

FRANCHISES AND OTHER SERVICES

TABLE OF CONTENTS

CHAPTER 110 - ELECTRIC FRANCHISE	407
CHAPTER 111 - CEMETERY	413

CHAPTER 110

ELECTRIC FRANCHISE

110.01 Franchise Granted	110.06 System Requirements
110.02 Construction; Maintenance; Indemnification	110.07 Nonexclusive
110.03 Excavations	110.08 Continuous Service
110.04 Construction and Maintenance	110.09 Term of Franchise
110.05 Meters	110.10 Entire Agreement

110.01 FRANCHISE GRANTED. There is hereby granted to Interstate Power and Light Company, hereinafter referred to as the "Company," its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City, works and plants for the manufacture and generation of electricity and a distribution system for electric light, heat and power and the right to erect and maintain the necessary poles, lines, wires, conduits and other appliances for the transmission of electric current along, under and upon the streets, avenues, alleys and public places in the City; also the right to erect and maintain upon the streets, avenues, alleys and public places, transmission lines through the City to supply individuals, corporations, communities and municipalities both inside and outside of the City with electric light, heat and power for the period of 25 years; † also the right to eminent domain as provided in Section 364.2 of the *Code of Iowa*.

110.02 CONSTRUCTION; MAINTENANCE; INDEMNIFICATION. The poles, wires and appliances shall be placed and maintained so as not to unnecessarily interfere with the travel on said streets, alleys and public places in the City or unnecessarily interfere with the proper use of the same, including ordinary drainage or with the sewers, underground pipe and other property of the City, and the Company, its successors and assigns shall hold the City free and harmless from all damages arising from the negligent acts or omissions of the Company in the erection or maintenance of said system.

110.03 EXCAVATIONS. In making any excavations in any street, alley, avenue or public place, Company, its successors and assigns, shall protect the site while work is in progress by guards, barriers or signals, shall not unnecessarily obstruct the use of the streets, shall back fill all openings in such manner as to prevent settling or depressions in surface, and shall replace the surface, pavement or sidewalk of such excavations with same materials, restoring the condition as nearly as practical and if defects are caused shall repair the same.

110.04 CONSTRUCTION AND MAINTENANCE. The Company shall, at its cost and expense, locate and relocate its existing facilities or equipment in, on, over or under any public street or alley in the City in such manner as the City may at any time reasonably require for the purposes of facilitating the construction, reconstruction, maintenance or repair of the street or alley or any public improvement of, in or about any such street or alley or reasonably promoting the efficient operation of any such improvement. If the City orders or requests the Company to relocate its existing facilities or equipment for the primary benefit of a commercial or private project, or as the result of the initial request of a commercial or private developer or other non-public entity, the Company shall receive payment for the cost of such relocation as a precondition to relocating its existing facilities or equipment. The City shall consider reasonable

† **EDITOR'S NOTE:** Ordinance No. 07-0156, adopting an electric franchise for the City, was passed and adopted on November 13, 2007.

alternatives in designing its public works projects so as not arbitrarily to cause the Company unreasonable additional expense in exercising its authority under this section. The City shall also provide a reasonable alternative location for the Company's facilities. The City shall give the Company reasonable advance written notice to vacate a public right-of-way. Vacating a public right-of-way shall not deprive the Company of its right to operate and maintain existing facilities, until the reasonable costs of relocating the same are paid to the Company.

110.05 METERS. The Company, its successors and assigns shall furnish and install all meters at its own expense, and shall provide the service wire to buildings as set forth in the Company's tariff filed with the Iowa Utilities Board.

110.06 SYSTEM REQUIREMENTS. The system authorized by this chapter shall be modern and up-to-date and shall be of sufficient capacity to supply all reasonable demands of the City and the inhabitants thereof and shall be kept in a modern and up-to-date condition.

110.07 NONEXCLUSIVE. The franchise granted by this chapter shall not be exclusive.

110.08 CONTINUOUS SERVICE. Service to be rendered by the Company under this chapter shall be continuous unless prevented from so doing by fire, acts of God, unavoidable accidents or casualties, or reasonable interruptions necessary to properly service the Company's equipment, and in such event service shall be resumed as quickly as is reasonably possible.

110.09 TERM OF FRANCHISE. The term of the franchise granted by this chapter and the rights granted thereunder shall continue for the period of 25 years from and after its acceptance by the Company.

110.10 ENTIRE AGREEMENT. This chapter sets forth and constitutes the entire agreement between the Company and the City with respect to the rights contained herein, and may not be superseded, modified or otherwise amended without the approval and acceptance of the Company. Notwithstanding the foregoing, in no event shall the City enact any ordinance or place any limitations, either operationally or through the assessment of fees that create additional burdens upon the Company or which delay utility operations.

[The next page is 413]

CHAPTER 111

CEMETERY

111.01 Definition
111.02 Trusteeship
111.03 Cemetery Committee
111.04 Cemetery Superintendent

111.05 Records
111.06 Sale of Interment Rights
111.07 Perpetual Care
111.08 Rules and Regulations

111.01 DEFINITION. The term “cemetery” means the Kelley Community Cemetery, which is a municipal cemetery under the provisions of Chapter 523I of the *Code of Iowa* and which shall be operated under the provisions of Chapter 523I of the *Code of Iowa* and this chapter.

(Code of Iowa, Sec. 523I.501)

111.02 TRUSTEESHIP. Pursuant to Section 523I.502 of the *Code of Iowa*, the Council hereby states its willingness and intention to act as the trustee for the perpetual maintenance of the cemetery property.

(Code of Iowa, Sec. 523I.502)

111.03 CEMETERY COMMITTEE. The Mayor shall appoint, subject to Council approval, a Cemetery Committee which shall operate the cemetery in accordance with the rules and regulations therefor. The Committee shall consist of five members who shall serve for overlapping three-year terms. The Mayor may appoint persons to fill vacant unexpired terms, subject to Council approval. The Cemetery Committee shall monitor and supervise the Cemetery Superintendent and shall propose to the Council amendments, revisions or modifications to the cemetery rules and regulations.

111.04 CEMETERY SUPERINTENDENT. The Cemetery Superintendent shall be appointed by the Cemetery Committee. The duties of the Cemetery Superintendent are as follows:

1. Supervise the cemetery generally and make recommendations to the Cemetery Committee concerning the operation, maintenance and improvement of the cemetery.
2. Supervise all work performed in the cemetery.
3. Monitor and supervise the opening and closing of all graves in accordance with instructions received from proper authorities and personally attend all interments and disinterments or delegate that authority.
4. Monitor, supervise, and control the installation of all foundations and determine the position of monuments, markers and memorials to insure conformity with the cemetery rules and regulations.
5. Enforce the rules and regulations of the cemetery as adopted by the Cemetery Committee.
6. Assist the Clerk in maintaining accurate records of all burials in the cemetery pursuant to the cemetery rules and regulations.
7. Perform such other duties as may be assigned from time to time by the Council or by the Cemetery Committee.

111.05 RECORDS. It is the duty of the Clerk to make and keep complete records identifying the owners of all interment rights sold by the cemetery and historical information regarding any transfers of ownership. The records shall include all of the following:

(Code of Iowa, Sec. 523I.311)

1. Sales or Transfers of Interment Rights.
 - A. The name and last known address of each owner or previous owner of interment rights.
 - B. The date of each purchase or transfer of interment rights.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space sold by the cemetery.
2. Interments.
 - A. The date the remains are interred.
 - B. The name, date of birth and date of death of the decedent interred, if those facts can be conveniently obtained.
 - C. A unique numeric or alphanumeric identifier that identifies the location of each interment space where the remains are interred.

111.06 SALE OF INTERMENT RIGHTS. The sale or transfer of interment rights in the cemetery shall be evidenced by a certificate of interment rights or other instrument evidencing the conveyance of exclusive rights of interment upon payment in full of the purchase price. The agreement for interment rights shall disclose all information required by Chapter 523I of the *Code of Iowa*. The payment of all fees and charges shall be made at the office of the Clerk where receipts will be issued for all amounts paid. Said fees and charges shall be based upon the charges as established by the Council.

(Code of Iowa, Sec. 523I.310)

111.07 PERPETUAL CARE. The Council, by resolution, shall accept, receive and expend all moneys and property donated or left to them by bequest for perpetual care, and that portion of interment space sales or permanent charges made against interment spaces which has been set aside in a perpetual care fund. The assets of the perpetual care fund shall be invested in accordance with State law. The Council, by resolution, shall provide for the payment of interest annually to the appropriate fund, or to the cemetery, or to the person in charge of the cemetery to be used in caring for or maintaining the individual property of the donor in the cemetery, or interment spaces which have been sold with provisions for perpetual care, all in accordance with the terms of the donation or bequest, or the terms of the sale or purchase of an interment space and Chapter 523I of the *Code of Iowa*.

(Code of Iowa, Sec. 523I.503, 523I.507, and 523I.508)

111.08 RULES AND REGULATIONS. Rules and regulations for the cemetery may be adopted, and may be amended from time to time, by resolution of the Council and may cover such things as the use, care, control, management, restrictions and protection of the cemetery as necessary for the proper conduct of the business of the cemetery. The rules shall specify the cemetery's obligations in the event that interment spaces, memorials, or memorializations are damaged or defaced by acts of vandalism. Any veteran, as defined in Section 35.1 of the *Code of Iowa*, who is a landowner or who lives within the City shall be allowed to purchase an interment space and to be interred within the cemetery. In addition, any veteran who purchases an interment space within the cemetery shall be allowed to purchase an interment space for

interment of the spouse of the veteran if such a space is available, and the surviving spouse of a veteran interred within the cemetery shall be allowed to purchase an interment space and be interred within the cemetery if such a space is available.

(Code of Iowa, Sec. 523I.304)

[The next page is 431]