

TITLE VII SPECIAL ORDINANCES

CHAPTER 1 CABLE TELEVISION REGULATIONS

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7-1-1 PURPOSE. The purpose of this chapter is to provide for the regulation of cable television systems within the City of Coggon, Iowa, which operate pursuant to City franchise and to establish standards, regulations, and procedures for the establishment, construction, operation and maintenance of a cable television franchise.

7-1-2 SHORT TITLE. This chapter shall be known and may be cited as the “Cable Television Regulatory Ordinance of Coggon, Iowa.”

7-1-3 DEFINITIONS. For the purposes of this chapter, the following words and phrases shall have the meanings ascribed to them in this section. When not inconsistent with the context, words used in the present tense include the future; words used in the plural number include the singular number; and words in the singular number include the plural number. The word “shall” is mandatory and not merely directory.

1. “Additional Service.” Additional service shall mean any communications service provided by the franchise over its cable television system for which a special charge is made based on program or service content, time or spectrum space usage, and shall include all service offered by the franchise that is not included with the basic service.
2. “Basic Service.” Basic service shall mean all communication services provided by the franchisee including the delivery of broadcast signals and programming originated over the cable system, covered by the regular monthly charge paid by all subscribers, excluding pay channels.
3. “Cable Television System.” The term cable television system shall mean 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 a service.

4. "Channel." The term channel shall mean the segment of the electromagnetic spectrum to which a source of television transmission is received.
5. "City." The term City shall mean the City of Coggon, Iowa. When the context so requires, the term shall mean and include the City, its officers, agents, employees, servants, and independent contractors, and shall include all areas hereafter annexed by the City of Coggon, Iowa.
6. "FCC." The term FCC shall mean the Federal Communications Commission and any legally appointed or elected successor.
7. "Franchise." The term franchise shall mean the rights, privileges, and authority granted by the City to a grantee hereunder and shall include all of the terms and conditions of this chapter and of the franchise ordinance.
8. "Full Cable Service." Full cable service shall mean all "basic services" and "additional services" offered by the grantee.
9. "Grantee." The term grantee shall mean the person granted a franchise by an election. When the context so requires, the term grantee shall mean and include the grantee, its officers, agents, employees, servants, and independent contractors thereof. The terms "grantee" and "franchisee" are synonymous.
10. "Person." The term person shall mean any individual, or any corporation, partnership, business, firm or other organization, and shall be construed as singular or plural, or masculine, feminine, or neuter, or as the context may require.
11. "Private Property." The term private property shall mean all property, real, personal, or mixed, owed by a private person, including property owned by a public utility not owned or operated by the City.
12. "Property of the Grantee." The term property of the grantee shall mean all property, real, personal, or mixed, owned by the grantee hereunder.
13. "Public Property." The term public property shall mean all property, real, personal, or mixed, owned by the City, including property owned by a public utility owned or operated by the City.
14. "Service Area." The term service area shall mean the geographic area within the incorporated limits of the City, including all dwelling units.

15. "Substantially Completed." Substantially completed shall occur when sufficient distribution facilities have been installed by the franchisee so as to permit the offering of the "full cable service" to at least ninety (90) percent of the dwelling units in the service area.

7-1-4 TERM AND NATURE OF FRANCHISE. The term of a franchise, unless otherwise canceled or revoked pursuant to the provisions of this chapter, shall be fifteen (15) years from the effective date of the grant thereof. The City shall award the franchisee a non-exclusive franchise, right, and privilege to construct, erect, operate, modify, and maintain, in, upon, along, above, over, and under the highways, streets, alleys, sidewalks, public ways, and public places within the City which are or may hereafter be dedicated to public use, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the City of a cable television system, and to furnish and to sell service from such a system to the public pursuant to the terms of this chapter.

7-1-5 COMPLIANCE WITH APPLICABLE LAW. The 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.

7-1-6 GRANT OF FRANCHISE AND EFFECTIVE DATE.

1. After examining all proposals submitted to the Coggon City Council with respect to an applicant's legal, character, financial, technical, and other qualifications, including the adequacy and feasibility of its construction plans, the City Council shall select the person it deems to have present a proposal which will best serve the interests of the City, and shall submit the question of granting to said person a non-exclusive franchise, pursuant to the terms of this chapter, to the voters of the City of Coggon, Iowa, for their approval at a special franchise ordinance election. However, no provisions of this chapter shall be deemed or construed to require the City Council to submit to a vote on any prospective franchise following the receipt of any franchise application. In order for a franchise to be granted, a majority of those voting must vote in favor of granting such franchise.
2. The non-exclusive franchise and the rights, privileges, obligations, and authority granted thereby shall take effect and be in force from and after the thirtieth (30th) day following the award thereof, provided that within thirty (30) days from the day of such award the grantee shall file with the City the following:
 - a. A notarized statement by the grantee of unconditional acceptance of the franchise; and
 - b. A certificate of insurance from grantee's insurance carrier giving evidence that the grantee has in effect the insurance coverage required by Section 26 hereof; and
 - c. Reimbursement to the City of the entire cost of the franchise election, together with all printing and publication costs relating thereto. An estimate of said costs shall be prepaid by the applicant selected by the Council to be franchisee, regardless of whether the applicant is granted a franchise by said election. When the actual costs of the election and publication are known, the final payment may be adjusted accordingly.

7-1-7 FCC CERTIFICATE. Grantee shall apply to the Federal Communications Commission for a certificate of compliance within a reasonable period of time, but not to exceed ninety (90) days, from the effective date of a franchise granted hereunder.

7-1-8 SYSTEM CONSTRUCTION TIMETABLE.

1. Within ninety (90) days of the effective date of franchise granted hereunder, the grantee shall file with the appropriate authorities and utilities all initial papers and applications necessary to comply with the terms of this ordinance. Within one hundred eight (180) days of the effective date of FCC certification, the grantee shall begin construction of the cable television system, and pursue such construction with reasonable diligence. Within eighteen (18) months of the effective date of FCC certification, the grantee shall have “substantially completed” construction of the system within the “service area” as defined in Section 3 hereof.
2. Within twenty-four (24) months of the effective date of FCC certification, the grantee shall have completed installation of its entire system and shall have commenced the operation thereof.
3. The City Council may in its discretion extend the time for grantee to perform any act required hereunder. The time for performance shall be extended or excused, as the case may be, in the event of a legal challenge to the 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, lightning, flood, fire, explosion, vandalism, civil disturbance, late delivery of equipment, supplies or machinery by suppliers, late performance by supplies of services, or other similar cause demonstrated to the satisfaction of the City Council to be reasonable beyond grantee’s control.

7-1-9 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, erected, 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 may deem proper to make, 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 Electrical Safety Code (outside work) and such applicable laws of the State of Iowa and applicable ordinance 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 a good order and repair.

7-1-10 JOINT USE OF FACILITIES. 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 the City, and to use such poles, conduits, trenches, ducts, lines, and cables in the course of its business. 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 for the installation of its cable. 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 shall be installed underground. The grantee shall obtain permission from the City

before erecting any new poles, underground conduit, or appurtenances where none exist at the time the 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 underground is served by the City.

7-1-11 CONDITIONS OF STREET OCCUPANCY.

1. The grantee shall be allowed to use the City streets, alleys, right-of-ways and other public ways and places for the construction and operation of its cable television system; provided, however, that in such use and occupancy grantee shall be required to comply with all requirements of the State of Iowa and the Coggon Municipal Code pertaining to excavation, streets, sidewalks, and backfills.
2. Grantee shall restore all property of the City and of the inhabitants thereof to its usual, ordinary, and reasonable conditions after the installation of either overhead or underground cable. In case of any disturbances of pavement, sidewalk, driveway, or other surfacing, the grantee shall, at his 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. The 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 the lives of persons or with the proper use of streets, alleys, and other public ways and places, and shall cause minimum interference with the 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, electric, or telephone fixtures, water hydrant, or main, and all such poles or other fixtures placed in any street shall be placed at 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 lot abutting on said alley, and then in such a manner as not to interfere with the usual travel on said street, alleys, and public ways.
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 the grantee in the course of the construction, operation, or removal of cable television 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 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 cable television.

7. The 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 expense of such temporary removal, raising, or lowering of wires shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Grantee shall be given not less than five (5) day 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 the grantee, all trimming to be done under the supervision and direction of the City and at the expenses of the grantee.
10. Grantee shall at all times provide the City, without charge, with prints showing the location of all poles within the City's corporation limits, joint poles, underground cables, ducts, and other cable television facilities. Said grantee shall submit a new, up-to-date map each year on or near the anniversary date of this franchise, and at its option, submit amendments at more frequent intervals to the end 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.

7-1-12 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, and 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 are consistent with the terms of the ordinance. Grantee may provide at least one (1) channel for programming of local weather and time. Grantee shall provide one (1) channel for local access.

7-1-13 PERFORMANCE STANDARDS AND QUALITY OF SIGNAL.

1. 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 distribute such signals to all residents of the City, and shall maintain its system in reasonable repair and working order, and 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.

2. 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 test 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.

7-1-14 LOCAL OFFICE: COMPLAINT PROCEDURES.

1. During the term of the franchise, and any renewal thereof, the grantee shall maintain within the City a local business office to be staffed by at least one service technician who shall be a resident of the City 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.
2. 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 and the item and date thereof. This log shall be made available for periodic inspection by the City.
3. Upon receipt by it of any service complaint, the City will forward a copy to the grantee or may take the question up by correspondence with the 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 the 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 the grantee's notice of refusal or inability to satisfy the complaint. Upon receipt of a formal complaint, the City Council, or its designated agent, shall ascertain the facts and shall have the power to enforce its decision, if against grantee, by all actions hereunder.

7-1-15 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 or the rules and regulations of the Federal Communications Commission, 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 and any amendments or alterations in the service agreement of schedule of charges.

7-1-16 SUBSCRIBER'S RATES.

1. The charges made to subscribe to the grantee's services shall be fair and reasonable and no higher than necessary to meet all costs and services (assuming efficient and economical

management) and to provide a fair return of the original cost, less depreciation of assets devoted to such service.

2. Grantee shall at all times maintain on file with the City Clerk a schedule setting forth all rates and charges to be made to subscribers for basic services, including installation charges, and for any additional services.
3. Before making any changes in the rates and charges to subscribers for basic service, the grantee shall file in writing with the City Clerk of the City of Coggon, and shall publish in a newspaper of general circulation within the City, a new proposed rate change at least thirty (30) days in advance of the proposed effective date of such rate change. If the council takes no action to set the proposed rate change for hearing or takes no other action to delay such changes, said proposed rate changes may become effective upon the expiration of the thirty (30) day notice.
4. If the council sets the proposed rate of change for hearing, said proposed rate changes will not become effective until the council has taken action by means of a resolution.
5. This provision does not limit the right of grantee to pass along to the subscribers sales tax or any specific copyright fees.
6. 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 nor subject any person to any prejudice or disadvantage; provided, however, this paragraph 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.
7. The grantee shall reimburse the City for all costs and expenses incurred by the City in connection with any application for a rate change.

7-1-17 DISCONNECTIONS AND SERVICE TERMINATIONS.

1. 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, the grantee shall promptly reinstate the subscriber's service.
2. 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 with the lessor's consent.

7-1-18 PUBLIC SERVICE INSTALLATIONS. The grantee shall, without charge for installation, maintenance, or service, install at least one subscriber outlet for use by the City of Coggon. Such installation, for basic service only, shall be made at such reasonable locations within the City as may be requested by the City and educational institutions. Any charge for relocation of such installations shall be

made at actual costs. No charges shall be made for distribution of grantee's service within such public buildings.

7-1-19 EMERGENCY USE OF FACILITIES. In the event of any 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.

7-1-20 EXISTING ANTENNA. The grantee shall, upon request of any subscriber, install, at actual costs, a switching device to permit a subscriber to continue to utilize his own television antenna. The grantee shall not require the removal or offer to remove a subscriber's antenna.

7-1-21 PROHIBITED ACTIVITIES.

1. It shall be unlawful for any person, firm, or corporation to make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised cable television system within the City 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.
2. The grantee shall be prohibited from selling or in any other manner making available the grantee's subscriber lists to any person, firm, or corporation other than the City.
3. Any person violating or failing to comply with any of the provisions of this section shall be guilty of a simple misdemeanor, and for each day of violation or failure to comply may be punished by a fine not to exceed \$100.00 or imprisonment for a term not to exceed thirty (30) days.

7-1-22 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, for the City to commence, and within a reasonable time, 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 thirty (30) days notice, the grantee shall receive a ten (10) day notice from the City notifying said grantee of a public hearing to review the unresolved issue(s). In the event grantee shall be adjudicated bankrupt or placed in receivership, the City may declare the franchise forfeited and terminated.

7-1-23 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 distributive system, and other appurtenances used for purposes other than, and in addition to, the providing of cable television series.

7-1-24 FRANCHISE RENEWAL. At least six (6) months prior to the expiration of a franchise, the City shall schedule and hold a public hearing or meetings with the franchisee to review and discuss the performance of the franchise under the franchise including the results following previous franchise reviews. IN particular, the City may inquire whether the franchise is supplying a level and variety of

services equivalent to those being generally offered at that time in the industry in comparable market situations. The franchise shall make available, if requested by the City, such records, information, and documents which are relevant to such meetings and inquiry. Any interested person shall have the opportunity to be heard regarding whether or not the franchise did reasonably comply with the terms and conditions imposed by this chapter and the franchise agreement. Irrespective of the type and quality of the performance of the franchise, the City is under no obligation whatsoever to reissue a franchise to the franchisee. At least five (5) months prior to the expiration of the franchise, however, the City shall advise the franchisee whether or not the franchise re-issuance shall be based solely upon negotiations by and between the franchisee and the City. The failure to re-issue such a franchise in competition with other applicants for a franchise in competition with other applicants for a franchise in the event the City decided to consider proposal from new applicants for the franchise.

7-1-25 ASSIGNING FRANCHISE. Grantee shall not sell, transfer, or encumber its system or its franchise, without first securing the approval of the City Council; however, the 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.

7-1-26 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 liabilities, 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 the grantee, its agents, officers, servants, and employees. Grantee shall carry public liability insurance in the amounts of no less than \$1,000,000.00 bodily injury/\$1,000,000.00 property damage for the protection of itself and the City and the political subdivisions. The 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. The grantee shall be notified with fifteen (15) days of the presentation thereof to the City, of any claim, demand, or action brought against the City or its political subdivision for which the City and its political subdivisions may seek reimbursement or defense as provided hereunder.
2. 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 of Coggon or its employees.

7-1-27 CHANGES IN ORDINANCE. The City Council reserves the right to change or amend this ordinance at any time during the term of the franchise.