

TITLE 4

BUSINESS REGULATIONS AND LICENSING

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Chapter 4.04

TRAVELING SHOWS

Sections:

- 4.04.010 License required for circus, traveling shows**
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4.04.010 License required for circus, traveling shows. That every person who shall within the corporate limits of said town within a tent or under canvas, exhibit for fee or reward, any traveling show, circus or menagerie or exhibition of any kind, without first paying to the Treasurer of said town a license fee of not less than three nor more than ten dollars for each day's exhibition thereof and upon failure so to do, shall become liable for and forfeit to said town a fine penalty and forfeiture of not less than five nor more than fifteen dollars to be recovered according to law. (Ord. 3, S1, Sept. 5, 1892)

4.04.020 License required for side shows or performances. Every person who shall exhibit to public view a side show or performance in connection with a circus or menagerie or as a part of said circus or menagerie, or independent concern within the corporate limits of said town for fee or reward, shall pay to the Treasurer of said town a license fee of not less than one nor more than ten dollars for each days exhibiting in said town, and upon failure to pay said license fee, shall become liable for and forfeit to said town a fine penalty and forfeiture of not less than five nor more than fifteen dollars to be recovered according to law. (Ord. 3, S2, Sept. 5, 1892)

4.04.030 License required for small shows. Any person or persons who shall exhibit to public view any show of a less character than a circus or menagerie, or exhibit any wax figures panoramas, magic lanterns, tableaux, or to perform any wire dancing or perform any feats on ropes, or slight of hand, or to have any musical or theatrical performance or entertainment of any kind for gain or profit, shall pay to the Treasurer of said town a license fee of not less than one nor more than three dollars per day for each day's exhibiting within the corporate limits of said town, and upon failure so to do shall forfeit to said town a fine penalty and forfeiture in any sum not less than five dollars nor more than ten dollars, to be recovered according to law.

Provided however that lectures on scientific, historical and religious subjects and the apparatus for the illustration of the same, and performances for charitable purposes are not within the provisions of this section. (Ord. 3, S3, Sept. 5, 1892) (Ord. 3, S1, Feb. 17, 1884)

4.04.040 How to obtain license. Every person desiring to obtain a license under this Chapter shall pay to the Treasurer the amount, required of him and take his receipt therefore

and upon presentation of this receipt the Clerk shall issue the license to the applicant. (Ord. 3, S6, Sept. 5, 1872)

Chapter 4.06

TRANSIENT MERCHANTS

Sections:

4.06.010 Peddlers, license required

4.06.020 Auctioneers, license required

4.06.030 How to obtain license

4.06.010 Peddlers, license required. Every person not a bonifide resident of said town and not having a regular place of business therein, who shall desire to sell goods, wares, or merchandise of any kind either at retail or wholesale shall be deemed a peddler within the meaning of this section, and shall pay for the privilege of selling such goods, wares or merchandise within the corporate limits of said town the sum of two dollars for a wholesale peddler and one dollar for a retail peddler for each day such sales may continue, to the Treasurer of said town and upon failure so to do, shall forfeit to said town a fine, penalty and forfeiture of not less than two nor more than five dollars for each day's so selling without license to be recovered according to Law provided however that nothing in this section shall prohibit any person from selling farm products of any kind without license. (Ord. 3, S4, Sept. 5, 1872) (Ord. 5, S5, July 10, 1884) (Ord. 3, S3, Feb. 17, 1884)

4.06.020 Auctioneers, license required. Any transient person desiring to sell goods, wares, or merchandise of any kind, at auction within the corporate limits of said town shall pay to the Treasurer thereof for such privilege the sum of two dollars per day for each day such sales shall continue, and upon failure so to do shall become liable for and forfeit to said town a fine penalty and forfeiture of not less than five nor more than ten dollars for each day's selling without license to be recovered according to Law. (Ord. 3, S5, Sept. 5, 1872) (Ord. 5, S5, July 10, 1884) (Ord. 3, S3, Feb. 17, 1884)

4.06.030 How to obtain license. Every person desiring to obtain a license under this Chapter shall pay to the Treasurer the amount, required of him and take his receipt therefor and upon presentation of this receipt the Clerk shall issue the license to the applicant. (Ord. 3, S6, Sept. 5, 1872)

Chapter 4.08

LIQUOR LICENSE

Sections:

- 4.08.010 License required for the sale of liquor/penalty**
- 4.08.020 Who may be licensed**
- 4.08.030 How to obtain a license**
- 4.08.040 Contents of and restrictions on license**

4.08.010 License required for the sale of liquor/penalty. Be it ordained by the Town Board of Trustees for the incorporated town of Birdseye, Indiana that any person who shall sell or barter, for gain or profit within the corporate limits of said town, any spirituous, vinous, malt or other intoxicating liquors, in less quantity than a quart at a time without first obtaining a license as herein after provided, shall become liable for and forfeit to said town a fine penalty and forfeiture of one hundred dollars (\$100.00) for each day's so selling without license, to be recovered according to law. (Ord. Unnumbered, minutes, March 2, 1897) (Jan. 23, 1894 minutes) (Ord. 6, S1, Nov. 14, 1892) (Ord. 5, S1, July 10, 1884) (Ord. 3, S5, Feb. 17, 1884)

4.08.020 Who may be licensed. Any male person who is twenty-one years of age and of good character as to sobriety and good habits, may be licensed to sell spirituous, vinous, malt or other intoxicating liquors, within the corporate limits of said town, upon proper application as hereinafter provided. (Ord. 6, S2, Nov. 14, 1892) (Ord. 5, S2, July 10, 1884) (Ord. 3, S4, Feb. 17, 1884)

4.08.030 How to obtain a license. Any person desiring a license to sell spirituous, vinous, malt or other intoxicating liquor within the corporate limits of said town, shall first make a written application to the Town Board of Trustees, for such license which application must definitely describe the lot or lots or the metes and bounds of the land upon which, said intoxicating liquors are to be sold.

A notice of such application for a license must be posted in three public places in said town at least thirty days before said license shall be issued.

After due deliberation and consideration of all remonstrances, that may be made against such application for a license, the Town Board may issue a written permit (given under seal of said town) to said applicant, to sell spirituous, vinous, malt or other intoxicating liquors as herein provided, for a period of one year. The applicant on receiving said permit shall pay to the Treasurer of said town a license fee of one hundred twenty-five dollars (\$125.00) taking his receipt for the same, for which receipt the Clerk shall issue a license as herein provided. (June 5, 1901 minutes) (Dec. 6, 1898 minutes) (Dec. 15, 1896 minutes) (Oct. 2, 1893 minutes) (Ord. 6, S3, Nov. 14, 1892) (Ord. 5, S2, July 10, 1884) (Ord. 3, S4, Feb. 17, 1884)

4.08.040 Contents of and restrictions on license. No liquor license can be issued for a greater or less period than one year. Every license shall specify the lot or lots upon which such liquors are to be sold. No liquor license shall be valid for the sale of intoxicating liquors on any other lot or lots, or land, other than is described therein.

Any person or persons who shall at any time hereafter this date, make application for license to sell liquor shall with said application deposit the sum of five dollars (\$5.00) with the Treasurer of the Town. Which if said applicant should for any cause fail to take out license the amount deposited shall be forfeiture to said town, to cover cost of advertisement. Now if applicant has made his application in good faith and proceeds to take out license the fee above mention shall be allowed as full license.

No license fee can be paid by installments. A duplicate of each liquor license shall be recorded in the records of the Town. Nothing in this ordinance shall conflict with the valid license now in force, issued under Ordinance No. 6 (Approved by the Town Board of Trustees of said town, Feb. 17, 1884) which is hereby amended. It is further ordered by the Town Board of Trustees for said town, that all ordinances or parts of ordinances conflicting herewith are hereby amended. (Ord. Unnumbered, Aug. 7, 1902) (Ord. 6, S4, Nov. 14, 1892)

Chapter 4.10

SELLING OF MEATS

Sections:

4.10.010 License required

4.10.020 Penalty for violation

4.10.010 Licensed required. That any person or persons engaged in the selling of fresh or unsalted meats in small quantities better known as a retail meat shop shall pay a license of \$15.00 dollars per year. (Ord. unnumbered, Dec. 6, 1910)

4.10.020 Penalty for violation. Any persons violating the provisions of this ordinance shall be fined one \$1.00 dollar per day for each and every day. (Ord. unnumbered, Dec. 6, 1910)

Chapter 4.23

COOPER SHOP

Sections:

4.23.010 Establishment

4.23.010 Establishment. That any person operating or performing or allow any person carry on any such work as described here below that is as where it shall be prohibited by the town of Birdseye, to establish a cooper shop or any other work where there is fire used to do such work in a room where there is a wooden floor or where there are any person or persons living staying or sleeping. (Ord. 13, July, 1900)

Chapter 4.40

TELEPHONE FRANCHISE

Sections:

4.40.010 Cumberland Telephone and Telegraph Company

4.40.010 Cumberland Telephone and Telegraph Company.

- (1) That the Cumberland Telephone and Telegraph Company, its successors and assigns, be and the same are hereby granted the rights and authority to construct and maintain its telephone poles, wires, and fixtures necessary to operate a telephone exchange, along and over the highways, streets and alleys of said town of Birdseye, Dubois County Indiana. (Ord. unnumbered, S1, May 26, 1902)
- (2) The said poles, wires and fixtures shall be erected in a safe, substantial manner, and shall be so placed as not to interfere with the use of said public highways for the purposes of travel thereon, nor to obstruct any passway, gateway or gutter in said town. (Ord. unnumbered, S2, May 26, 1902)
- (3) That the said Cumberland Telephone and Telegraph Company its successors and assigns shall indemnify said town of Birdseye, Dubois County, Indiana and hold it harmless from any and all damages which may arise by reason of the presence of said poles, wires and fixtures. (Ord. unnumbered, S3, May 26, 1902)
- (4) That the said Board of Trustees of the said town of Birdseye, Dubois, Indiana shall have the privilege to attach its fire alarm wires to any of said poles free of charge, provided the same are so located as not to interfere with said companys use of said poles and that said telephone company furnish one telephone free of rental to offices of said town of Birdseye in connection with said exchange where established. (Ord. unnumbered, S4, May 26, 1902)
- (5) The Cumberland Telephone and Telegraph may assign or transfer said franchise. (Ord. unnumbered, S5, May 26, 1902)
- (6) All ordinances or parts of ordinances coming in conflict herewith are hereby repealed. (Ord. unnumbered, S6, May 26, 1902)
- (7) It is not intended to grant any exclusive right or privilege by this ordinance and the said Board of Trustees reserves the power to grant to any individual

or corporation similar rights, powers and privileges herein granted to the Cumberland Telephone and Telegraph Co. (Ord. unnumbered, S7, May 26, 1902)

- (8) This ordinance shall be in effect from and after its passage and the filing with the Chairman of the Board of Trustees of said town official notice of acceptance of the terms and condition hereof by said Cumberland Telephone and Telegraph Company. (Ord. unnumbered, S8, May 26, 1902)
- (9) All poles, wires, and fixtures erected by virtue of this ordinance shall be done under the supervision and subject to the approval the Board of Trustees and it shall be the duty of said board to see that provisions of this ordinance are faithfully complied with. (Ord. unnumbered, S9, May 26, 1902)

Chapter 4.43

CABLE TELEVISION REGULATIONS

Sections:

4.43.010	Purpose
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4.43.030	Ordinance – Grant of Franchise
4.43.040	Compliance – Required Generally
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4.43.100	Franchise – Term
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4.43.010 Purpose.

- (1) The purpose of this ordinance is to provide regulatory provisions of the cable television system in the Town of Birdseye, Indiana. (Ord. 89-02, S1A, May 11, 1989)
- (2) This ordinance shall be known and may be cited as the “Birdseye Cable Television Regulatory Ordinance.” (Ord. 89-02, S1B, May 11, 1989)

4.43.020 Definitions. For the purpose of this Ordinance the following terms, phrases, words and derivations shall have the meaning given in this section.

- (1) “Company” means Country Cable Systems, Inc., an Indiana Corporation with its offices in Kouts, Indiana, the grantee of rights under this regulatory ordinance. (Ord. 89-02, S2A, May 11, 1989)
- (2) “Federal Communications Commission” or “FCC” means that federal agency constituted by the Communications Act of 1934 and as amended. (Ord. 89-02, S2B, May 11, 1989)
- (3) “Gross Subscriber Revenues” means only those revenues derived from the monthly service charges paid by subscribers located within the Town for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross Subscriber Revenues shall not include any revenues received:
 - A. As reimbursement of expense in the operation of any access channels;
 - B. As advertising payments;
 - C. From the leasing of cable channels;
 - D. From programs for which a per-channel, per program, or tier charge is made; and
 - E. From furnishing other communications and non broadcast services, either directly or as a carrier for another party, or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs, or modifications of any installments. (Ord. 89-02, S2C, May 11, 1989)
- (4) “Person” means any person, firm, partnership, association, corporation, company, or organization of any kind. (Ord. 89-02, S2D, May 11, 1989)
- (5) “System” means the lines, fixtures, equipment, attachments, and appurtenances thereto which are used in the construction, operation, and maintenance of the cable television system authorized in this Ordinance. (Ord. 89-02, S2E, May 11, 1989)

4.43.030 Ordinance – Grant of Franchise. This regulatory Ordinance which grants to the Company the nonexclusive right to construct, operate, and maintain a cable television system in the Town, was passed and adopted by the Town Board after a full, open, and

public proceeding. Said proceeding was held after public notice was given and afforded all interested parties the opportunity to comment. Therefore, the Town grants to the Company a nonexclusive franchise, right and privilege to construct, erect, operate, modify, and maintain, in, upon, among, across, above and over and under the highways, streets, alleys, sidewalks, public ways, and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Town, for poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the Town of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, data, telephone and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways, and public places and all manner of easements for the purpose set forth in this Ordinance. (Ord. 89-02, S3, May 11, 1989)

4.43.040 Compliance – Required Generally. The company shall, at all times during the life of this regulatory Ordinance, be subject to all lawful exercise of the police power by the Town and to such reasonable regulation as the Town shall hereafter by resolution or ordinance provide. The construction, operation, and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and regulations of the Federal Communications Commission, the Town, or any other agency of the State or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this ordinance. (Ord. 89-02, S4, May 11, 1989)

4.43.050 Compliance – National Electrical Safety Code. All facilities and equipment of the Company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code. (Ord. 89-02, S5, May 11, 1989)

4.43.060 Compliance – FCC Rules and Regulations. The Company shall, at all times, comply with the rules and regulations of the FCC governing CATV operations. (Ord. 89-02, S6, May 11, 1989)

4.43.070 Modifications of FCC Rules. Consistent with the requirements of Rule 76.31 (a) (6) of the FCC, any modification of Rule 76.31 resulting in amendment thereto by the FCC, shall automatically be incorporated in this Ordinance by specific amendments thereto and by lawful action of the Town, within one year from the effective date of the FCC's amendment. (Ord. 89-02, S7, May 11, 1989)

4.43.080 Transfer. The Company shall not sell or transfer any rights granted under this Ordinance to another without written notice and approval by the Town; provided, that such approval shall not be unreasonably withheld if the Company, or assignee has filed with the Town an instrument duly executed, reciting the fact of such sale or assignment, accepting the terms of this Ordinance and agreeing to perform all conditions thereof. The Company shall have the right, without the consent of the Town, to assign or transfer this franchise to a cooperation owned by the Company or to a limited partnership of which the Company is a partner, general partner or affiliate. No consent by the Town Board shall be required for a

transfer in trust, mortgage, or other financial instrument to secure an indebtedness of the Cable System or Company. (Ord. 89-02, S8, May 11, 1989)

4.43.090 Company Rules and Regulations. The Company shall have the authority to establish such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its right and perform its obligations under this Ordinance, and to assure an uninterrupted service to each and all subscribers. (Ord. 89-02, S9, May 11, 1989)

4.43.100 Franchise – Term. The franchise granted the Company in this Ordinance shall terminate twenty-five (25) years from date of grant, subject to renewal for additional twenty-five (25) year periods of duration on the same terms and conditions as contained in this Ordinance, and as are consistent with the requirements of Rule 76.31 of the FCC or as amended by the FCC. If Company has reasonably performed to the requirements and conditions of this Ordinance, the Town will not withhold granting a renewal of this franchise to the Company. (Ord. 89-02, S10, May 11, 1989)

4.43.110 Franchise – Renewal. The Company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations. (Ord. 89-02, S11, May 11, 1989)

4.43.120 System Construction and Maintenance.

- (1) Upon grant of the franchise to construct and maintain a cable television system in the Town, and in furtherance of the Company's execution of contracts with public utility companies, the Company may obtain right-of-way permits from appropriate state, county and federal officials necessary to cross highways or roads to supply main trunk lines from the Company's receiving antennas. The Company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the Company. (Ord. 89-02, S12A, May 11, 1989)
- (2) In the event that the Town elects to alter or change the grade of any street, alley, or other public ways, the Company, upon notice by the Town shall remove, relay, or relocate its wires, cables, and other fixtures at the Company's own expense. (Ord. 89-02, S12B, May 11, 1989)
- (3) The Company shall, on the request of any person holding a building moving permit issued by the Town, 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 the Company shall have the authority to require such payment in advance. The

Company shall be given not less than forty eight (48) hours advance notice to arrange for such temporary wire changes. (Ord. 89-02, S12C, May 11, 1989)

- (4) The Company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the Town and to any public elementary or secondary school if located in the town where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution. (Ord. 89-02, S12D, May 11, 1989)

4.43.130 Construction Schedule. The Company shall accomplish significant construction at least twenty percent (20%) within one (1) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the Town, subject to the line extension provisions of Section 4.43.140, within two (2) years after receiving above federal approval. (Ord. 89-02, S13, May 11, 1989)

4.43.140 Line Extension.

- (1) It shall be the obligation of the Company to serve all residents of the Town except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory to the Company.

For the purposes of determining compliance with the provisions of this section, the Company shall extend service to new subscribers at the normal installation charge and monthly rate for customers of that classification where there are an average of forty-five (45) homes per each linear mile of new main cable construction. Extensions of service shall be required only on a basis which is reasonable and compensatory to the Company and as determined by the Company. (Ord. 89-02, S14, May 11, 1989)

4.43.150 Town Rights.

- (1) Town Rules. The right is reserved by the Town to adopt, in addition to the provisions contained in this Ordinance, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by Ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this Ordinance, and shall not be in conflict with the applicable laws of the State or the United States, or any FCC regulations. (Ord. 89-02, S15A, May 11, 1989)
- (2) Emergency. In the case of any emergency, the Company shall, upon request of the Town, make available its facilities to the Town for emergency use during the emergency period. (Ord. 89-02, S15B, May 11, 1989)

- (3) **Liability.** The Town shall not be liable for any damage occurring to the property of the Company caused by employees of the Town in the performance of their duties. The Town shall not be liable for the interruption of service by actions of Town employees in the performance of their duties, nor shall the Town be held liable for the failure of the Company to be able to perform normal services due to other factors beyond the control of the Town. (Ord. 89-02, S15C, May 11, 1989)
- (4) **No Property Right.** Nothing in this Ordinance shall grant to the Company any right of property in the Town owned property. (Ord. 89-02, S15D, May 11, 1989)
- (5) **Construction Approval by Town.** The Town shall have the right to inspect the construction, operation and maintenance of the cable television system by the Company. (Ord. 89-02, S15E, May 11, 1989)
- (6) **Correction of Defects.** In the event the Company should violate any of the terms of this regulatory Ordinance, the Town shall immediately give to the Company, sixty (60) day's written notice to correct such violation and in the event the Company does not make such correction within sixty (60) days from the receipt of such written notice, the Town may make such correction itself and charge the cost of same to the Company, and the Company shall pay such charges. (Ord. 89-02, S15F, May 11, 1989)

4.43.160 Publication Costs and Legal Fees. The Company shall assume the costs of the publication of the Ordinance if such publication is required by law. A bill for publication costs shall be presented to the Company and said publication costs shall be paid at that time by the Company. The Town shall assume the costs of the Town Attorney and associated town legal fees. (Ord. 89-02, S16, May 11, 1989)

4.43.170 Payments to the Town.

- (1) The Company shall, commencing one (1) year from the date of the first service, and during each year of operation, pay to the Town three percent (3%) of the annual gross subscriber revenues received by the Company for regular monthly cable television services rendered to customers located within the Town. At the time of this annual payment, the Company shall furnish to the Town a report showing the cable television systems annual gross subscriber revenue for the period that payment is being made. (Ord. 89-02, S17A, May 11, 1989)
- (2) All payments as required by the Company to the Town shall be made semi-annually and shall be due forty-five (45) days after the close of the six (6) month period. (Ord. 89-02, S17B, May 11, 1989)

4.43.180 Rates and Charges—Designated.

- (1) Except as otherwise provided the Company shall have the right, privilege and authority to charge the rates and charges fixed in this section to its subscribers for its services. (Ord. 89-02, S18A, May 11, 1989)
- (2) At system turn on, single-user rates and charges may be as follows:

Installation—Not to exceed \$25.00 per standard installation.

Basic Service Charge—Initial Outlet-Not to exceed \$12.00 monthly.

Basic Service Charge—Additional Outlets Each-Not to exceed \$4.00 monthly. (Ord. 89-02, S18B, May 11, 1989)
- (3) Multi-user rates and charges may be negotiated between the Company and the subscriber. (Ord. 89-02, S18C, May 11, 1989)
- (4) In addition to the specified monthly service rate, the Company may add to that rate, taxes and town fees imposed upon the Company's gross subscribers revenues or property by the town, county, state or federal governmental or legislative bodies and fees or charges imposed upon the Company for the use and distribution of copyrighted program material. (Ord. 89-02, S18D, May 11, 1989)
- (5) Company may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for promotional purposes. (Ord. 89-02, S18E, May 11, 1989)

4.43.190 Rates and Charges – Change.

- (1) For the purpose of this section, “basic monthly cable television service” is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provisions of program production services, tiered channels, per-channel or per-program charges to subscribers (“pay cable”), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the Town. (Ord. 89-02, S19A, May 11, 1989)
- (2) In consideration for the services rendered to the subscribers, Company may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion. The Company and the Town agree that rates charged to subscribers are no longer subject to regulation by

local government. The Federal Cable Communications Policy Act deregulated Cable Television. (Ord. 89-02, S19B, May 11, 1989)

4.43.200 Recordkeeping. The Company shall keep accurate and current maps, and plans of the system, and these items shall be made available to the Town. (Ord. 89-02, S20, May 11, 1989)

4.43.210 Service Procedures. During the term of this Ordinance, a toll-free telephone number shall be provided by the Company to receive complaints regarding quality of service, equipment malfunctions and similar matters. The office shall be open to receive inquiries or complaints from subscribers during normal business hours, Monday through Friday.

- (1) Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The Company shall keep a maintenance service log which will indicate the nature of each service complaint, and the date and time it was received. (Ord. 89-02, S21A, May 11, 1989)
- (2) The Company shall, by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the Company. (Ord. 89-02, S21B, May 11, 1989)
- (3) The equipment installed by the Company in the subscribers home shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non-payment or termination of the service. (Ord. 89-02, S21C, May 11, 1989)
- (4) In the event that any subscriber shall fail to meet his obligations for payment of CATV service and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny or disconnect CATV services to such subscriber. (Ord. 89-02, S21D, May 11, 1989)

4.43.220 Protection of Privacy.

- (1) The Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual, or digital signals without first obtaining permission of the subscriber. (Ord. 89-02, S22A, May 11, 1989)
- (2) It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the CATV

service without payment to the grantee for same. Such action shall be a simple misdemeanor. (Ord. 89-02, S22B, May 11, 1989)

4.43.230 Program Content Restrictions. In addition to providing basic cable television service consisting of broadcast and automated signals, the Company may offer subscribers optional services on a per-program or per-channel basis. However, the Company shall not display X-rated motion pictures either as part of its basic cable or pay cable services. (Ord. 89-02, S23, May 11, 1989)

4.43.240 Liability and Indemnification. The Company shall indemnify the Town, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this Ordinance. The Town shall notify the Company's representative within fifteen (15) days after the presentation of any claim or demand to the Town, either by suit, or otherwise, made against the Town on account of any negligence on the part of the Company.

- (1) Company shall carry Workmen's Compensation insurance with statutory limits, and Employer's Liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000.00), which shall cover all operations to be performed by the Company as a result of this Ordinance. (Ord. 89-02, S24A, May 11, 1989)
- (2) The amounts of insurance to be carried for liability due to property damage shall be One Hundred Thousand Dollars (\$100,000.00) as to any one occurrence and against liability due to injury or death of persons, One Hundred Thousand Dollars (\$100,000.00) as to any one person and Five Hundred Thousand Dollars (\$500,000.00) as to any one occurrence. (Ord. 89-02, S24B, May 11, 1989)
- (3) Company's Workmen's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance Company authorized to do business in the state. Company agrees to furnish Town with certificates of insurance of said policies. (Ord. 89-02, S24C, May 11, 1989)

4.43.250 Activities Prohibited.

- (1) The Company shall not allow its cable or other operations to interfere with television reception of others or the operation of the various utilities serving the Town residents. (Ord. 89-02, S25A, May 11, 1989)
- (2) A. No person whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the Company, or commit any act with intent to cause such damage, or to tap, tamper with, or otherwise connect any wire or device to a wire, cable, conduit,

equipment and apparatus, or appurtenances of the Company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the Company, or to obtain cable television or other communications service with intent to cheat or defraud the Company of any lawful charge to which it is entitled. (Ord. 89-02, S25B1, May 11, 1989)

- B. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) for each offense. Each day's violation of this section shall be considered a separate offense. (Ord. 89-02, S25B2, May 11, 1989)

4.43.260 Repealer. That all Ordinances in conflict herewith are hereby repealed. They are: NONE (Ord. 89-02, S26, May 11, 1989)

4.43.270 Severability Clause. If any section provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such part shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. (Ord. 89-02, S27, May 11, 1989)

4.43.280 When Effective. This Ordinance shall be in effect after its final passage, approval, publication, or posting as provided by law. Passed and adopted May 11, 1989. (Ord. 89-02, S28, May 11, 1989)