

CHAPTER 112

TELEPHONE FRANCHISE

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112.01 DEFINITIONS. Whenever used in this chapter, the following words and terms have the definitions and meanings provided in this section:

1. “Facilities” means all Grantee duct spaces, manholes, poles, conduits, underground and overhead passageways and other equipment, structures and appurtenances and all associated transmission media.
2. “Grantee” means GTE Midwest Incorporated.
3. “Rights-of-way” means all present and future streets, avenues, highways, alleys, bridges, viaducts and public grounds within the City limits of the City.
4. “Transmission media” means all Grantee cables, fibers, wires or other physical devices used to transmit and/or receive communication signals, whether analog, digital or of other characteristics and whether for voice or data or other purposes.

112.02 FRANCHISE GRANTED. GTE Midwest Incorporated, its successors and assigns (hereinafter referred to as “Grantee”) are hereby granted a franchise for a period of five (5) years from the effective date of the ordinance codified in this chapter to acquire, construct, reconstruct, maintain, extend and operate such telephone plant or system and such facilities thereof, including lines, poles, wires, stubs, anchors, cables, vaults, laterals, conduits and other fixtures and equipment in, upon, through, over, under, along and across the public streets, alleys, highways and other passageways or public grounds of or in the corporate limits of the City as now or hereafter established, as may be necessary and/or convenient for supplying to the citizens of the City, to adjacent rural areas and to the public at large telephone service, local and long distance, and communication by telephone or other electric signals and for the conduct of a general telephone business therein.

112.03 RESTRICTIONS. Grantee’s rights and privileges in the public ways and grounds of the City shall be exercised as follows:

1. Location of Facilities. Location of its existing system is hereby approved; changes of location, additions or extensions thereto affecting public grounds or ways shall be subject to the reasonable and proper regulation, control and direction of the City or of any municipal officer to whom such duties have been or may be delegated.
2. Quality and Installation. All poles to be placed shall be of sound material and reasonably straight, and shall be so set that they will not interfere with the flow of water to any gutter or drain, and so that the same will interfere as little as practicable with the ordinary travel on the street and sidewalk.
3. Excavations. Grantee may make excavations in public grounds or ways and may take up such portions of pavement or sidewalk as it deems necessary for the installation, maintenance, replacement or removal of its facilities. Excavations so made shall be refilled and surfacing thus disturbed shall be restored to as reasonably good condition as before.
4. Joint Pole Use. Grantee shall permit the City to attach to its poles its fire and/or police wires and apparatus incident thereto — such attachments to be made under the direction and supervision of the Grantee and so made and maintained as not to interfere with the Grantee's use of said poles.

Nothing in this chapter is intended to add to or detract from any authority granted by the Legislature of the State to the City.

112.04 MOVING STRUCTURES. Grantee shall accommodate public or private necessity to move along or across public ways or grounds of the City vehicles or structures, other than parade components, of such height or size as to interfere with its poles and/or wires erected hereunder and shall temporarily remove, raise or lower the same to permit such passage, provided:

1. Written notice thereof shall be served upon Grantee's agent or manager in the City not less than forty-eight (48) hours in advance of the time set for the proposed passage.
2. Grantee is paid in advance the actual cost of such accommodation.
3. The clearance of wires above ground shall conform to the basic standards of the National Electrical Safety Code, National Bureau of Standards, United States Department of Commerce, as promulgated at the time of erection thereof.

112.05 STREETS TO BE RESTORED TO GOOD CONDITION. The surface of any street, avenue, alley, highway, viaduct or public ground within the City disturbed by the Grantee in building, constructing, renewing or maintaining its telecommunications system shall be restored within a reasonable time after completion of the work to as good a condition as before the commencement of the work and maintained to the satisfaction of the City or of any City official to whom such duties have been or may be delegated, for one year from the date the surface of said street, avenue, alley, highway, viaduct or public ground is broken for such construction or maintenance work, after which time responsibility for such maintenance shall revert to the City. No such street, avenue, alley, highway, viaduct or public ground shall be encumbered for a longer period of time than shall be necessary to execute the work. The Grantee shall be responsible for any expense incurred by the City by reason of neglect of the Grantee to do such work.

112.06 TREE TRIMMING. In the pursuit of maintaining its telecommunications system, the Grantee, its contractors, agents, successors and assigns shall have the right to trim trees upon and overhanging the streets, avenues, alleys, bridges, viaducts and public grounds of the City, so as to prevent the branches of such trees from coming in contact with the wires, cables or other facilities of the Grantee, and when so ordered by the City, said trimming shall be done under the supervision and direction of the City or any City official to whom said duties have been or may be delegated.

112.07 PROOF OF INSURANCE. Grantee shall be required to show proof of insurance by the Grantee, including worker's compensation insurance, comprehensive general liability insurance, and business auto insurance, within 60 days after the effective date of the franchise ordinance.

112.08 HOLD HARMLESS FROM DAMAGES. The Grantee shall hold the City free and harmless from all damages or claims for damage of any kind whatsoever caused by the negligent construction or maintenance of its lines and shall be liable for injuries to public or private property of every kind.

112.09 SUCCESSORS AND ASSIGNS. The rights, powers, limitations, duties and restrictions herein provided for shall inure to and be binding upon the parties hereto and upon their respective successors and assigns.

112.10 INDEMNIFICATION. Grantee shall indemnify the City against loss from claims or causes of action arising out of its construction, reconstruction, maintenance or operation of the installations herein authorized.

112.11 COMPLIANCE WITH FRANCHISE TERMS. The Grantee shall at all times during the term of the franchise comply with, submit to and carry out any and all valid ordinances relating to any person, firm or corporation now in force or that hereafter may be lawfully enacted and not inconsistent herewith. In the event of a breach of the terms of this chapter by the Grantee, the City may seek relief, including voidance of franchise, injunctive relief and damages and any other remedies it has under the law.

112.12 DAMAGE OR DEFACING FACILITIES. It is unlawful for any person to injure, destroy or deface any property of Grantee lawfully installed and maintained hereunder or to post bills or signs thereon. A violation of this section shall constitute a misdemeanor.

EDITOR'S NOTE

Ordinance No. 306 granting a telephone franchise for the City was passed and adopted on June 12, 1995.

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