

# **FRANCHISES AND OTHER SERVICES**

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## CHAPTER 110

### NATURAL GAS FRANCHISE

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**110.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation (“Company”), and to its successors and assigns the right and franchise to acquire, construct, erect, operate, and maintain in the City, a gas distribution system, to furnish natural gas along, under and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell natural gas to the City and its inhabitants. For the term of this franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. The franchise shall be effective for a 25-year period beginning on the effective date of the ordinance codified in this chapter.<sup>†</sup>

**110.02 STATE CODE RESTRICTIONS AND LIMITATIONS.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

**110.03 EXCAVATIONS.** The Company shall have the right to excavate in any public street for the purpose of laying, re-laying, repairing or extending gas pipes, mains, conduits, and other facilities provided that the same shall be so placed as not to interfere with the construction of any water pipes, drain or sewer or the flow of water therefrom, which have been or may hereafter be located by authority of the City.

**110.04 RELOCATION OF PROPERTY.** The Company shall, at its cost and expense, locate and relocate its installations 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 has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 04-07-01, adopting a natural gas franchise for the City, was passed and adopted in 2004.

Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's cost of relocation, the City shall select the route that requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**110.05 RESTORATION OF PROPERTY.** In making excavations in any streets, avenues, alleys and public places for the installation of gas pipes, conduits or apparatus, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

**110.06 INDEMNIFICATION.** The Company shall indemnify and save harmless the City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, or allegedly caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the gas utilities authorized by the franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

**110.07 EXTENSION OF SYSTEM.** The Company shall extend its mains and pipes, and operate and maintain the system in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

**110.08 STANDARDS OF OPERATION.** During the term of this franchise, the Company shall furnish natural gas in the quantity and quality consistent with applicable Iowa laws and regulations.

**110.09 POLICE REGULATIONS.** All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

## CHAPTER 111

### ELECTRIC FRANCHISE

111.01	Grant of Franchise	111.06	Indemnification
111.02	State Code Restrictions and Limitations	111.07	Maintenance of Facilities
111.03	Excavations; Trimming Trees	111.08	Standards of Operation
111.04	Relocation of Property	111.09	Police Regulations
111.05	Restoration of Property		

**111.01 GRANT OF FRANCHISE.** There is hereby granted to MidAmerican Energy Company, an Iowa corporation, hereinafter called “Company,” and to its successors and assigns, the right and franchise to acquire, construct, erect, maintain and operate in the City a system for the transmission and distribution of electric energy and communications signals along, under, over and upon the streets, avenues, alleys and public places to serve customers within and without the City and to furnish and sell electric energy to the City and its inhabitants. For the term of the franchise the Company is granted the right of eminent domain, the exercise of which is subject to Council approval upon application by the Company. This franchise shall be effective for a 25-year period from and after the effective date of the ordinance codified in this chapter.<sup>†</sup>

**111.02 STATE CODE RESTRICTIONS AND LIMITATIONS.** The rights and privileges hereby granted are subject to the restrictions and limitations of Chapter 364 of the *Code of Iowa*.

**111.03 EXCAVATIONS; TRIMMING TREES.** The Company shall have the right to erect all necessary poles and to place thereon the necessary wires, fixtures and accessories, as well as to excavate and bury conductors for the distribution of electric energy and communications signals in and through the City, but all said conduits and poles shall be placed as not to interfere with the construction of any water pipes, drain or sewer, or the flow of water therefrom, which have been or may hereafter be located by authority of the City. The Company is authorized and empowered to prune or remove at Company expense any tree extending into any street, alley or public grounds to maintain electric reliability, safety, to restore utility service and to prevent limbs, branches or trunks from interfering with the wires and facilities of the Company. The pruning of trees shall be done to current nationally accepted safety and utility industry standards.

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<sup>†</sup> **EDITOR’S NOTE:** Ordinance No. 04-07-02, adopting an electric franchise for the City, was passed and adopted in 2004.

**111.04 RELOCATION OF PROPERTY.** The Company shall, at its cost and expense, locate and relocate its installations 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 has a reasonable alternative route for the street, alley or public improvements, which alternative route would not cause the relocation of the Company installations, the City shall select said alternative route. If relocation of the Company facilities could be avoided by relocating other franchisee's or facility user's equipment and facilities, and said other franchisee's or user's cost of relocation is less than the Company's cost of relocation, the City shall select the route that requires the other franchisees or users to relocate. If project funds from a source other than the City are available to pay for the relocation of utility facilities, the City shall use its best efforts to secure said funds and provide them to the Company to compensate the Company for the costs of relocation.

**111.05 RESTORATION OF PROPERTY.** In making excavations in any streets, avenues, alleys and public places for the excavation of conduits or the erection of poles and wires or other appliances, the Company shall not unreasonably obstruct the use of the streets and shall replace the surface, restoring the original condition as nearly as practicable.

**111.06 INDEMNIFICATION.** Company shall indemnify and save harmless City from any and all claims, suits, losses, damages, costs or expenses on account of injury or damage to any person or property, caused or occasioned, in whole or in part, by Company's negligence in construction, reconstruction, excavation, operation or maintenance of the electric facilities authorized by the franchise, provided, however, that the Company shall not be obligated to defend, indemnify and save harmless the City for any costs or damages arising from the negligence of the City, its officers, employees or agents.

**111.07 MAINTENANCE OF FACILITIES.** The Company shall construct, operate and maintain its facilities in accordance with the applicable regulations of the Iowa Utilities Board or its successors.

**111.08 STANDARDS OF OPERATION.** During the term of this franchise, the Company shall furnish electric energy in the quantity and quality consistent with applicable Iowa laws and regulations.

**111.09 POLICE REGULATIONS.** All reasonable and proper police regulations shall be adopted and enforced by the City for the protection of the facilities of the Company.

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