

**CHAPTER 112: TELEPHONE FRANCHISE**

**112.01 Franchise Granted**  
**112.02 Standard of Service**  
**112.03 Service to City**  
**112.04 Restoration of Property**  
**112.05 Improvements by City**

**112.06 Damage to System**  
**112.07 Successors and Assigns**  
**112.08 Indemnification of City**  
**112.09 Enforcement**

**112.01 FRANCHISE GRANTED.** A nonexclusive franchise is hereby granted unto Northwestern Bell Telephone Company, a corporation, its successors and assigns (hereinafter referred to as “Grantee”), for a term of twenty-five (25) years, commencing with the date the ordinance codified in this chapter became effective,<sup>†</sup> to use and occupy the streets, alleys and other public places of the City for the purpose of constructing, maintaining and operating a general telephone system (hereinafter referred to as “telephone system”), within the present and future corporate limits of the City, and the Grantee is granted the right, franchise and authority to construct, maintain and operate such telephone system over, across and under the streets, alleys and public grounds of the City, and to furnish, supply, transmit and distribute telephone services to the City, and its inhabitants and others within and without the corporate limits for all lawful purposes, including public and private use, and upon such terms conditions, restrictions and regulations as are adopted in this chapter.

**112.02 STANDARD OF SERVICE.** Grantee shall keep all poles, wires, connectors and other equipment in good condition and operating order and all construction and maintenance performed by Grantee shall be in compliance with standards set forth by the Commerce Commission of the State of Iowa and in compliance with all laws of the state of Iowa, Linn County, and the City. The failure of Grantee to comply with all provisions of this chapter shall operate as a forfeiture of the rights granted herein.

**112.03 SERVICE TO CITY.** Grantee shall be required as partial consideration for the grant of the franchise to furnish telephone service to the City at a rate for each phone in service in no case greater than that allowed by the tariff approved by the Iowa State Commerce Commission for like service.

**112.04 RESTORATION OF PROPERTY.** If Grantee, in the installation, erection, maintenance or operation of its telephone system, shall cut into or take up any pavement or sidewalk or make any excavation in any street, alley or public grounds within the present or future corporate limits of the City, the same shall be done as near as may be in a manner resulting in minimum interference with the public use of such street, alley or public grounds. Upon completion of such work, Grantee shall replace any pavement or sidewalk removed and shall restore the premises to as good condition as existed at commencement of the work. Grantee shall have the right to trim or remove trees when reasonably necessary to efficiently operate said telephone system and render service.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 72, adopting a telephone franchise for the City, was passed and adopted on September 6, 1983. Voters approved the franchise at an election held on October 11, 1983. The Grantee accepted the franchise on October 21, 1983.

**112.05 IMPROVEMENTS BY CITY.** If the City proposes to improve or make public improvement in any street, alley or public way (hereinafter referred to as “public improvement”) in a manner that may conflict with Grantee’s telephone system, the contractor awarded the public improvement contract shall ascertain the number, location, depth or elevation of the components of Grantee’s telephone system and, at all times, protect said telephone system from damage during the performance of the contract. The Grantee shall, upon resolution of the City Council, temporarily remove, relocate or transfer any portion of said telephone system that is deemed in conflict with the public improvement at Grantee’s expense, at a time that will not cause unreasonable inconvenience to the Grantee or its customers.

**112.06 DAMAGE TO SYSTEM.** If any party damages any part of the telephone system or causes any weakening or loss of the structural, mechanical, or vertical support thereof, or causes an interruption to the telephone service provided by any transmission or distribution line, such party shall give warnings of the occurrence and nature of the damage and shall maintain reasonable warnings and safeguards until all damage has been repaired.

**112.07 SUCCESSORS AND ASSIGNS.** This chapter applies to Grantee and its successor and assigns. Grantee shall be subject to all legal right, power, and authority, now or hereafter possessed by the City, to control and direct by ordinance or resolution the franchise herein granted and the manner in which the Grantee shall use and enjoy it.

**112.08 INDEMNIFICATION OF CITY.** Grantee shall defend as its own expense, in the name and on behalf of the City, and shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs, or expenses, caused or contributed to by the negligence of the Grantee on account of injury or damage to any person or property, caused or occasioned in whole or in part by reason of or arising out of the construction, operation or maintenance of the telephone system.

**112.09 ENFORCEMENT.** 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.