons shall not be adversely affected by the installation or construction of facilities necessary for a cable system.

**113.09 SYSTEM CONSTRUCTION STANDARDS.** Grantee's plant and equipment, including the antenna site, headend, distribution system, towers, structures, poles, wires, underground cable and appurtenances, shall be installed in accordance with good engineering practices, and shall be located, constructed, reconstructed, replaced, removed, repaired, maintained and operated so as not to endanger or interfere with the lives of persons or to interfere with the improvements the City deems proper to make, or to unnecessarily hinder or obstruct pedestrian or vehicular traffic to public ways, places and structures. Erection, installation, construction, replacement, removal, repair, maintenance, and operation of the system, shall be in accordance with the provisions of the *National Electrical Safety Code* of the National Board of Fire Underwriters and *National Electric Safety Code (Outside Work)* and such applicable laws of the State of Iowa and applicable ordinances of the City which may now be in effect or enacted in the future. All installations shall be of a permanent nature, durable, and maintained in a safe, suitable, and substantial condition, in good order and repair.

**113.10 JOINT USE OF FACILITIES.**

1. The City hereby grants the right, privilege and authority to Grantee to lease, rent or in any other lawful manner obtain the use of 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 corporate limits of the City, and to use such poles, conduits, trenches, ducts, lines and cables in the course of its business.

2. Grantee shall install its cables on existing poles owned by other holders of public licenses and franchises within the corporate limits of the City whenever possible. When installation of cable on poles is not possible, or when the holders of another public license or franchise have installed underground cable, then in that event, the cable used by Grantee will be installed underground. Grantee shall obtain permits from the City before erecting any new poles, underground conduit, or appurtenances where none exist at the time Grantee seeks to install its system. At such time that any overhead electrical distribution or service wires are placed underground, Grantee shall be required to place its cables, wires, or like facilities underground, preferably at the same time as the electrical undergrounding is accomplished, but in no case more than six (6) months after written notice to place its cables, wires, and like facilities underground is served by the City on Grantee.

3. The City shall have the right, during the life of the franchise, of maintaining upon the poles or in the underground conduits of Grantee within the City limits, wire and fixtures necessary for traffic control system and/or a police and fire alarm system. Such wires and fixtures shall be installed and maintained at the sole expense of the City and shall at all times comply with all the reasonable rules and regulations of Grantee, so that there may be a minimum danger of contact or conflict between the wires and fixtures of Grantee and those used by the City. The City shall also have the right to lease spectrum space from Grantee for these purposes at reasonable rates subject to the technical capability of the cable system.

4. Other than the lease provided in Section 113.05, nothing in this chapter shall grant to Grantee any right of property in City-owned property. The City shall not be compelled to maintain any of its property any longer than, or in any fashion other than, in the City's judgment, its own business or needs may require.

#### **113.11 CONDITIONS OF STREET OCCUPANCY.**

1. Grantee shall be allowed to use the City streets, alleys, rights-of-way and other public ways and places, for the construction and operation of its cable television system; provided however, in such use and occupancy, Grantee shall be required to comply with all requirements of the State of Iowa and this Code of Ordinances pertaining to excavation, streets and sidewalks, and backfills.

2. Grantee shall restore all property of the City and of the inhabitants thereof to its usual, ordinary and reasonable condition after the installation

of either overhead or underground cable. In case of any disturbances of pavement, sidewalk, driveway or other surfacing, Grantee shall, at its own expense, and in the manner approved by the City, replace and restore all paving, sidewalk, driveway, or other surfaces to a condition as good as or better than before said work was commenced.

3. Grantee's transmission and distribution structures, wires, conduits, cables and other property and facilities shall be so located, constructed, installed and maintained as not to endanger or unnecessarily interfere with pedestrian traffic or with the proper use of streets, alleys and other public ways and places, and shall cause minimum interference with rights and reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

4. Grantee shall not place poles or other fixtures when the same will interfere with any gas, electrical or telephone fixtures, water hydrant or main, and all cable or other fixtures placed in any street shall be placed on the outer edge of the sidewalk and inside the curb line, and those placed in the alleys shall be placed close to the line of the outer edge said alley, and then in such a manner as to not interfere with the usual travel on said street, alleys and public right-of-way.

5. If at any time during the period of a franchise, the City shall elect to alter or change the grade of any street, alley, or public way, 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.

6. Any opening or obstruction in the streets or other public ways made by Grantee in the course of the construction, operation, or removal of the cable television system, shall be guarded and protected at all times by the placement of adequate barriers, fences, or boarding, the bounds of which during periods of dusk and darkness shall be clearly designated by warning lights. Grantee shall, whenever it is deemed necessary by the City, install such steel plates as may be necessary to allow a public roadway to remain open while Grantee is in the course of the construction, operation, or removal of the cable television system.

7. Grantee shall be responsible for securing any and all private easements necessary for the construction of the cable television system.

8. Grantee shall, on the request of any person holding a building moving permit issued by the City, temporarily raise or lower its wires to permit the moving of buildings. The person requesting the same shall pay the expense of such temporary removal, raising or lowering of wires, and Grantee shall have the authority to require such payment in advance.

Grantee shall be given not less than five days' advance notice to arrange for such temporary wire changes.

9. 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 wires and cables of Grantee, all trimming to be done under the supervision and direction of the city and at the expense of Grantee.

10. Grantee shall, at all times provide the City, without charge, prints showing the location of all poles within the City's corporation limits, joint poles, underground cables, ducts and other cable television facilities. The Grantee shall submit a new, up-to-date map each year on or near the anniversary date of the franchise, and may, at its option, submit amendments at more frequent intervals so that its facilities can be more fully protected from injury due to public improvements and the City can more readily enforce its controls over the use of its streets, alleys, and other public places. The City agrees to require its officers, engineers, contractors, supervisors and employees to exercise diligence in avoiding damage to such cable facilities, and to consult with Grantee's representatives where reasonable doubts exist as to location and chance of damages to Grantee's facilities. Grantee agrees that its officers, supervisors, employees and agents will take similar precautions with City facilities.

**113.12 CHANNEL CAPACITY AND PROGRAMMING.** Grantee shall include the signals of all television broadcast signals generally available off-the-air, to residents in the City and a number of additional television signals consistent with the rules and regulations of the Federal Communications Commission, and all other applicable laws, rules or regulations. Grantee's cable television system must have the capacity to provide at least twenty (20) television channels within eighteen (18) months after the system is substantially completed. Grantee may provide such automated video services and such audio services as it wishes and which are consistent with the terms of this chapter. Grantee may provide at least one channel for programming of local weather and time. Grantee may provide one channel for local access.

**113.13 PERFORMANCE STANDARDS AND QUALITY OF SIGNAL.** Grantee shall, during the period of its franchise, distribute standard color television signals without the introduction of material degradation of color fidelity and intelligence from the headend input to the subscriber's receiver. Grantee shall maintain its system in reasonable repair and working order, and shall provide adequate facilities for such maintenance. These requirements shall be temporarily suspended, at the discretion of the City Council, in the event of a natural disaster or emergency conditions, or other circumstances beyond the control of the

Grantee. Grantee's cable television system shall meet technical standards of the rules and regulations of the Federal Communications Commission, and Grantee shall perform the periodic tests and make the measurements specified in such rules. The system shall be so designed, engineered and maintained by Grantee so as not to interfere with the television and radio reception of residents of the City who are not subscribers to its services.

**113.14 COMPLAINT PROCEDURES.** During the term of its franchise, and any renewal thereof, Grantee shall maintain a business office to be staffed by at least one service technician for the purpose of receiving, investigating and resolving all complaints from subscribers. Such office shall have advertised business hours, a listed telephone number, and be so operated that complaints or requests for repairs or adjustments may be received at any time. Grantee shall provide the City with the above information, and a card or decal containing the above information, along with specified procedures for reporting trouble or complaints shall be provided to all subscribers as they are hooked into the system. Grantee shall make every reasonable effort to resolve any and all complaints to the satisfaction of the subscriber as soon as possible, but in any event within three (3) business days of their receipt. The company shall keep a maintenance system log, which will indicate the nature of each service complaint, the date and time it was received, the disposition of said complaint, and the item and date thereof. This log shall be made available for periodic inspection by the City. Upon receipt by it of any service complaint, the City will forward a copy to Grantee or may take the question up by correspondence with Grantee. Within such time as may be prescribed by the City, Grantee will be called upon to satisfy the complaint or advise the City of its refusal or inability to do so. If Grantee satisfies the complaint, it shall so notify the City, giving particulars of the action taken. The City will forward a copy of Grantee's notice of satisfaction to the complainant, with a statement of the procedure to be followed to further prosecute the complaint. When a complaint has not been satisfied, the complainant may file a formal complaint with the City Council in the form and manner to be specified thereby. The complaint to the City Council must be filed within thirty (30) days from the date of Grantee's notice of refusal or inability to satisfy the complaint. Upon receipt of a formal complaint, the City Council shall ascertain the facts and shall have the power to enforce its decision, if against Grantee, by all actions hereunder.

**113.15 PERFORMANCE EVALUATION SURVEYS.** For reevaluation purposes, and to gain consumer input on its level of performance and service, Grantee shall survey its customers in the service area every three (3) years within thirty (30) days of the three-year anniversary dates of Grantee's obtaining certification for the system from the Federal Communications Commission. Such surveys shall consist of written questions relating to such topics as: service rate

structures, fee or discounted services, application of new technologies, system performances, services provided, services requested, programming offered, programming requested, customer service and complaints, privacy and human rights, amendments to this chapter, under-grounding process, and judicial and FCC ratings. Prior to conducting the survey, Grantee shall submit its proposed questions to the City Council, which shall have the final authority to review, modify, delete, add and revise the questions. Upon receiving the answers to the survey questions, Grantee shall tabulate the answers and provide the City with a copy of the tabulated results. The entire cost of the surveys shall be borne by Grantee.

**113.16 SERVICE RULES.** Grantee shall have the right to prescribe service rules and regulations for the conduct of its business with its subscribers and service users, not inconsistent with the provisions of its franchise, the rules and regulations of the Federal Communication Commission, the complaint procedures specified in Section 113.14, and other applicable laws, rules, and regulations. Grantee shall submit to the City the form of its service agreement between Grantee and its subscribers and channel users, shall furnish the City a full schedule of its charges to be paid by subscribers before soliciting for subscribers within the City, and shall furnish the City any amendments or alterations in the service agreement of schedule of charges.

**113.17 SUBSCRIBER RATES.**

1. The charges made to subscribe to Grantee's services shall be fair and reasonable, and no higher than necessary to meet all costs or service (assuming efficient and economical management) and to provide a fair return on the original cost, less depreciation of assets devoted to such service.
2. It shall be the obligation of Grantee to serve all residents of the City, except to the extent that density of homes, adverse terrain, or other factors render providing service impractical, technically unfeasible or economically non-compensatory as approved by the City Council.
3. Installation charges may vary among subscribers, depending on the subscriber's location in the City, with the cost of installation for subscribers in peripheral areas being higher than the cost for subscribers in the central area. The City has been divided into zones for the purpose of assigning installation, service and other charges.
4. Grantee shall at all times maintain on file with the City Clerk a schedule setting forth all current rates and charges to be made to subscribers for basic services, including installation charges for any additional services.

5. Grantee shall not increase basic service rates for at least one year from the effective date of the granting of the franchise. Grantee shall not, as to rates, charges, service facilities, rules, regulations, or in any other respects, make or grant any preference or advantage to any person or subject any person to any prejudice or disadvantage; provided however, this section shall not be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classifications shall be entitled.

6. Channel selectors and converters of a type other than the basic converter necessary to receive cable services may be provided by Grantee to those subscribers requesting use of same, for which Grantee may make a reasonable charge for such use. Subscribers shall have the option to use channel selectors and converters provided by Grantee, or to use those acquired from an independent or outside source. If a subscriber uses a channel selector or converter not provided by Grantee, Grantee shall make no charge for same, or use thereof.

7. It is unlawful for Grantee to assess any monetary penalty against a subscriber as a result of failure to pay a user's bill by a specified date. Further, no subscriber service shall be disconnected without such procedure and hearing, as required by law.

**113.18 DISCONNECTIONS AND SERVICE TERMINATIONS.** There shall be no charge for disconnection of any installation or subscriber outlet. If any subscriber fails to pay any fee or charge, Grantee may disconnect the subscriber's service upon giving five (5) days' advance written notice of intent to disconnect. After disconnection and upon payment of all delinquent fees and reconnection charges, Grantee shall promptly reinstate the subscriber's service. Upon termination of service to any subscriber for any reason, Grantee shall, upon the subscriber's written request, promptly remove all its facilities and equipment from the subscriber's premises without charge, providing that where the subscriber is a lessee of the premises, the facilities and equipment shall not be removed without the lessor's consent.

**113.19 PUBLIC SERVICE INSTALLATION.** Grantee shall, without charge for installation, maintenance or service, install at least one subscriber outlet for use by the City. Such installation, for basic service only, shall be made at such reasonable location within the City as may be requested by the city, and shall be made at actual cost. No charges shall be made for distribution of Grantee's services within such public buildings. In consideration for such public service installation, the City agrees to lease to Grantee for the headend site, a tract of land of a maximum size of 60 feet by 25 feet immediately west of Robins City Hall, along with a 15-foot-wide easement to Troy Road. (Ordinance No. 1102, 3/7/11.)

**113.20 EMERGENCY USE OF FACILITIES.** In the event of an emergency or disaster, Grantee shall, upon request of the City, make its facilities available to the City for emergency use during the emergency or disaster.

**113.21 EXISTING ANTENNA.** Grantee shall, upon request of any subscriber, install, at actual costs, a switching device to permit a subscriber to continue to utilize his or her own television antenna. Grantee shall not require the removal or attempt to remove a subscriber's antenna.

**113.22 PROHIBITED ACTIVITIES.** It is unlawful for any person to make, possess or use; or attempt to make, possess or use; or to aid, abet, or assist any person to make, possess or use; or to knowingly permit or authorize to remain in existence, any of the following:

1. Any unauthorized connection, whether physically, electrically, acoustically, inductively or otherwise, with any part of a franchised cable television system within the City; or
2. Any unauthorized device for attachment to a cable, wire, or other component of a cable television system or a television cable or set; or
3. Any modification or alteration to any device installed by a cable television system;

for the purpose of enabling himself or others to take or receive television signals, radio signals, pictures, programs or sounds, without payment to the owner of said system. Grantee shall be prohibited from selling or in any other manner making available Grantee's subscriber lists to any person other than the City.

**113.23 REVOCATION OF FRANCHISE.** If Grantee shall fail to comply with any of the provisions of its franchise, or default in any of its obligations hereunder, except for causes beyond the reasonable control of Grantee, and shall fail within thirty (30) days after written notice from the City to commence, and within a reasonable time to complete, the correction of such default and noncompliance, the City shall have the right to revoke its franchise and all rights of Grantee hereunder. However, prior to the issuance of the above 30-day notice, Grantee shall receive a 10-day notice from the City notifying Grantee of a public hearing to review the unresolved issues. In the event Grantee shall be adjudicated bankrupt or placed in receivership, the City may declare the franchise forfeited and terminated.

**113.24 REMOVAL OF PROPERTY ON TERMINATION.** Upon termination of its franchise, Grantee shall remove its poles, cable television transmission and distribution system, and other appurtenances from the streets and sidewalks in the City, when ordered to do so by the City, and shall restore such streets and sidewalks to their original condition. This shall not apply to poles,

cable transmission and distribution system, and other appurtenances used for the purposes other than, and in addition to, the providing of cable television services.

**113.25 FRANCHISE RENEWAL.** Grantee shall notify the City at least thirty-six (36) months prior to the expiration of its franchise as to whether or not Grantee intends to seek a franchise renewal. During the six-month period which begins with the thirty-sixth (36<sup>th</sup>) month before the franchise expiration, the City may, on its own initiative, and shall at the request of Grantee, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of: (a) identifying the future cable-related community needs and interests; and (b) reviewing the performance of Grantee under the franchise during the current franchise term.

**113.26 CITY RIGHTS TO PURCHASE SYSTEM.** In the event that the City terminates the franchise pursuant to appropriate provisions of this chapter, the City shall have the right to purchase the cable system at a price not to exceed its then fair market value. The fair market value shall be determined by the City in accordance with generally accepted appraisal and accounting principles. Under no circumstances shall any valuation be made for “good will” or any right or privilege by this chapter. The City shall have the right to purchase the cable system, if the franchise is terminated at the end of the franchise term. If the City decides to purchase the system, it shall do so at a price not to exceed its then fair market value. In determining the fair market value of the system, the original cost of all tangible and intangible property, as well as salvage value, the book value, the replacement cost, cash flow, and other factors may be considered. It shall be the right of all subscribers to receive all available service insofar as their financial and other obligations to Grantee are honored. In the event Grantee elects to overbuild, rebuild, modify or sell the system, or the City terminates or fails to renew the franchise, or the City elects to purchase the system, Grantee shall do everything in its power to ensure that all subscribers receive continuous, uninterrupted service, regardless of circumstances. In the event of purchase by the City, or a change of company, the current company shall cooperate with the City to operate the system for a temporary period in maintaining continuity of service to all subscribers.

**113.27 ASSIGNING FRANCHISE.** Grantee shall not sell, transfer or encumber its system or its franchise, without first securing the approval of the Council; however, Grantee is hereby specifically authorized to assign or encumber its system and franchise for the purpose of financing the construction or operation of its system in the City.

**113.28 INDEMNIFICATION AND INSURANCE.**

1. Grantee shall, at all times, defend, indemnify, protect and save harmless the City and other political subdivisions in the area from and against any and all liability, losses and physical damage to property and bodily injury or death, including payments made under worker's compensation laws, which may arise out of and be caused by the erection, construction, replacement, removal, maintenance and operation of Grantee's cable television system, and resulting from or any negligence, fault or misconduct, on the part of Grantee, its agents, officers, servants and employees. Grantee shall carry public liability insurance in the amounts of no less than \$1,000,000 bodily injury/\$1,000,000 property damage for the protection of itself and the City and the political subdivisions. Grantee shall also carry worker's compensation insurance coverage with statutory limits on all its employees who are engaged in any manner in the cable television system. Grantee shall be notified within fifteen (15) days of the presentation thereof to the City, of any claim, demand, or action brought against the City or its political subdivisions for which the City and its political subdivisions may seek reimbursement or defense as provided hereunder. Failure to do so shall not relieve Grantee of its obligation to the City.

2. The City shall not be liable for any damage occurring to Grantee's property caused by employees of the City in the performance of their duties, except for damage caused to Grantee's facilities by the negligence of the City's employees while they are conducting City business. The City shall not be liable for the interruption of service by actions of City employees in the performance of their duties.

3. Grantee shall hold the City harmless from any damages which Grantee's cable, equipment or other integral parts of its system may cause as a result of any action by any City employee when carrying out said employee's duties, unless due to or caused by the negligence of the City or its employees.

#### **113.29 MISCELLANEOUS.**

1. This chapter applies to Grantee and its successors and assigns.
2. The City shall have the power and authority to seek and obtain civil relief through the judicial system, including but not limited to, injunctive relief, to enforce and facilitate the provisions of this chapter.