

CHAPTER 13

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

PART 1

TRANSIENT RETAIL BUSINESSES

- §13-101. Definitions
- §13-102. License Required
- §13-103. Application for License
- §13-104. License Fee
- §13-105. Penalty

PART 2

JUNKED OR ABANDONED VEHICLES

- §13-201. Definitions
- §13-202. Approval by Borough Secretary
- §13-203. Application for Permit
- §13-204. Issuance of Permit
- §13-205. Storage on Private Grounds
- §13-206. Penalty
- §13-207. Removal by Borough
- §13-208. Notice
- §13-209. Private Grounds
- §13-210. Duty of Owner
- §13-211. Records
- §13-212. Remedies

PART 3

COMMUNITY ANTENNA TELEVISION

- §13-301. Short Title
- §13-302. Policy
- §13-303. Definitions
- §13-304. Application for Franchise
- §13-305. Compliance with Applicable Laws and Ordinances
- §13-306. Liability; Indemnification

- §13-307. Service Standards
- §13-308. Company Rules
- §13-309. Condition on Street Occupancy
- §13-310. Preferential or Discriminatory Practices Prohibited
- §13-311. Extension Policy
- §13-312. Approval of Transfer
- §13-313. Borough Rights in Franchise
- §13-314. Rates
- §13-315. Payments to Borough by Franchisee
- §13-316. Term of Franchise
- §13-317. Publication Costs
- §13-318. Channels
- §13-319. Federal Communications Commission
- §13-320. Uniform Signals
- §13-321. Color Signals
- §13-322. Forfeiture
- §13-323. Insurance
- §13-324. Revocation of Franchise
- §13-325. Nonexclusive

PART 1

TRANSIENT RETAIL BUSINESSES

§13-101. Definitions.

PEDDLER - any person who shall engage in peddling as herein defined.

PEDDLING - engaging in peddling, canvassing, soliciting, hawking, vending, offering for sale from door to door or taking orders from door to door by sample or otherwise for any goods, wares or merchandise upon any of the streets and sidewalks or from house to house within the Borough of Port Royal. Provided, the word "peddling" shall not apply:

- A. To farmers selling their own produce.
- B. For the sale of goods, wares and merchandise donated by the owners thereof, the proceeds whereof are to be applied to any charitable or philanthropic purpose.
- C. To any manufacturer or producer in the sale of bread and bakery products, meat and meat products or milk and milk products.
- D. To children under the age of 18 years who take orders for and deliver newspapers, greeting cards, candy, bakery products and the like or who represent the Boy Scouts or Girl Scouts or similar organizations.
- E. To the seeking or taking of orders by insurance agents or brokers licensed under the insurance laws of the Commonwealth of Pennsylvania.
- F. To a person who has complied with the provision of the Solicitation of Funds for Charitable Purposes Act, 10 P.S. §162.1 *et seq.*, as hereafter amended, supplemented, modified or reenacted by the General Assembly of Pennsylvania.
- G. For taking of orders for merchandise, by sample, from dealers or merchants for individuals or companies who pay a license or business privilege tax at their chief place of business

But all persons exempted hereby from the payment of the license fee shall be required to register with the Secretary of the Borough Council and obtain a license without fee; provided, any person dealing in one or more of the above mentioned exempted categories and dealing with other goods, wares or merchandise not so exempted, shall be subject to the payment of the license fee fixed by this Section for his activities in connection with the sale of goods, wares and merchandise not in such exempted categories. Provided, further, the Secretary of Borough Council may similarly exempt from payment of the license fee, but not from registering with him,

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

person working without compensation and selling goods, wares or merchandise for the sole benefit of a nonprofit corporation. Provided, further, every license issued under the provisions of this Part shall be issued on an individual basis to any person or persons engaging in such business, every individual shall obtain a separate license, issued to him in his name, and the license fee hereby imposed shall be applicable to every such individual license, except that a representative of a charitable organization may obtain licenses for the applicants.

[A.O.]

PERSON - any natural person, association, partnership, firm, organization or corporation.

In this Part the singular shall include the plural and the masculine shall include the feminine and the neuter.

(Ord. 78, 7/26/1962, §1; as amended by A.O.)

§13-102. License Required.

No person shall engage in peddling in the Borough of Port Royal without first having taken out a license as herein provided.

(Ord. 78, 7/26/1962, §2)

§13-103. Application for License.

1. Every person desiring to engage in peddling in the Borough of Port Royal shall make application to the Secretary of the Borough Council for a license. If such person shall also be required to obtain a license from any County officer, he shall, on making such application, exhibit a valid County license. The said application shall be upon a blank provided by the Borough Council Secretary and shall contain at least the following information verified by oath or affirmation:
 - A. Full name of the applicant and local address, if any.
 - B. Permanent address.
 - C. Name of employer or a statement that such applicant is self-employed.
 - D. The nature of the goods, wares or merchandise offered for sale.
 - E. The type of vehicle used, if any.

2. Provided, where a person makes application for himself and one or more helpers, all applicable personal information specified above shall be given each helper and verified or affirmed by oath or affirmation by him and an individual license shall be required for each helper. No license under this Part shall be transferable from one person to another.

(Ord. 78, 7/26/1962, §3)

§13-104. License Fee.

No license shall be issued under this Part until a fee in an amount to be established, from time to time, by resolution of Borough Council shall be paid to the Borough Secretary or Mayor and it shall be for the use of the Borough. A separate application shall be filed and a separate permit fee shall be paid by each person who shall actually conduct the peddling and shall apply where the employer desires to secure licenses for his employees, agents or servants.

(Ord. 78, 7/26/1962, §4; as amended by A.O.)

§13-105. Penalty.

Any person, firm or corporation who shall violate any provision of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 78, 7/26/1962; as added by A.O.)

PART 2

JUNKED OR ABANDONED VEHICLES

§13-201. Definitions.

1. As used in this Part, the following terms shall have the meanings indicated, unless a different meaning clearly appears from the context:

FARM MACHINERY - all types of machinery and equipment which were originally manufactured for farm use, which are retained on farm properties, either as operable equipment or for the purpose of salvaging repair parts.

JUNK - any discarded or salvageable article or material including, but not limited to, scrap metal, paper, tags, glass, containers, scrap wood, motor vehicles, trailers, machinery and equipment, with the exceptions of farm machinery and mobile homes or house trailers which are occupied or are properly placed and planned for occupancy.

JUNK DEALER - any person who buys, sells, salvages, stores or in any way deals in junk or owns, leases, operates or maintains a junkyard within the Borough.

JUNKYARD - any place where junk is herein defined is stored or accumulated. Any premises as herein defined having two or more unlicensed motor vehicles and/or unlicensed trailers thereon shall be deemed to be a junkyard, except that the foregoing shall not apply to duly licensed automobile dealers having operable vehicles on their premises for resale. Such exception shall not apply to inoperable vehicles being stored primarily for salvage purposes.

MOTOR VEHICLE - all types of automobiles, trucks and tractors, including self-propelled machinery of all kinds with the exception of farm machinery.

PERSON - any natural person, partnership, firm, company, corporation or other legal entity.

PREMISES - any parcel of land situated in the Borough having a separate tax map parcel number for County assessment purposes.

SOLID WASTE - any waste including, but not limited to, municipal, residual or hazardous wastes, including solid, liquid, semisolid or contained gaseous material.

TRAILER - any wheeled vehicles not self-propelled, drawn by a motor vehicle.

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

2. In this Part, the singular shall include the plural, the plural shall include the singular and the masculine shall include the feminine and the neuter.

(Ord. 6/2/1999, §1)

§13-202. Approval by Borough Secretary.

No junked or abandoned vehicles shall be stored on any premises or property within the Borough of Port Royal unless the keeping or storage of the same has been approved by the Port Royal Borough Secretary. Evidence of a junked or abandoned vehicle may include, but not be limited to, the following physical defects:

- A. Broken windshields, mirrors or other glass, with sharp edges.
- B. One or more flat or open tires or tubes which could permit vermin harborage.
- C. Missing doors, windows, hood, trunk or other body parts which could permit animal harborage.
- D. Any body parts with sharp edges, including holes resulting from rust.
- E. Missing tires resulting in unsafe suspension of the motor vehicle.
- F. Upholstery which is torn or open which could permit animal and/or vermin harborage.
- G. Broken head-lamps or tail-lamps with sharp edges.
- H. Disassembled chassis parts apart from the motor vehicle stored in a disorderly fashion or loose in or on the vehicle.
- I. Protruding sharp objects from the chassis.
- J. Broken vehicle frame suspended from the ground in an unstable manner.
- K. Leaking or damaged oil pan or gas tank which could cause fire or explosion.
- L. Exposed battery containing acid.
- M. Inoperable locking mechanism for doors or trunk.
- N. Open or damaged floor boards, including trunk and fire-wall.
- O. Damaged bumpers pulled away from the perimeter of vehicle.
- P. Broken grill with protruding edges.

- Q. Loose or damaged metal trim and clips.
- R. Broken communication equipment antennae.
- S. Suspended on unstable support.
- T. Such other defects which could threaten the health, safety and welfare of the citizens of the Borough of Port Royal.

(Ord. 6/2/1999, §2)

§13-203. Application for Permit.

1. Any person desiring to store or to continue to store junked or abandoned vehicle(s) on premises or property within the Borough of Port Royal shall apply, in writing, to the Borough Secretary for a permit setting forth the location and description of the land on which said vehicle(s) is/are to be placed/stored, the vehicle(s) description, the manner of storage and the length of time and the purpose for the storage. A permit of restoration shall be valid for 180 days from date of issuance after which time period the permit of restoration shall automatically terminate.
2. In the event that a permit is requested for the storing of vehicle(s), such permit shall only be granted or renewed if the vehicle(s) is/are to be stored in a completely enclosed structure, screened or buffered or so designed so that the vehicle(s) within the structure, screen or buffer cannot be seen from the outside and the permit applicant has paid an annual per vehicle permit fee in an amount to be established, from time to time by resolution of Borough Council, to the Borough Secretary. [A.O.]

(Ord. 6/2/1999, §3; as amended by A.O.)

§13-204. Issuance of Permit.

1. If the Borough Secretary shall determine that the storage of vehicle(s) concerning which a permit is initially requested or annually requested to be renewed, does not or will not adversely affect the health, safety, general welfare, cleanliness and/or beauty of the Borough and does not or will not constitute a nuisance, the Secretary shall issue a written permit or renewal therefore, otherwise the Secretary shall refuse to issue said permit or renewal thereof stating the reason(s) for such initial refusal or annual renewal and give written notice thereof to the premises or property owner.
2. Any person aggrieved by the refusal of the Borough Secretary to initially issue a permit or annually renew same, may request and shall be granted a hearing before the Borough Council; provided, said person shall file with the Council, a written petition requesting a hearing and setting forth therein a brief statement of the

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

ground(s) therefore within 10 days after receiving notice that an initial permit or annual renewal thereof has been refused. The hearing shall commence not later than 35 days after the date on which the petition was filed unless postponed for sufficient cause. Pending the outcome of said hearing the provisions of §13-206 are suspended.

3. After such hearing, the Borough Council shall sustain, modify or overrule the action of the Borough Secretary.
4. Borough Council shall have authority, should conditions change under which a permit was initially issued or annually reviewed, to immediately revoke said permit subject to the hereinbefore set forth hearing procedure.

(Ord. 6/2/1999, §4)

§13-205. Storage on Private Grounds.

1. Any junked or abandoned vehicle(s) stored on private grounds without a permit issued by the Borough Secretary as herein required shall be removed by the owner or occupier of said grounds after written notice to do so is given by the Borough Secretary within 30 days and, in default, the Borough may cause the same to be done and collect the costs thereof together with a surcharge of 10% of such costs in the manner provided by law for the collection of municipal claims or by action in assumpsit or may seek relief by an action in equity.
2. Whenever any such person shall have been notified by the Borough Secretary of the Borough of Port Royal or by the Police Officer of the Borough of Port Royal or by prosecution or in any other manner of such violation each day thereafter that such violation shall continue shall constitute a separate violation hereof and may be punishable as such hereunder.

(Ord. 6/2/1999, §5)

§13-206. Penalty.

Any person, firm or corporation who shall violate any provision of this Part or aiding, abetting or assisting in the violation of this Part shall, upon conviction thereof, be sentenced to pay a fine of not more than \$100 for the first offense and not less than \$100 nor more than \$1,000 for each subsequent offense plus costs and, in default of payment of said fine and costs, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues or each Section of this Part which shall be found to have been violated shall constitute a separate offense.

(Ord. 6/2/1999, §6; as amended by A.O.)

§13-207. Removal by Borough.

If the owner or occupier of said grounds does not remove within 30 days from receipt of written notice any junked or abandoned vehicle(s) stored on private grounds without a permit issued by the Borough Secretary as herein required, any such junked or abandoned vehicle may be towed and stored at the owner's expense to a secure location designated by the Port Royal Borough Council.

(Ord. 6/22/1999, §7)

§13-208. Notice.

Within 24 hours after the junked or abandoned vehicle has been removed, the officer in charge or his agent shall forward notice to the owner of record of such abandoned motor vehicle by certified mail, return receipt requested, that the vehicle has been impounded, the place from which it was removed, the reason for its removal and impounding and the place where the vehicle has been impounded.

(Ord. 6/22/1999, §8)

§13-209. Private Grounds.

It shall unlawful for any person, owner or lessee of property to maintain or permit a junked or abandoned vehicle upon private grounds of such person, owner or lessee within the Borough of Port Royal contrary to the terms of this Part.

(Ord. 6/22/1999, §9)

§13-210. Duty of Owner.

Following the effective date of this Part, it shall be the duty of any owner of a junked or abandoned vehicle or the owner, lessee or occupant of the real property upon which there is a junked or abandoned vehicle, to remove or cause to be removed said vehicle within a reasonable time, but not more than 15 days after receipt of notice of such junked or abandoned vehicle.

(Ord. 6/22/1999, §10)

§

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

13-211. Records.

1. The Police Department shall keep a record of the following:
 - A. The names and addresses of all owners of vehicles impounded.
 - B. The names and addresses of all persons claiming such vehicles.
 - C. The license numbers and such information as may identify the vehicle.
 - D. The nature and circumstances of the impounding of the vehicle.
 - E. The violation of the law, ordinance on account of which the vehicle was impounded.
 - F. The final disposition of the case.
2. If a registered owner fails to claim the vehicle within 15 days of the date of removal thereof, the Police Department shall request an investigation by the Pennsylvania Department of Transportation pursuant to the provisions of the Vehicle Code.

(Ord. 6/22/1999, §11)

§13-212. Remedies.

The remedies provided herein for the enforcement of this Part or any remedy provided by law shall not be deemed mutually exclusive, rather all available remedies may be employed simultaneously or consecutively at the option of the Port Royal Borough Council.

(Ord. 6/22/1999, §12)

PART 3

COMMUNITY ANTENNA TELEVISION

§13-301. Short Title.

This Part shall be known as the "Borough Antenna Television Ordinance."

(Ord. 1976-2, 6/3/1976, §1)

§13-302. Policy.

It is hereby determined and declared as a matter of legislative finding:

- A. All residences, businesses and public buildings in the Borough may be provided with audio and television impulses and energy by one or more community antenna television companies.
- B. Subscribers for such services will be charged installation fees and monthly service fees.
- C. Such services will be transmitted by cable or wires and such cables or wires are suspended along streets and alleys and across other public lands and facilities owned by utility companies or on specially erected poles.
- D. The Borough has the right and duty, in the exercise of the police power, to regulate, inspect and supervise such facilities and the use of its streets, alleys and other public lands for such purposes.
- E. That substantial investments are required by such companies in order to provide such services by reason of which such companies are entitled to some protection of their investments by being granted franchises.
- F. By reason of the similarity of such companies to utility companies and the corresponding lack of competition among such companies the public welfare required regulation of rates charged for such installations and service.
- G. Although the Borough recognizes that the Supreme Court of the United States has held that the Federal Communications Commission has power to regulate certain affairs of such companies, neither the Pennsylvania Public Utility Commission nor any other governmental body, State, Federal or local has, with respect to such companies, been vested with or assumed power to regulate quality of service, installation of facilities or the rates for such installation and service.

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- H. The Borough should be compensated by such companies for performing its right and duty of regulation, inspecting and supervising such facilities and the use of its streets, alleys and other public lands.
- I. The public welfare would be better served by awarding nonexclusive franchises to such companies.

(Ord. 1976-2, 6/3/1976, §2)

§13-303. Definitions.

For the purposes of this Part, the following terms, phrases, words and their derivatives shall have the meaning given herein. The singular shall include the plural and the masculine shall include the feminine:

APPLICANT - a person who applies for a franchise hereunder.

AUDIO AND TELEVISION - a system for simultaneous reception and transmission of audio signals and transient visual images of the separate reception and transmission of either of them by means of electrical impulses.

BOROUGH - the Borough Council of the Borough of Port Royal.

BOROUGH SECRETARY - the Borough Secretary of the Borough of Port Royal.

COMMUNITY ANTENNA TELEVISION SYSTEM OR SYSTEM - a complex of antennas, wires, cables, poles, underground conduits, manholes, amplifiers and other audio and television conductors, fixtures and accessories necessary for the reception, transmission and distribution of audio and television impulses and energy.

COUNCIL - the Borough Council of the Borough of Port Royal.

FRANCHISE - privilege granted hereunder to establish, erect, maintain and operate community antenna television system in the Borough.

FRANCHISEE - a person to whom shall be granted hereunder privilege of establishing, erecting, maintaining and operating a community antenna television system.

HEREOF and HEREUNDER - shall refer to this Part and "hereafter" shall refer to time subsequent to the adoption of this Part.

PERSON - any person, firm, partnership, association, corporation, company or organization of any kind.

SHALL - that which is mandatory as distinguished from that which is merely directory or permissive.

(Ord. 1976-2, 6/3/1976, §3)

§13-304. Application for Franchise.

1. Any person who has heretofore established and erected an existing community antenna television system in Borough or who may at the time of the adoption hereof or hereafter, desire to establish and erect a community antenna television system in television shall make application for franchise hereunder and proceedings upon such application shall be as follows:
 - A. Application shall be in writing and shall utilize such forms therefor as may, from time to time, be drafted by Borough Secretary and approved by Council for such purpose.
 - B. Current financial statement and balance sheet, both certified by a certified public accountant, shall accompany application.
 - C. Drawing of existing system, proposed alterations thereto or proposed system shall accompany application.
 - D. Schedule for establishment and erection of system and alterations thereto and completion thereof shall accompany application.
 - E. Schedule of proposed fees for installation, relocation of installations within buildings and from building to building, reconnections and receiver extensions and proposed rates for service shall accompany application.
 - F. Intent to file application shall be advertised by applicant on 3 consecutive weeks in a newspaper of general circulation published in Juniata County, the first of which shall be published at least 7 days before filing. Such notice shall state the name and address of applicant and time and place of filing. Proof of application shall accompany the application.
 - G. Application shall be filed with the Borough Secretary or at meeting of the Council.

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- H. Council may require such additional schedules, statements, drawings or information as may be reasonably required to fully appraise Council of fitness of applicant for franchise, feasibility of existing system, proposed alterations thereto or proposed system, scope and quality of proposed service or fairness of proposed charges and rates.
- I. If Council concludes that the public welfare would be promoted by awarding a franchise to applicant, then Council shall, by resolution so certify and award franchise pursuant thereto, only after complying with the public hearing requirements as set forth in applicable Federal Communications Commission regulations and/or applicable Pennsylvania Public Utility Commission regulations and privilege to establish, erect, maintain and operate such wires, cables, poles, underground conduits, manholes, amplifiers and other audio and television conductors, fixtures and accessories in, under, over, along, across and under the roads, streets, lanes, avenues, sidewalks, alleys, bridges and other public places in Borough and subsequent additions thereto for the purpose of reception, transmission and distribution of audio and television impulses and energy and in general to establish, erect, operate and maintain a community antenna television system. No such poles or other equipment shall be installed or the installation thereof commenced until the location of such poles and other equipment shall have been set forth upon a drawing plot or map showing such public ways or places whereon such installations are proposed and submitted to the Borough Secretary and approved by Council. All such wires, cables and other equipment shall be attached to poles of utility companies unless the consent of Council shall have been first had and obtained to the erection of additional poles; provided, however, that it shall be incumbent upon franchisee to obtain permission from such utility companies for the use of poles of such utility companies either solely or in conjunction with other users thereof.
2. Franchisee shall promptly, upon being awarded a franchise, procure and maintain in effect a cash or surety company bond in the sum of \$10,000 conditioned for the faithful compliance by franchisee with the terms and provision of this Part, its franchise and other resolutions, ordinances, rules and regulations adopted pursuant hereto.

(Ord. 1976-2, 6/3/1976, §4)

§13-305. Compliance with Applicable Laws and Ordinances.

Franchisee shall at all times during the term of its franchise be subject to all lawful exercise of the police power by Borough and to such reasonable regulation as Council or Borough Secretary, with approval of Council, shall hereafter by resolution, regulation or ordinance shall abrogate its franchise and; provided, further, that Borough shall give to franchisee written notice of the contents of any such proposed resolution, regulation or ordinance (which may in any manner adversely effect the operation of franchisee's system)

at least 1 month prior to the date on which final action will be taken on such resolution, regulation or ordinance and shall give to franchisee an opportunity to be heard prior to final action thereon.

(Ord. 1976-2, 6/3/1976, §6)

§13-306. Liability; Indemnification.

Franchisee shall hold Borough harmless from all loss sustained by Borough on account of any suit, judgment, claim or demand whatsoever resulting from or arising out of franchisee's establishment, erection, operation or maintenance of its system in Borough. Borough shall notify franchisee's representative in Borough within 10 days after the presentation of any such claim or demand, either by suit or otherwise made against Borough.

(Ord. 1976-2, 6/3/1976, §7)

§13-307. Service Standards.

1. Franchisee shall maintain and operate its system and render efficient service in accordance with subsequent resolutions and ordinances of Council, rules and regulations as are, or may be, adopted or promulgated by Council, as provided in §13-313(1) of this Part or by the Federal Communications Commission, Pennsylvania Public Utility Commission or other governmental body having jurisdiction in the premises.
2. **Notice of Interruption for Repairs.** Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, Franchisee shall do so at such time as will cause the least inconvenience to its customers and unless such interruption is unforeseen and immediately necessary, it shall give reasonable notice thereof to its customers.

(Ord. 1976-2, 6/3/1976, §8)

§13-308. Company Rules.

Franchisee shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable it to exercise its rights and perform its obligations under its franchise and to assure an uninterrupted service to each and all of its customers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with this Part, other resolutions

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

or ordinances of Borough now in force or hereafter adopted, rules or regulations adopted, promulgated by Council pursuant to the Part or laws of the Commonwealth of Pennsylvania and; provided, further, that the same shall be subject to approval by Council or the Pennsylvania Public Utility Commission or the Federal Communication Commission.

(Ord. 1976-2, 6/3/1976, §9)

§13-309. Condition on Street Occupancy.

1. **Use.** All reception, transmission and distribution equipment erected by franchisee within Borough shall be so located as to cause minimum interference with the proper use of such public ways and places and to cause minimum interference with the rights, safety or reasonable convenience of the public and property owners who adjoin any of such public ways and places.
2. **Restoration.** In case of any disturbance of pavement, sidewalk, driveway or other surfacing, franchisee shall, at its own cost and expense and in a manner approved by Borough Secretary, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed in as good condition as before said work was commenced and shall maintain the restoration in an approved condition for a period of 3 years.
3. **Relocation.** In the event that at any time during the period of any franchise, Borough shall lawfully elect to alter or change the grade of any such public way or place, franchisee, upon reasonable notice by Borough, shall remove, relay and relocate its equipment at its own expense.
4. **Placement of Fixtures.** Franchisee shall not place poles or other fixtures where the same will interfere with any gas, electric or telephone fixture, 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 curblin and those placed in alleys shall be placed close to the line of the lot abutting on such alley and then in such a manner as not to interfere with the usual travel on such streets, alleys and public ways.
5. **Temporary Removal of Wire for Building Moving.** Franchisee shall, on request of any person holding a building moving permit issued by the Borough and/or Juniata County, 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 franchisee shall have the authority to require such payment in advance. Franchisee shall be given not less than 48 hours advance notice to arrange for such temporary wire changes.

6. **Tree Trimming.** Franchisee shall have the authority to trim trees upon and overhanging such public ways and places of Borough so as to prevent the branches of such trees from coming in contact with the equipment of franchisee, all trimming to be done under the supervision and direction of Borough and at the expense of franchisee, which shall reimburse Borough for salary of the supervisor so provided.
7. **Installation Standards Establishment.** Erection, maintenance and operation of the system, including house connections shall be in accordance with the provisions of the National Electrical Code of the National Board of Fire Underwriters and such applicable resolutions, ordinances, rules and regulations of Borough affecting electrical installations which may be presently in effect or may hereafter be adopted or promulgated by Council. Installation and house drop hardware utilized by franchisee shall be in accordance with the sound engineering practice generally prevalent in the industry.
8. **Openings and Obstructions.** Any opening or obstruction in such public ways or places made by franchisee in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fences or boardings, the bounds of which during periods of dusk and darkness shall be clearly designated by red warning lights.

(Ord. 1976-2, 6/3/1976, §10)

§13-310. Preferential or Discriminatory Practices Prohibited.

Franchisee shall not, as to rates, charges, service facilities, rules, regulations or in any other respect, make or grant any preference or advantage to any person nor subject any person to any prejudice or disadvantage; provided, however, that nothing in any franchise shall be deemed to prohibit the establishment of a graduated scale of charges and classified rate schedules to which any customer coming within such classification would be entitled.

(Ord. 1976-2, 6/3/1976, §11)

§13-311. Extension Policy.

Franchisee shall file with Borough Secretary its extension policy as filed with and approved by Council and franchisee shall not make or refuse to make any extension as permitted by this Part.

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

- A. **Publication.** Upon acceptance of its franchise, franchisee, at its own expense, shall cause to have published in a newspaper of general circulation in Juniata County its extension policy as filed with and approved by Council and shall annually send to each of its customers living within the corporate limits of the Borough a copy of such extension policy.

(Ord. 1976-2, 6/3/1976, §12)

§13-312. Approval of Transfer.

Franchisee shall not sell or transfer its system to another nor transfer any rights under its franchise to another without Council's approval; provided, however, that no sale or transfer shall be effective until the vendee, assignee or lessee shall have filed in the office of Borough Secretary an instrument, duly executed, reciting the fact of such sale, assignment of lease, accepting the term of this Part and all other resolutions, ordinances, rules and regulations affecting its franchise and agreeing to perform all the conditions thereof.

(Ord. 1976-2, 6/3/1976, §13)

§13-313. Borough Rights in Franchise.

1. **Borough Rules.** The right is hereby reserved to Council to adopt or promulgate, in addition to the provisions herein contained and in existing applicable resolutions or ordinances, such additional rules or regulation as it shall find necessary in the exercise of the police power; provided, however, that such rules and regulations, by resolution, ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted and shall not be in conflict with the laws of the Commonwealth of Pennsylvania or of the United States or of any rules or regulations adopted or promulgated by any instrumentality of either.
2. **Use of System by Borough.** Borough shall have the right, without charge, where aerial construction exists of maintaining upon the pole fixtures necessary for a police municipal line and fire alarm or other communication systems, such as wires and fixtures to be constructed and maintained to the satisfaction of franchisee and in accordance with its specifications.
 - A. Borough shall have the right to install upon the antennas of any franchisee the necessary equipment for the reception and transmission of radio signals in connection with the operation of police, fire, public works or other municipal radio systems. Further, franchisee grants to Borough, without charge or remuneration, the right to install within a structure erected by franchisee and

with free access thereto any equipment necessary to maintain said radio system. Franchisee shall so construct any structure so that there will be sufficient space for Borough to install its radio equipment should it so elect. However, the rights granted to Borough under this Section are subject to the condition that no harmful interference to the normal rendition of C.A.T.V. service by franchisee shall be caused by the exercise thereof.

- B. Borough shall be solely responsible for all damage to persons or property arising out of the construction or maintenance of said wires and fixtures authorized by this Section and shall save franchisee harmless from all claims and demands whatsoever arising out of the attachment, maintenance, change or removal of such wires and fixtures to the poles of franchisee. In case of rearrangement of franchisee's plant or removal of poles or fixtures, Borough shall save harmless from any damage to persons or property arising out of the removal or construction of its wires or other fixtures.
3. **Supervision and Inspection.** Borough shall have the right to supervise all construction or installation work performed subject to the provisions of this Part and to make such inspections as it shall find necessary to ensure compliance with applicable resolutions, ordinances, rules and regulations heretofore or hereafter adopted.
4. **Procedure After Termination or Revocation.** Upon the revocation of any franchise by Council or at the end of the term of any franchise, Borough shall have the right to determine whether franchisee shall continue to operate and maintain its distribution system pending the decision of Borough as to future maintenance and operation of such system.

(Ord. 1976-2, 6/3/1976, §14)

§13-314. Rates.

1. All fees for installations and rates for service charged by each franchisee shall be fair, just, reasonable and uniform and in accordance with the schedule of fees and rates submitted by it in its application for franchise. Changes of fees or rates by any franchisee may be made only in accordance with the following subsection.
2. Franchisee shall notify Borough, in writing, by registered mail of the proposed changes and shall submit therewith its proposed amended schedule. Within 21 days of receipt of such registered mail notice, Borough shall arrange a meeting between franchisee and Council to discuss the proposed changes. If Council shall not approve the changes proposed by franchisee within 15 days after such meeting, then the matter shall be submitted to arbitration in accordance with the rules then pertaining to the American Arbitration Association. The Board of Arbitrators shall consist of five persons, two of whom shall be selected by Borough, two of whom shall be selected by franchisee and one of whom shall be selected by the four arbitrators

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

theretofore selected as aforesaid. If either party shall fail to appoint two arbitrators within 10 days following notice to do so, then the Court of Common Pleas of the 41st Judicial District of Pennsylvania, Juniata County Branch shall appoint arbitrators for the party failing to appoint. If four arbitrators shall fail to appoint the fifth arbitrator within five days after the appointment of the fourth arbitrator, then the Court of Common Pleas shall make such appointment. Such Board of Arbitrators shall render a decision for or against the changes within 15 days from the date of appointment of the fifth arbitrator. Any decision made by such Board of Arbitrators shall be by majority vote and in writing and copies thereof duly authenticated shall be delivered on the day such decision shall be rendered to franchisee and Borough and shall be binding upon all parties concerned.

(*Ord. 1976-2, 6/3/1976, §15*)

§13-315. Payments to Borough by Franchisee.

Each franchisee shall annually pay to Borough the following:

- A. Two percent of its gross receipts after 1977, from subscribers within Borough for the privilege of receiving any audio or television signals or other electronic impulses of any nature or \$3,000 per annum, whichever shall be smaller. [*Ord. 2/3/1977B*]
- B. If its fiscal year does not begin on January 1, 1977, then it shall pay such percentage of such gross receipts between 1977 and the beginning of its fiscal year or a proportionate part of aforesaid annual minimum sum, whichever shall be greater. Thereafter, such payments shall be based upon its fiscal year and all such payments shall be made within 2 months from expiration of its fiscal year. If termination of its franchise does not correspond with termination of its fiscal year then, for such part of year, it shall pay, within 2 months from termination of its franchise. Such percentage of such gross receipts subsequent to the end of its last fiscal year or a proportionate part of aforesaid annual minimum sum, whichever shall be greater.
- C. At the time it makes payment of the sums payable to Borough under foregoing provisions of this Section, it shall submit report to Borough setting forth, for the period for which payment shall be made, the total number of subscribers within Borough, the rates charged each subscriber and such gross receipts. Borough through its duly authorized officers, employees or agents shall, at reasonable times during normal business hours, have the right to inspect and examine, if necessary, audit the books and records of franchisee relating to the information to be included in the reports; provided, that unless Borough alleges a breach of the provisions of this Part, any inspection, examination or audit shall not be more often than once a year. If Borough alleges a breach of the provision of this Part, it shall, at reasonable times when necessary, have access to and the right to inspect, examine and audit the books and records of

franchisee relating to the information to be included in the reports to determine whether a breach of the provisions of this Part shall have occurred. All information obtained by Borough as a result of the inspection, examination and auditing of franchisee's books and records shall be confidential and shall not be disclosed by Borough or any of its officers, employees or agents, except in a legal proceeding to which Borough may be a party involving this Part or upon the appropriate order of a court, agency or administrative body of competent jurisdiction.

(Ord. 1976-2, 6/3/1976, §16; as amended by Ord. 2/3/1977B)

§13-316. Term of Franchise.

Any franchise awarded pursuant to this Part shall take effect and be in force for a term of 15 years from January 1, 1977; provided, that construction shall have been completed and service shall have been commenced within 12 months after awarding of franchise. If construction shall not have been completed and service shall not have been commenced within said period, such franchises shall be null and void.

(Ord. 1976-2, 6/3/1976, §17)

§13-317. Publication Costs.

The cost of publication of this Part, as such publication is required by law, shall be borne by applicants to which franchises shall be awarded hereunder within 1 year from the effective date hereof.

(Ord. 1976-2, 6/3/1976, §18)

§13-318. Channels.

Franchise shall provide as many channels as shall be legally and technically feasible, from time to time. Without prior consent of Council, franchisee shall not enter or partially remove from its system the signals of any television stations now being distributed in Borough; provided, however, that prior written consent of Council to entirely or partially remove the signals of any television stations now being distributed shall not be required if the entire or partial removal shall be for a period of not more than 2 months or if the signals are being received by microwave or if franchisee shall be notified, in writing, to entirely or partially remove the television station by any other television station authorized by applicable rules and regulations of the Federal Communications Commission

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

to request the entire or partial removal. All of the provisions of this Section shall be subject to all applicable rules and regulations of the Federal Communications Commission, other applicable rules and regulations and any circumstances over which franchisee shall have no control.

(Ord. 1976-2, 6/3/1976, §19)

§13-319. Federal Communications Commission.

Franchisee's distribution system shall conform to the requirements of the Federal Communications Commission, particularly with respect to freedom from spurious radiation.

(Ord. 1976-2, 6/3/1976, §20)

§13-320. Uniform Signals.

The antenna, receiving and distribution equipment shall be installed and maintained so as to provide pictures on subscriber receivers throughout the system, essentially of the same quality as those received at the antenna site.

(Ord. 1976-2, 6/3/1976, §21)

§13-321. Color Signals.

Installation and maintenance of equipment shall be such that standard NTSC color signals shall be transmitted with full fidelity to any subscriber color receiver.

(Ord. 1976-2, 6/3/1976, §22)

§13-322. Forfeiture.

1. In the event of the failure of franchisee to render community antenna television service to the Borough as contemplated and provide for by this Part, Borough shall have the right, pursuant to the provision of §13-324 hereof, to declare its franchise and the rights granted thereunder forfeited; provided, however, that failure to render such service by reason of causes beyond the reasonable control of franchisee, which could not be anticipated at the time of its acceptance of its franchise, shall not be sufficient grounds to declare a forfeiture.

2. Upon the termination of its franchise, franchisee shall remove its equipment from such public ways and places in Borough and shall restore such public ways and places to their original conditions.

(Ord. 1976-2, 6/3/1976, §23)

§13-323. Insurance.

1. Franchisee shall carry insurance in such form and in such companies and shall furnish to Borough such certificates of insurance as shall be approved or required by the Solicitor of Borough to protect Borough and itself from and against any and all claims for injury or damages to persons or property, both real and personal, caused by the establishment, erection, operation or maintenance of its system and the amount of such insurance against liability due to damage to property shall not be less than \$100,000 as to any one person and \$200,000 as to any one occurrence and against liability due to injury or death of persons, \$100,000 as to any one person and \$300,000 as to any one occurrence.
2. Franchisee, upon receipt of due notice, in writing, from Borough shall defend at its own expense any action or proceedings against Borough in which it is claimed that the injury or damage arose from the maintenance of franchisee's system and from against all claims against Borough arising out of the awarding of a franchise pursuant to this Part.

(Ord. 1976-2, 6/3/1976, §24)

§13-324. Revocation of Franchise.

If Borough shall contend that franchisee shall have failed to comply with any material provision of this Part, its franchise or any resolution, regulation, ordinance or rule adopted pursuant hereto or shall have by act or omission, materially violated any provision of any of foregoing, Borough shall give to franchisee shall, thereafter, have a period of 1 month following receipt of the written notice to remedy the alleged breach. If the alleged breach which shall be subject of the written notice, shall be one which shall require more than 1 month to remedy, franchisee shall be deemed to have complied with the provisions of this Section if action to remedy the alleged breach shall have been commenced within 1 month following receipt of the written notice and shall be prosecuted by franchisee with all possible diligence. If franchisee shall not have remedied the alleged breach or commenced action to remedy the alleged breach within 1 month following receipt of the written notice, or if the action to remedy the alleged breach shall have been commenced but shall not be

LICENSES, PERMITS AND GENERAL BUSINESS REGULATIONS

prosecuted with all possible diligence, Borough after public hearing, written notice of the time and place of which shall be given to franchisee, shall have the authority to declare null and void the right, privilege and franchise granted by this Part and also the authority to pursue such other legal or equitable remedies as Borough shall determine. In all cases involving termination of this Part, franchisee shall be afforded all due process of law.

(Ord. 1976-2, 6/3/1976, §25)

§13-325. Nonexclusive.

This Part does not contemplate the awarding of an exclusive franchise.

(Ord. 1976-2, 6/3/1976, §26)