

TITLE XI: BUSINESS REGULATIONS

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CHAPTER 110: TAXICABS

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GENERAL PROVISIONS

' 110.01 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CERTIFICATE. A certificate of public convenience and necessity.

OWNER. Any person owning or operating 1 or more taxicabs.

TAXICAB. A passenger motor vehicle, plying for hire, for which public patronage is solicited and which is so designed as to seat comfortably not more than 7 persons.
(1989 Code, ' 16-26)

' 110.02 PROOF OF FINANCIAL RESPONSIBILITY.

(A) No person shall engage in the business of operating a taxicab within the town unless he or she first files with the Town Clerk proof of financial responsibility. As used in this section, **PROOF OF FINANCIAL RESPONSIBILITY** shall mean a certificate of any insurance carrier duly authorized to do business in the state certifying that there is in effect a policy of liability insurance insuring the owner and operator of the taxicab business, his or her agents and employees while in the performance of their duties against loss from any liability imposed by law for damages, including damages for care and loss of service because of bodily injury to or destruction of property caused by accident arising out of the ownership, use or operation of the taxicab or taxicabs, at least subject to limits, exclusive of interest and costs, with respect to each motor vehicle as may be required of any motor vehicle being operated in the state.

(B) The certificate shall also certify that the policy provides that before the insurance policy may be cancelled, 10 days notice shall be given to the Town Clerk by the insurance carrier prior to the date of the cancellation.

(1989 Code, ' 16-27) Penalty, see ' 10.99

Statutory reference:

Financial responsibility, see G.S. ' 20-280

' 110.03 PASSENGER DOORS.

No motor vehicle shall be operated upon the streets of the town as a taxicab unless the motor vehicle is equipped with at least 2 doors for passengers to enter and leave the car, exclusive of the doors serving the driver or front seat.

(1989 Code, ' 16-28) Penalty, see ' 10.99

' 110.04 SCHEDULE OF FARES.

The schedule of fares adopted by every taxicab operated within the town shall be plainly displayed by means of a printed card of a size and type face approved by the Mayor. The schedule shall be kept current at all times and shall be posted within the passenger compartment of each vehicle. A copy of the current schedule shall also be filed with the Town Clerk.

(1989 Code, ' 16-29) Penalty, see ' 10.99

' 110.05 PREPAYMENT OF FARE.

Every driver of a taxicab shall have the right to demand payment of the legal fare in advance and may refuse employment unless so prepaid.

(1989 Code, ' 16-30) Penalty, see ' 10.99

' 110.06 REFUSAL TO CARRY ORDERLY PERSON.

No driver of a taxicab shall refuse or neglect to convey any orderly person, upon request, anywhere in the town unless previously engaged or unable to do so, or unless the driver is refused prepayment as provided in ' 110.05.

(1989 Code, ' 16-31) Penalty, see ' 10.99

' 110.07 CARRYING ADDITIONAL PASSENGERS.

No driver of a taxicab shall carry any person other than the passenger first employing the taxicab, without the consent of the passenger.

(1989 Code, ' 16-32) Penalty, see ' 10.99

' 110.08 HEADQUARTERS REQUIRED.

No person shall operate, or cause to be operated, any taxicab upon the streets of the town unless the person has some central or established headquarters or place of business where calls can be received.

(1989 Code, ' 16-33) Penalty, see ' 10.99

' 110.09 DISPLAY OF INFORMATION ON OUTSIDE OF VEHICLE.

Every taxicab operating upon the streets of the town shall have the name of the owner thereof and, at his or her option, his or her address and telephone number, painted in letters at least 2 inches in height upon each side of the main portion of the body in a manner as to be plainly visible at all times.

(1989 Code, ' 16-34) Penalty, see ' 10.99

' 110.10 DISPLAY OF DRIVER'S IDENTIFICATION IN TAXICAB.

No taxicab shall operate upon the streets of the town unless a photograph of the driver of the vehicle is plainly displayed inside the taxicab and the photograph shall be accompanied by a statement indicating the driver's name, address, weight and height.

(1989 Code, ' 16-35) Penalty, see ' 10.99

CERTIFICATES OF CONVENIENCE AND NECESSITY**' 110.25 REQUIRED.**

No person shall engage in the business of operating taxicabs upon and over the streets of the town without first having secured from the Board of Aldermen a certificate of public convenience and necessity for the operation in accordance with the provisions of this subchapter.

(1989 Code, ' 16-51) Penalty, see ' 10.99

' 110.26 CONSTITUTES FRANCHISE.

A certificate of public convenience and necessity issued under the provisions of this subchapter shall constitute a franchise from the town for the operation of taxicabs within the town, subject to the provisions of this chapter and other ordinances of the town regulating the operation of taxicabs.

(1989 Code, ' 16-52) Penalty, see ' 10.99

' 110.27 APPLICATION.

Any person desiring a certificate by the provisions of this chapter shall file an application therefor with the Town Clerk. The application shall set forth the information as may be of assistance to the Board of Aldermen in determining whether the public convenience and necessity require the issuance of the certificate for which the application is filed.

(1989 Code, ' 16-53)

' 110.28 HEARINGS UPON APPLICATION; NOTICE.

Each application filed for a certificate required by the provisions of this chapter shall be scheduled for a hearing not later than 40 days after the same is filed, and the applicant shall be notified by the Town Clerk by mail to the business address set forth in the application of the date and time of the

hearing, the notification to be sent at least 10 days before the date set for the hearing. The Town Clerk shall also, within the same time, notify all persons, who at that time hold certificates for the operation of taxicabs within the town, of the date and time of the hearing and the name of the applicant. In addition, the Town Clerk shall cause to be published at least once in a newspaper of general circulation at least 10 days before the hearing, a notice setting forth the name of the applicant and the date and time of the hearing. The cost of the publication to be paid for by the applicant.
(1989 Code, ' 16-54)

' 110.29 INVESTIGATION.

Before the hearing to be held upon an application for a certificate as provided in this subchapter, the Board of Aldermen, or a committee thereof, shall make a full and complete investigation of all facts relative to the situation and may, if it so desires, subpoena witnesses and utilize the services of the town's law enforcement personnel or any other officer or employee of the town.
(1989 Code, ' 16-55)

' 110.30 FACTORS CONSIDERED.

In determining, upon a hearing and investigation, whether the public convenience and necessity require the issuance of a certificate, the Board of Aldermen shall, among other things, take into consideration the following factors:

(A) Whether or not the public convenience and necessity require the proposed or additional taxicab service within the town;

(B) The financial responsibility of the applicant and the likelihood of the proposed services being permanent, responsible and satisfactory;

(C) The number and condition of vehicles;

(D) The schedule of rates proposed to be charged;

(E) The number of taxicabs operated at the time of the determination and the demand for increased service, if any, and whether or not the safe use of the streets by the public, both vehicular and pedestrian, will be preserved, and whether or not adequate provisions have been made for off-street parking of the taxicabs;

(F) The experience of applicant in the taxicab business; and

(G) Other relative facts as may be deemed necessary and advisable.
(1989 Code, ' 16-56)

' 110.31 BURDEN OF PROOF AT HEARING.

At a hearing, as provided in this section, the burden of proof shall be upon the applicant to establish the existence of public convenience and necessity for the operation of the taxicab or taxicabs specified in his or her application and all other facts required for the granting of a certificate.
(1989 Code, ' 16-57)

' 110.32 INSPECTION OF VEHICLES.

After the filing of an application for a certificate required by the provisions of this subchapter, the owner of the vehicle in question shall submit and present the vehicle to the town's Police Chief or his or her designated assistant, at a place and time to be fixed by the officer or his or her designated agent, for an examination and inspection of the brakes, lights, horn and all other safety features of the vehicle. The Police Chief or his or her designated agent shall report the results of the inspection to the Board of Aldermen for consideration in connection with the factors enumerated in ' 110.30.
(1989 Code, ' 16-58)

' 110.33 ORDER FOR ISSUANCE; DENIAL.

The Board of Aldermen shall have the power and it shall be its duty to order certain certificates issued or to refuse to issue certain certificates or to issue certificates for a partial exercise only of the privileges sought and may attach to the exercise of the rights granted by the certificates the terms and conditions as in their judgment the public convenience and necessity may require.
(1989 Code, ' 16-59)

' 110.34 TERM; REISSUANCE.

A certificate issued under the provisions of this subchapter shall expire on December 31 of each year, unless a shorter period of time is specified in the certificate. Each certificate shall be reissued by the Town Clerk during the month of December of each year without application therefor unless previously revoked.
(1989 Code, ' 16-60)

' 110.35 EFFECT OF FAILURE TO BEGIN OPERATIONS.

If a certificate is issued to an applicant under this subchapter, and the applicant shall fail, in accordance with the provisions of the certificate, to begin operations within 60 days after the date of the certificate, then the certificate shall become null and void.
(1989 Code, ' 16-61)

' 110.36 PROCEEDINGS AS TO TRANSFER.

A certificate issued under this subchapter shall not be transferable without the consent of the Board of Aldermen. Application for a transfer shall be filed in the same manner as an application for a certificate. The proceedings upon the application for a transfer shall be the same as those described for the issuance of a certificate, except that the question of public convenience and necessity need not be proved.

(1989 Code, ' 16-62)

' 110.37 REVOCATION.

(A) *Grounds.* The Board of Aldermen may at any time after a public hearing revoke any certificate issued under this subchapter for any of the following cases:

(1) Failure to operate the taxicabs specified in the certificate in a manner as to serve the public adequately and efficiently;

(2) Failure to maintain motor equipment in good repair;

(3) Failure to pay the town taxes or license fees imposed upon taxicabs;

(4) Failure to carry liability insurance or bond as required by this chapter;

(5) Repeated and persistent violation by the taxicab drivers employed by the holder of the certificate in question of traffic and safety ordinances or state laws relating to alcoholic beverages or prostitution;

(6) Failure to report accidents;

(7) Willful failure to comply with any provisions of this chapter or other ordinances or state laws relating to the operation of taxicabs; or

(8) The abandonment of the use of a certificate for a period of 90 consecutive days; provided, the Board of Aldermen may, in its discretion, renew the certificate for an additional 90 days upon written application by the owner filed prior to the 90-day expiration date.

(B) *Notice; hearing; action.* No certificate shall be revoked until the owner has had at least 5-days= notice by personal service or certified mail of the charges against him or her, and of the time and place of the hearing. If, after the hearing, it is found that the owner is guilty of 1 or more of the offenses listed in this section, the Board of Aldermen shall have the power to revoke the certificate, or to condition a revocation upon noncompliance with its order within any time fixed by it.

(1989 Code, ' 16-63)

' 110.38 SUBSTITUTION OF VEHICLES.

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The person to whom a certificate has been issued under this subchapter may, by appropriate endorsement thereon by the Town Clerk, substitute another vehicle or other vehicles for the vehicle or vehicles for which certificate is granted. In these instances, the liability insurance or bonds shall also be transferred to the substitute vehicle or vehicles.

(1989 Code, ' 16-64)

CHAPTER 111: LICENSES

Section

General Provisions

- 111.01 Payment required; posting
- 111.02 Applications; issuance
- 111.03 License year
- 111.04 Separate businesses
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- 111.06 Change of location or ownership
- 111.07 Discontinuance of business
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- 111.20 License tax schedule

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GENERAL PROVISIONS

' 111.01 PAYMENT REQUIRED; POSTING.

No person shall engage in any trade, vocation, calling or business in the town for which a license or privilege tax is required without paying the tax. The license shall be posted in a public and conspicuous place in the place of business.

(1989 Code, ' 10-1) Penalty, see ' 111.99

' 111.02 APPLICATIONS; ISSUANCE.

(A) Any person desiring to engage in any trade, profession or business, taxed by the laws of the town, except as are otherwise provided, shall make application to the tax collector, stating the trade, profession or business and the place where he or she proposes to conduct the business.

(B) On payment of the required tax, the person shall receive a license to conduct the trade, profession or business.

(1989 Code, ' 10-2) Penalty, see ' 111.99

' 111.03 LICENSE YEAR.

(A) All privilege licenses granted under the provisions of this chapter, with the exception of beer and wine, shall take effect on July 1 of each year and shall expire at 12:00 a.m. on the last day of June of the year following.

(B) Beer and wine privilege licenses shall take effect on May 1 of each year and expire at 12:00 a.m. on the last day of April of the year following.

(1989 Code, ' 10-3) Penalty, see ' 111.99

' 111.04 SEPARATE BUSINESSES.

The payment of any particular tax imposed by this chapter shall not relieve the person paying the tax from the payment of any other tax imposed by this chapter for any other business he or she may carry on, unless so provided by the section imposing the tax, it being the intent of this chapter that license taxes prescribed by the various sections applicable to any business shall be cumulative except where otherwise specifically provided.

(1989 Code, ' 10-4) Penalty, see ' 111.99

' 111.05 SEPARATE PLACES OF BUSINESS.

(A) A license issued for the privilege of conducting a business is only valid for the business conducted at the place and by the licensee named therein.

(B) Every person doing business in more than 1 factory, mill, warehouse, store, stall or stand or other place of business, unless the places of business are contiguous to each other, communicate directly with and open into each other and are operated as a unit shall obtain a separate license for each place of business.

(1989 Code, ' 10-5) Penalty, see ' 111.99

' 111.06 CHANGE OF LOCATION OR OWNERSHIP.

If a business is moved or if the licensee sells to another, a new license shall become necessary, unless a special permit to continue business under the original license is obtained from the Board of Aldermen.

(1989 Code, ' 10-6) Penalty, see ' 111.99

' 111.07 DISCONTINUANCE OF BUSINESS.

No license tax shall be abated nor shall any refund of any part thereof be made in any case where the licensee discontinues his or her business before the end of the period for which the license was issued.

(1989 Code, ' 10-7)

' 111.08 CONTINUATION AFTER EXPIRATION OF LICENSE.

If any person continues the business, trade, employment, or profession, or to do any act required to be licensed by this chapter, after the expiration of a license previously issued, without obtaining a new license, he or she shall be guilty of a misdemeanor. Upon conviction the person shall be fined or imprisoned or both in the discretion of the court. The fine shall not be less than 20% of the tax in addition to the tax and the costs. If the failure to apply for and obtain a new license be continued, the person shall pay an additional tax of 5% of the amount of the license tax which was due and payable on July 1 of the current year, in addition to the license tax imposed by this chapter for each and every 30 days, or fraction thereof, the license tax remains unpaid from the date that same was due and payable. The additional tax shall be assessed by the town's tax collector and paid with the license tax, and shall become a part of the town's license tax fund. The penalties for delayed payment shall not impair the obligation to procure a license in advance or modify any of the pains and penalties for failure to do so.

(1989 Code, ' 10-9) Penalty, see ' 111.99

*SCHEDULE***111.20 LICENSE TAX SCHEDULE.**

(A) On the trades, professions, agencies, business operations and other subjects set out in this section, the following taxes shall be levied and collected as provided in this chapter.

(B) (1) *Abattoirs.*

Every person engaged in the business of operating an abattoir, pharmacy or drugstore, per annum	\$25 which shall be in addition to merchant's tax for other merchandise sold
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(2) *Advertising.*

Every person engaged in the business of outdoor advertising by placing, erecting or maintaining sign-boards or any other outdoor advertising devices, per annum	\$5
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(3) *Agents and agencies.*

Every person operating for profit a collection agency for the purpose of collecting accounts, notes or other indebtedness from person in favor of another, per annum. This is not applicable to licensed attorneys.	\$50
Emigrant and employment agents	
Every person engaged in the business of procuring laborers for employment outside of the state, per annum. This is not applicable to federal and state agencies.	\$100
Every person operating a business of securing employment for another person, except as otherwise provided in this section, for a fee or commission, per annum. This is not applicable to federal and state agencies.	\$100
Agencies for teachers, when approved by state department of education, per annum	\$25
Domestic help and unregistered nurses, where sole business is placing, per annum	\$25
Every person selling or distributing lightning rods, per annum	\$20
Every lumber broker or lumber agent, per annum	\$35

Licenses

(4) *Amusements.* See also circuses.

Parks, open to the public as a place of amusement	\$5
Traveling, theatrical, moving picture and vaudeville companies, tent shows, other single attractions of like nature, when not licensed as parks, moving pictures or vaudeville, per day	\$25
If admission is not more than \$.50, including reserved seats and exhibit is in the same place as much as 1 week, per week	\$25
If outfit consists of less than 10 performers, charges less than \$.50 and exhibits in the same place for as much as 1 week, per week	\$10

(5) *Antique furniture.*

Every person dealing in antique furniture, per annum	\$25
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(6) *Athletic contest.*

Every person conducting athletic contest, per annum	\$2.50
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(7) *Automobile and motorcycle dealers service stations.*

Every person engaged in the business of servicing, storing, painting, repairing, welding, or upholstering motor vehicles, trailers and semitrailers; or retail selling or delivering of any tires, tools, batteries, electrical equipment, automotive accessories, radios designed for exclusive use in automobiles, supplies, motor fuels, lubricants or any commodities	\$12.50
Every person engaged in the business of buying, selling, distributing, or exchanging motorcycles, motorcycle supplies or any commodities	\$12.50
Every person engaged in the business of buying, selling, distributing, exchanging or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, other automotive equipment and supplies or any commodities at wholesale	\$12.50
Every person engaged in the keeping of motor vehicles, trucks, tractors or trailers for rent or lease to others for what is termed U-Drive-It or drive-yourself purposes for the transportation of persons or property, per annum	
Trucks of less than 3 tons	\$7.50
Trucks of 3 tons or more	\$12.50
Automobiles, each	\$5
Trailers	\$5

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Every person engaged in the business of selling new motor vehicles	\$25
Every person dealing in used motor vehicles exclusively, which business is not of a seasonal, temporary nature, per annum	\$20
Every person dealing in used motor vehicles, exclusively, which business is of a seasonal, temporary, transient or itinerant nature, per annum	\$150

(8) Bakeries.

Every person engaged in the operation of a bakery, per annum	\$50
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(9) Balloons, novelties, souvenirs, curios and flags.

Every person offering for sale, balloons, novelties, souvenirs, curios and flags:	
Per day	\$5
Per week	\$20

(10) Bankrupt or fire sales.

Every person conducting a bankrupt, fire, receivership assignment, smoke or water damage, closing out sale or other sale of similar character of wares or merchandise	
Per week	\$100
Each succeeding week	\$50
This is not applicable to sales conducted by order of court or to persons who have paid license tax levied by this chapter upon the same business for the preceding year or who has for 12 months preceding the sale operated the business in the town or who does not during the sale increase or add to the stock of wares or merchandise in hand.	

(11) Barbershops and beauty shops.

Every person engaged in the business of operating a barbershop for each barber chair, whether used or not, per annum	\$2.50
Every person engaged in the business of operating a beauty shop for each barber, manicurist, cosmetologist or operator, per annum	\$2.50

Licenses

(12) *Beer and wine.*

Every person engaged in the business of selling beer at retail:	
On premises, per annum	\$15
Off premises, per annum	\$5
Every person engaged in the business of selling wine at retail:	
On premises, per annum	\$15
Off premises, per annum	\$10
Every person engaged in business as a wholesale dealer in beer and wine, either or both:	
Beer, per annum	\$37.50
Wine, per annum	\$37.50
Both wine and beer by same license, per annum	\$62.50

(13) *Bicycles.* See also automobile and motorcycle dealers, service stations.

Every person engaged in buying, selling bicycles, bicycle supplies and accessories	\$10
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(14) *Bicycles for hire.*

Every person engaged in the business of renting or leasing bicycles	\$10
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(15) *Billiard and pool tables.*

Every person who shall rent, maintain or own a building wherein there is a table or tables at which billiards or pool is played, whether operated by slot or not, shall pay per annum	\$25
<p>This section shall not apply to fraternal organizations having a national charter, American Legion Posts, or posts or other local organizations of other veterans' organizations chartered by Congress or organized and operating on a statewide or nationwide basis, Young Men's Christian Associations, and Young Women's Christian Associations, or nonstock, nonprofit charitable recreational corporations, foundations or centers to which the town or county contributes any portion of the operating expense.</p>	

Rockwell - Business Regulations*(16) Boiler repair shops.*

Each person operating a boiler repair shop, per annum	\$20
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(17) Bonds or securities dealers.

Every person engaged in selling stocks or bonds as a dealer, per annum	\$20
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(18) Bookstores.

Every person operating a bookstore, per annum	\$10 which shall be in addition to merchant's tax for other merchandise sold
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(19) Bottlers, and the like, of soft drinks.

Every person engaged in the business of manufacturing or bottling soft drinks shall pay annual license tax as follows:	
Low-pressure filler with:	
51 spouts or greater	\$225
41 spouts and less than 51	\$187.50
36 spouts and less than 41	\$150
32 spouts and less than 36	\$125
24 spouts and less than 32	\$87.50
18 spouts and less than 24	\$62.50
12 spouts and less than 18	\$21.88
Provided that counter-pressure or premix fillers shall be deemed to have the following equivalent capacities and shall be taxed in accordance with the above schedule upon the basis of the nearest equivalent capacity.	
For a 50-spout counterpressure or premix filler the tax shall be	\$262.50
High pressure filler having manufacturer's rating capacity in bottles per minute of:	
Over 50 and less than 60	\$150
Over 40 and less than 50	\$125
Over 24 and less than 40	\$87.50
Less than 24 and all foot-power machines	\$8.75

Licenses

Any machine not specifically mentioned shall bear the same tax as the machine of the nearest rated capacity.	
Every person distributing or jobbing bottled soft drinks, per annum	\$10
Every motor vehicle distributing drinks bottled outside the state, per annum	\$25

(20) *Bowling alleys.*

Every person engaged in operating a bowling alley, per alley, per annum	\$10
This section shall not apply to fraternal organizations having a national charter, American Legion Posts, or posts or other local organizations or other veterans' organizations chartered by Congress or organized and operating on a statewide or nationwide basis, Young Men's Christian Associations, and Young Women's Christian Associations, or nonstock, nonprofit charitable recreational corporations, foundations or centers to which the town or county contributes any portion of the operating expense.	

(21) *Boxing.* See wrestling and boxing.

(22) *Brick dealers and manufacturers.*

Every person engaged in dealing in or in manufacturing brick, per annum	\$30
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(23) *Brokers and commission merchants.*

Every person engaged in buying and selling commodities either for actual, spot or instant, delivery, not otherwise taxed in this section, per annum	\$25
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(24) *Building materials.*

Every person engaged in business of selling building materials, per annum	\$35
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Rockwell - Business Regulations*(25) Cabinet and carpenter shops.*

Every person engaged in operating a cabinet or carpenter shop, per annum, if not more than 1 person employed	\$10
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(26) Cafes, restaurants, cafeterias and lunch stands.

Every person engaged in the business of operating a restaurant, café, cafeteria, hotel with dining service on the European plan, drugstore or lunch stand or other place where prepared food is sold, per annum	\$20
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(27) Carnival companies.

Every person engaged in the business of carnival company or a show of like kind, per week	\$50
Upon riding devices which are not a part of, nor used in connection with any carnival company, per week	\$5

(28) Chain stores.

Every person engaged in the business of operating under the same general management 2 or more stores where merchandise is offered for sale at retail shall be deemed a branch or chain store operator and shall pay a license tax for each store, per annum	\$25
This shall be in addition to merchant's tax.	

(29) Child care.

Any person or child care facility who provides care for children on a regular basis	\$10
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(30) Circuses, menageries, wild west, dog and pony shows.

Every person engaged in the business of exhibit-performances, such as circuses, menageries, wild west shows or other similar exhibitions:	
The shows or exhibitions traveling on rail-roads and requiring transportation of:	
Not more than 2 cars, per day	\$15
From 3 to 5 cars inclusive, per day	\$22
From 6 to 10 cars inclusive, per day	\$45

Licenses

From 11 to 20 cars inclusive, per day	\$62.50
From 21 to 30 cars inclusive, per day	\$87.50
From 31 to 50 cars inclusive, per day	\$125
Over 50 cars, per day	\$150
These shows or exhibitions traveling by automobiles, trucks or other vehicles other than railroad cars and requiring transportation by:	
Not over 2 cars, per day	\$3.75
From 3 to 5 vehicles, per day	\$5
From 6 to 10 vehicles, per day	\$7.50
From 11 to 20 vehicles, per day	\$12.50
From 21 to 30 vehicles, per day	\$22.50
From 31 to 50 vehicles, per day	\$30
From 51 to 75 vehicles, per day	\$37.50
From 76 to 100 vehicles, per day	\$50
Over 100 vehicles, per vehicle, per day	\$2.50
Every vehicle used in transporting circus property or personnel whether owned by the circus or by others, shall be counted in computing tax.	

(31) *Cleaners.* See drycleaners, pressing clubs and hat blockers.

(32) *Coal and coke dealers.*

Every person, either as agent or principal, engaged in the business of selling and delivering either or both, coal or coke.	
Wholesalers selling and delivering either or both, coal or coke in carload lots, or greater quantities, per annum	\$25
Retailers selling coal and coke at retail, per annum	\$25
Peddlers, who sell in quantities of 100 pounds or less, per annum	\$5
Pool cars. Persons soliciting for pool cars to be distributed without profit are liable for the wholesale tax.	
Wholesale dealers may also sell less than car-load lots and not be subject to retail tax.	

Rockwell - Business Regulations*(33) Cold storage plants or freezer lockers.*

Every person operating a cold storage plant wherein anything is stored for compensation, per annum	\$10
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(34) Commission merchants.

Every person engaged in buying and selling any cotton, grain or other commodities on commission, either actual, spot or instant delivery, per annum	\$50
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(35) Confectionery and fruit stands.

Every person engaged in the business of operating a confectionery or fruit stand, per annum	\$20
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(36) Contractors and construction companies.

Every person who for a fixed fee or price offers or bids to construct any building, street, sidewalk, bridge, sewer or water system, grading or other improvement or structure, per annum	\$10
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(37) Cotton buyers. See commission merchants.

Every person engaged in business of compressing cotton, per annum	\$300
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(38) Cotton gins.

Every person engaged in the business of operating a cotton gin, per annum	\$35
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*(39) Cotton mills. See manufacturers.**(40) Cotton warehouses.*

Every person engaged in the business of operating a cotton warehouse, per annum	\$25
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(41) *Creameries or dairies.*

Every person operating a creamery within the corporate limits of the town or operating outside the corporate limits of the town but making deliveries within the corporate limits of the town, per annum	\$20
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(42) *Dancing schools.*

Every person engaged in the business of operating a dancing school, per annum	\$20
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(43) *Detectives.* See agents and agencies.

(44) *Directories.*

Every person compiling and selling directories, per annum	\$20
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(45) *Dog and pony shows.* See circuses, menageries, Wild West shows.

(46) *Dry cleaners, pressing clubs, and hat blockers.*

Every person operating a drycleaning, pressing club or hat blocking shop within the corporate limits of the town, per annum	\$20
No tax will be levied if the dry cleaners, laundry or linen service picks up or delivers in the corporate limits of the town, but is not located in the corporate limits of the town.	

(47) *Electric light, power, gas and franchised motor buses.*

Every person, domestic or foreign, engaged in the business of furnishing electricity, electric current, power, or gas, or owning or operating a street railway, or franchised motor buses, for the transportation of freight or passengers for hire shall pay the following annual license taxes:	
Furnishing electric light or power in the town	\$50
Operating electric street railway or franchised motor buses	\$25
Furnishing gas for light or fuel and distributed to customers through gas mains	\$40
Selling bottled gas for light or fuel	\$10
This shall be in addition to the merchants' tax on appliances and merchandise sold.	

(48) *Electricians.* See plumbers, heating contractors and electricians.

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(49) *Electronic video games.*

Every person or firm owning or operating a machine that plays electronic video games when a coin or other thing of value is deposited in the machine, each machine per annum	\$5
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(50) *Elevators and automatic sprinkler systems repairing, servicing, selling and installing.*

Every person engaged in the business of servicing, repairing, selling or installing elevators or automatic sprinklers, per annum	\$15
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(51) *Employment agencies.* See agents and agencies.

(52) *Engravers and lithographers.*

Every person engaged in engraving or lithographing, per annum	\$15
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(53) *Entertainments.*

Every person engaged in the business of offering or managing any form of entertainment or amusement shows but not theaters, vaudeville shows, traveling shows or entertainments otherwise taxed, per annum	\$7.50
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(54) *Express companies.*

Every railway express company doing business in the corporate limits of the town, per annum	\$10
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(55) *Filling stations.* See automobile and motorcycle dealers, service station.

(56) *Florists.*

Every person selling or growing flowers, bulbs, plants and shrubs for commercial purposes, per annum	\$20
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(57) *Foundries and machine shops.*

Every person operating a foundry or machine shop, per annum	\$20
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(58) *Freezer lockers.* See cold storage or freezer lockers.

(59) *Fresh meats.* See meats.

(60) *Fruit stands.* See confectionery and fruit stands.

(61) *Funeral directors.* See undertakers and coffin retailers.

(62) *Games.* See merry-go-rounds, and the like.

(63) *Garages.* See automobile and motorcycle dealers, service stations, and the like.

(64) *Gasoline engines.*

Every dealer or manufacturer's agent for gasoline engines, per annum	\$20
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(65) *Hairdressers.* See barbershops and beauty shops.

(66) *Handbills.* See advertising.

(67) *Harvesting and agricultural machinery.*

Every person engaged in the business of selling, trading or dealing in harvesting and agricultural machinery, per annum	\$20
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(68) *Hat blockers.* See Drycleaners, pressing clubs and hat blockers.

(69) *Ice cream dealers and manufacturers.*

Includes ice cream, frozen custard, sherbets, water ices and similar frozen products.	
Retail dealers selling ice cream purchased from a manufacturer or distributor, per annum	\$2.50
Manufacturer using counter freezer equipment and selling at retail only, per annum	\$2.50
Farmers who manufacture and sell only the products of their own shall be exempt	

(70) *Jewelry and watch repairing.*

Every person engaged in the business of repairing watches or jewelry, per annum	\$10
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Rockwell - Business Regulations*(71) Junk dealers.*

Every person engaged in the business of buying and selling or dealing in what is commonly known as junk, including scrap metals, glass, waste paper, waste burlap, waste cloth and cordage of every nature, kind and description, for each location where the business is carried on, per annum	\$50
Persons dealing solely in wastepaper and persons engaged in the collection of scrap, who maintain no regular place of business, but sell only to licensed dealers or manufacturers in the state and salvage committees operating under state or federal sponsorship, and community scrap yards where personal profit does not accrue shall not be liable for this tax.	

(72) Laundries, laundrettes and hand laundries or home-size machines, linen and towel supply.

Every person engaged in the business of washing or laundering clothes or dry-cleaning uniforms or other articles of any description by machinery for compensation, per annum	\$20
Any laundry where the work is performed exclusively by hand or home-sized machines only, and where not more than 12 persons are employed, including the owners, per annum	\$20

*(73) Lightning rod agents. See agents and agencies.**(74) Loan agencies or brokers.*

Every person engaged in the regular business of making loans or lending money, accepting liens on, or contracts of assignment of salaries or wages or other securities or evidences of debt for repayment in installment payments or otherwise and maintaining in connection with same any office or established place for conduct of business, or advertising, or soliciting the business in any manner, per annum	\$50
This is not applicable to banks, building and loan associations, credit unions nor installment paper dealers, nor to loans on real estate or pawn brokers.	

*(75) Lumber brokers. See agents and agencies.**(76) Lumber mills.*

Every person engaged in operating a lumber mill, per annum	\$100
This is exempt from the building materials license tax.	

Licenses

(77) *Lunch counters and stands.* See cafes, restaurants, cafeterias and lunch stands.

(78) *Machine shops.* See foundries and machine shops.

(79) *Magazines.* See news dealers.

(80) *Manufacturers, generally.*

Every person engaged in the business of manufacturing within the town, per annum	\$50
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(81) *Meats.*

Every person engaged in the business of selling fresh and packaged meats at retail, per annum	\$20
Every person engaged in the business of selling fresh meats at wholesale or operating a packing house, per annum	\$50

(82) *Merchants generally.*

All retail business establishments shall pay per annum	\$20
Wholesalers and jobbers doing any kind of business at wholesale, and not specifically taxed by this chapter, for each store or place of business, per annum	\$50

(83) *Merry go-rounds and like amusement devices.*

Every person engaged in the business of operating a Ferris wheel, merry-go-round or other riding device, shooting gallery, skating rink, swimming pool or other amusements of like kind, or a place for other games or play, with or without name, per annum	\$10
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(84) *Miscellaneous.*

Every person engaged in any business not specifically taxed in this chapter and not exempt by state law or by the provisions of this code or other ordinance of the city, per annum	\$10
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(85) *Motor advertising.* See advertising.

(86) *Motorcycle dealers.* See automobile and motorcycle dealers, service stations and the like.

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(87) *Motor vehicle dealers.* See automobile and motorcycle dealers, service stations and the like.

(88) *Music instructors.*

Every person engaged in the business of music instruction, per annum	\$10
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(89) *Music machines.*

Every person engaged in the business of operating or placing on his or her business premises a machine which plays records or produces music, per annum	\$5
Serial numbers must be placed on machine and license.	

(90) *Musical instruments.*

Every person engaged in the business of selling or offering for sale pianos, organs, victrolas, or victrola records, radios or radio accessories, and repair parts, and television or television accessories and repair parts, per annum	\$5
This shall be in addition to merchant's tax for other merchandise sold.	
Agents selling these commodities when the dealer is located outside of the city, per annum	\$5

(91) *News dealers.*

Every person engaged in the business as a dealer in newspapers or periodicals, per annum	\$5
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(92) *Oils.* See automobile and motorcycle dealers, service stations, and gasoline, benzine, lubricating oil and greases.

(93) *Outdoor advertising.* See advertising.

(94) *Packing houses.* See meats.

(95) *Painting.*

Every person engaged in business as a painting contractor, per annum	\$10
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Licenses

(96) *Paperhanging.*

Every person engaged in the business of paperhanging, per annum	\$10
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(97) *Parks.* See amusements.

(98) *Patent rights and formulas.*

Every person engaged in selling any patent right or formula, per annum	\$5
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(99) *Pawnbrokers.*

Every person engaged in business as a pawnbroker, per annum	\$50
Every person engaged in the business of lending or advancing money or other thing of value for profit and taking as a pledge for the loan specific articles of personal property to be forfeited if payment is not made within a definite time shall be deemed a pawnbroker.	

(100) *Peanut and potato chip wholesaler.*

Every person, resident or nonresident, engaged in the business of selling potato chips or bagged peanuts at wholesale and not specifically taxed in this chapter, per annum	\$5
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(101) *Peddlers.*

Persons who carry from place to place any goods, wares or merchandise and sell or offer to sell or barter the same shall be deemed peddlers, except wholesale dealers with established ware-houses and selling only to merchants for resale, per annum:	
Peddlers on foot	\$10
Peddlers with horse or other animals, and with or without vehicle	\$15
Peddler, with vehicle propelled by motor or other power, for each vehicle	\$25
This is not applicable to the sale of books, periodicals, printed music, ice, wood for fuel, fish, beef, mutton, pork, bread, cakes, pies, dairy products, poultry, eggs, livestock, articles produced by vender offering them for sale, but shall apply to medicine, drugs or articles assembled. (This is not applicable to veterans of the American armed services or blind persons who are exempted from this tax by state law.)	
Peddler, not a resident of this state, with vehicle propelled by motor or other mechanical power, for 4 or less counties, for each vehicle	\$100

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Peddler, not a resident of this state, with vehicle propelled by motor or other mechanical power, for each county in excess of 4, for each vehicle	\$25
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(102) *Photo engravers.*

Every person engaged in the business of a photo engraver, per annum	\$10
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(103) *Piano repairers and tuners.*

Every person engaged in tuning or repairing pianos or organs, per annum	\$5
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(104) *Pistols and weapons.*

Every person engaged in the business of keeping in stock, selling or offering for sale any of the articles or commodities enumerated in this section, as follows:	
For pistols, shotguns, rifles, ammunition, per annum	\$25
For bowie knives, dirks, daggers, slingshots, leaded canes, iron or metallic knuckles or articles of like kind, per annum	\$200
For blank cartridge pistols, per annum	\$50

(105) *Plastering.*

Each person engaged in business as a plasterer or plasterer contractor, per annum	\$10
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(106) *Plumbers, heating contractors and electricians.*

Every person engaged in the business of a plumber, installing plumbing fixtures, piping or equipment, steam or gas fitter, or installing hot-air heating systems, or installing electrical equipment or offering to perform the service, per annum	\$7.50
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(107) *Pool tables.* See billiard and pool tables.

(108) *Popcorn machines.*

Each person operating a popcorn machine, per annum	\$5
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(109) *Poultry dressing plants.*

Every person engaged in the business of killing and dressing poultry and offering the same for sale, per annum	\$25
This shall be in addition to the merchant's tax on other merchandise sold at that place of business.	

(110) *Pressing clubs.* See dry cleaners, pressing clubs, and hat blockers.

(111) *Printing establishment.*

Every person engaged in the business of operating a printing establishment, per annum	\$20
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(112) *Radios.* See musical instruments.

(113) *Repair shops.* See automobile and motorcycle dealers, service stations, piano repairers and tuners.

Every person engaged in the business of operating a repair shop not otherwise taxed, per annum	\$10
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(114) *Restaurants.* See cafes, restaurants, cafeterias, and lunch stands.

(115) *Retirement centers and rest homes.*

Every person engaged in the business of operating a retirement center or a rest home, per annum	\$20
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(116) *Riding devices.* See merry-go-rounds.

(117) *Roof patchers, painters or repairers.*

Every person engaged in the business of patching, painting or repairing of roofs, per annum	\$10
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(118) *Sales.* See bankrupt and fire sales.

(119) *Security dealers.* See bonds or securities dealers.

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(120) *Service stations.* See automobile and motorcycle dealers, service stations.

(121) *Shoe shops or cobblers.*

Every person engaged in the business of making or repairing shoes, per annum	\$5
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(122) *Shooting galleries.* See merry-go-rounds.

(123) *Sign boards.* See advertising.

(124) *Skating rinks.* See merry-go-rounds.

(125) *Slot machines.* See music machines.

(126) *Soft drink bottlers and distributors.* See bottlers, and the like of soft drinks.

(127) *Sprinklers.* See elevators and automatic sprinkler systems.

(128) *Steam fitters.* See plumbers, heating contractors and electricians.

(129) *Swimming pools.* See merry-go-rounds.

(130) *Taxicabs.*

For each taxicab operating in the town, per annum	\$10
<i>Cross-reference:</i> <i>Vehicles for hire, see Ch. 110</i>	
<i>Statutory reference:</i> <i>Taxicabs generally, see G.S. ' 20-37</i>	

(131) *Telegraph companies.*

Every telegraph company engaged in business within the corporate limits of the town, per annum	\$10
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(132) *Theaters and shows.* See amusements.

(133) *Traveling theatricals.* See amusements.

(134) *Tourist homes, tourist camps.*

Every person engaged in the business of operating a tourist home or tourist camp or similar place advertising in any manner for transient patronage, or soliciting the patronage, per annum:	
Homes or camps having 5 rooms or less	\$5
Houses or camps having more than 5 rooms, per room	\$1
Sitting room, dining room, kitchen and rooms occupied by operator and members of his or her family for personal use shall not be counted in computing the number of rooms.	

(135) *Trading stamps.*

Every person engaged in the business of trading or selling or delivering trading stamps, checks, receipts, certificates or tokens to persons engaged in trade or business with the understanding that the same shall be presented by the latter to their patrons as a discount, bonus or premium to secure patronage and that the person delivering the same will give to the person presenting the same money or other thing of value or any preference on account of presenting or processing thereof, per annum	\$100
This is not applicable to manufacturers or merchants who sell merchandise of the manufacturer offering to present to purchaser a gift of value as an inducement to purchase the merchandise.	

(136) *Undertakers and coffin retailers.*

Every person engaged in the business of burying the dead or in the retail sale of coffins, per annum	\$25
This is not applicable to a cabinetmaker who is not an undertaker but who makes coffins to order.	

(137) *Upholstery shops.*

Every person engaged in operating an upholstery shop, per annum	\$10
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(138) *Vaudeville shows.* See amusements.

(139) *Warehouses.* See cotton warehouses.

(140) *Watch repairers.* See jewelry and watch repairing.

(141) *Weapons.* See pistols.

(142) *Welding shops.*

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Every person engaged in the business of operating a welding shop, per annum	\$10
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(143) *Wild West shows.* See circuses, menageries, dog and pony shows and carnival companies.

(144) *Wine.* See beer and wine.

(145) *Wood dealers.*

Every person engaged in the business of selling wood, per annum	\$5
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(146) *Wreckers or house movers.*

Each person engaged in the business of moving or wrecking or razing houses, per annum	\$15
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(147) *Wrestling and boxing.*

Every promoter or exhibitor of any wrestling or boxing matches for which an admission charge is made, per annum	\$7.50
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(1989 Code, ' 10-31) Penalty, see ' 111.99

' 111.99 PENALTY.

(A) If any person commences to exercise any privilege or to promote any business, trade, employment, or profession, or to do any act requiring a license under this chapter without a license, he or she shall be guilty of a misdemeanor, and shall be fined or imprisoned in the discretion of the court.

(B) If the failure, neglect, or refusal to apply for and obtain the license be continued, the person shall pay an additional tax of 5% of the amount of the license tax which was due and payable at the commencement of the business, trade, employment or profession, or doing the act, for each and every 30 days or fraction thereof, that the license tax remains unpaid from the date that same was due and payable, and the additional tax shall be assessed by the town tax collector and paid with the license tax and shall become a part of the town license tax fund.

(1989 Code, ' 10-8)

CHAPTER 112: CABLE TELEVISION

Section

- 112.01 Short title
- 112.02 Definitions
- 112.03 Intent and purpose
- 112.04 Franchise required
- 112.05 Application for franchise
- 112.06 Acceptance; indemnification; effective date
- 112.07 Duration of franchise; transfer
- 112.08 Termination
- 112.09 Authority granted by franchise
- 112.10 Conditions to use of streets
- 112.11 Requests for removal or change
- 112.12 Permits, installation and service
- 112.13 Operational requirements
- 112.14 Complaints
- 112.15 Remuneration to town
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- 112.18 Programming
- 112.19 Expense reimbursement to town
- 112.20 Operational guidelines
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- 112.99 Penalty; violations

' 112.01 SHORT TITLE.

This chapter shall be known and may be cited as the Rockwell Cable Television Chapter.
(1989 Code, ' 5-1)

' 112.02 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

CATV. Cable (community antenna) television.

CABLE (COMMUNITY ANTENNA) TELEVISION SERVICE. The business of furnishing to the public for compensation, by means of a master antenna and cables, broadcast TV programs obtained off the air, together with any other program material and advertising as may be allowed by rules and regulations of the Federal Communication Commission from time to time.

CABLE TELEVISION SYSTEM or CATV SYSTEM. A system of antennas, cables, wires, lines, towers, waveguides, or other conductors, converters, equipment, or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying, and distributing, audio, video, and other forms of electronic or electrical signals, located in the town. This definition shall not include any facility that serves or will serve only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management or does not use town rights-of-way.

FRANCHISE. Include any authorization granted hereunder in terms of a franchise, privilege, permit, license, or otherwise to construct or have constructed, operate, and maintain a system in the town for the purpose of providing cable television service to the citizens of the town. Any authorization, in whatever terms granted, shall not include any license or permit authorization required for the privilege of transacting and carrying on a business within the town in accordance with privilege license ordinance adopted annually by the Town Board.

GRANTEE. The person to whom a franchise is granted by the Board under this chapter, and the lawful successor, transferee, or assignee of the person.

GROSS ANNUAL RECEIPTS. Any and all compensation and other consideration in any form whatever and any contributing grant or subsidy received directly or indirectly by a grantee from subscribers or users in payment for any and all cable services in the community, including all forms of consideration, such as initial lump sum payments.

PROPERTY OF GRANTEE. All property owned and installed by a grantee in the conduct of a CATV business in the town under the authority of a franchise granted pursuant to this chapter.

STREET. The surface of and the space above and below any public street, right-of-way, highway, freeway, bridge, lane, path, alley, court, sidewalk, parkway and drive, existing as this within the franchise area.

SUBSCRIBER. Any person or entity receiving for any purpose the CATV service of a grantee.
(1989 Code, ' 5-2)

' 112.03 INTENT AND PURPOSE.

For the better protection of the public interest, health, safety, welfare and convenience, the rules and regulations set out in this chapter are hereby adopted setting forth the conditions, requirements, and limitations under which a person may construct, have constructed, operate and maintain a cable television system and engage in the business of providing a cable television service in the town.
(1989 Code, ' 5-3)

' 112.04 FRANCHISE REQUIRED.

No person shall engage in or otherwise participate in the construction, operation, or maintenance of a community antenna television system in the town unless the person or the person for whom the work is being done shall have first obtained a franchise from the Board. No person shall engage in the business of providing a community antenna television service in the town unless the person shall have first obtained a franchise from the Board.
(1989 Code, ' 5-4) Penalty, see ' 112.99

' 112.05 APPLICATION FOR FRANCHISE.

(A) A person seeking issuance of a franchise under the provisions of this chapter shall file a written application, in duplicate, with the Town Clerk. The application shall contain the following information.

(1) The name and address of the applicant. If the applicant is a partnership, the name and address of each partner. If the applicant is a corporation, the application shall also state the names and addresses of its directors, officers, parent and subsidiary companies, and of stockholders owning or controlling as much as 3% of the outstanding stock, and shall include a certified copy of the articles of incorporation.

(2) A statement showing the applicant's experience in establishing a system and in providing a service.

(3) A certified financial statement prepared by a certified public accountant, or person otherwise satisfactory to the Board, showing the applicant's financial status and its financial ability to complete the construction and installation of the proposed system and to provide the proposed service. In connection therewith, information with respect to financial projections, including nature and sources of capital or equity financing, shall be submitted along with the application.

(4) A statement and description of the system, prepared by or approved by a licensed professional engineer in the electronics field, proposed to be constructed, installed, maintained, or operated by the applicant; the manner in which applicant proposes to construct, install, maintain and operate the system; and, particularly the extent and manner in which existing or future poles or other facilities of other public utilities will be used for the system.

(5) A copy of any arrangement, agreement, or contract, if existing, between the applicant and

any public utility providing for the use of facilities of the public utility, such as poles, lines, cables or conduits.

(6) (a) A statement setting forth all agreements and understandings, whether written, oral, or implied, existing between the applicant and any person, with respect to the ownership, control or transfer of the proposed franchise or the proposed CATV system and service.

(b) If a franchise is granted to a person posing as a front or as the representative of another person and the information is not disclosed in the original application, the franchise shall be deemed void and of no force and effect whatsoever.

(7) A statement or schedule of proposed rates and charges to subscribers for installation and services.

(8) Any additional information which the Board, at any time, may deem reasonably necessary to determine whether the requested franchise should be granted.

(B) Upon consideration of the application, the Board will determine the applicant's qualifications to construct, operate and maintain a CATV system and to provide a CATV service in accordance with the provisions of this chapter. If the Board determines that the applicant is not so qualified, it may refuse to grant the requested franchise. If the Board determines that the applicant is so qualified, it may, by ordinance, grant a franchise to the applicant; however, no provision of this chapter may be deemed or construed as to require the granting of a franchise when the Board determines that to do so would not be in the public interest.

(C) Any franchise granted shall include the following condition: The CATV system and service herein franchised shall be used and operated solely and exclusively for the purpose expressly authorized by ordinance of the Town of Rockwell and no other purpose whatsoever.

(1989 Code, ' 5-5) Penalty, see ' 112.99

' 112.06 ACCEPTANCE; INDEMNIFICATION; EFFECTIVE DATE.

Within 25 days after the Board has taken final action to approve the granting of a franchise, the grantee shall file a written acceptance of the conditions required for the franchise, acknowledged before a notary public, with the Town Clerk. The acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter and the franchise and shall be in the form and content as to be satisfactory to and approved by the Town Attorney. Concurrently with the filing of the written acceptance, the grantee shall file with the Town Clerk the bond and insurance policies required by ' 112.16. The effective date of the franchise shall be the date the grantee files its written acceptance of the conditions required for the franchise.

(1989 Code, ' 5-6)

' 112.07 DURATION OF FRANCHISE; TRANSFER.

(A) The cable television franchise shall be nonexclusive and shall be for a term as specified in the franchise, not to exceed 20 years. Except as provided in this chapter, no transfer of control of the CATV system shall take place, whether by forced or voluntary sale, lease, mortgage, assignment, encumbrance, or any other form of disposition, without prior notice to and approval by the Board. The notice shall include full identifying particulars of the proposed transaction, and the Board shall either approve or disapprove the transfer by resolution, within 60 days of the receipt of the notice. The consent or approval of the Board to any assignment, lease, transfer, sublease or mortgage of the grantee shall not constitute a waiver or release of the rights of the town in and to the streets. For the purpose of this chapter, the term **CONTROL** is not limited to majority stock ownership, but includes actual working control in whatever manner exercised.

(B) A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation of any person or group of persons of 10% of the voting shares of any corporate grantee. In the absence of extraordinary circumstances, the Board will not approve any transfer or assignment of the grantee before completion of initial construction of the energized cable.

(C) (1) Notwithstanding anything to the contrary in this chapter, the franchisee may hypothecate or pledge its interest in this franchise for the purpose of obtaining financing, the proceeds of which shall be utilized in the construction, maintenance and operation of a cable television system authorized under the terms of this chapter.

(2) Any change in ownership or control of the system resulting from the pledge or hypothecation shall not become absolute without the approval of the Board, given after the filing of any new grantee with the town its written acceptance of this chapter, the franchise, and all the conditions thereto.

(3) The acceptance shall be filed within 60 days following the date of the change.
(1989 Code, ' 5-7) Penalty, see ' 112.99

' 112.08 TERMINATION.

(A) The Board may terminate the franchise prior to the date of expiration upon a finding, made after 30 days notice of any proposed termination and public hearing, that the grantee has failed to comply in some material respect with any of the provisions of this chapter, or has, by any act or omission, violated in some material respect any term or condition of any franchise or permit issued under the provisions of this chapter; the grantee made a material, false statement in the application for the franchise, knowing it to be false; or the grantee, contrary to the best interest of public convenience and welfare, is not providing subscribers with regular, adequate and proper service.

(B) (1) If the use of any tangible part of the CATV system is discontinued for any reason for a continuous period of 90 days, or the franchise has been terminated, cancelled, or has expired, the grantee shall promptly remove from the streets or public places all the property of the system, other than that which the Board may permit to be abandoned in place, and as directed by the Board shall either restore the street or pay the town for restoring the street or other area from which the property has been removed to a condition for public use as good as the abutting portions thereof.

(2) Any property remaining in place 60 days after the termination or expiration of the franchise shall be considered permanently abandoned.

(1989 Code, ' 5-8)

' 112.09 AUTHORITY GRANTED BY FRANCHISE.

(A) The grantee of any franchise issued pursuant to the provisions of this chapter shall be authorized, subject to approval of plans by the Board, to construct, or have constructed, and to operate and maintain a CATV system and to engage in the business of providing a CATV service in this town. For that purpose the grantee shall erect, install, construct, repair, replace, reconstruct, maintain, and retain in, over, on, under, upon, across, and along any public street, any wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property, excepting poles, as may be necessary and appurtenant to the CATV system; and in addition the grantee shall use, operate, and provide similar facilities or properties rented or leased from other persons, including but not limited to, any public utility or other grantee franchised or permitted to do business in the town.

(B) The grantee may initially charge subscribers and users of the CATV system for services up to the amounts specified in its schedule of rates and charges as approved by the Board. The maximum rates shall be in effect for a minimum period of 2 years from the date of completion of installation of the CATV systems capable of effectively serving no less than 60% of the customers proposed in the approved initial plans. The grantee may establish rates for service from time to time thereafter by filing with the Town Clerk a schedule of rates 30 days prior to their implementation. At any time after the minimum period prescribed in this chapter, the Board may determine whether it will assume rate modification authority. No rate modification authority shall be available to the Board if any rate increases sought by the grantee does not exceed 10% per year and if the rate increase does not exceed the percentage increase in cost of living during the preceding 12 months prior to requesting the increase as determined by the Consumer Price Index as set by the United States Department of Labor, Bureau of Labor Statistics for Urban Wage Earners and Clerical Workers Purchasing Power of the Consumer Dollar United States City Average. In all other cases, if the Board declines rate modification authority,

the rates may be modified by the grantee as specified in this chapter. If the Board assumes rate modification authority, then for the term designated rates shall be subject to modification only by the Board and in accordance with the following procedures:

(1) The grantee may petition the Board for a change in rates by filing a revised rate schedule including its justification for the proposed new schedule.

(2) Within 10 days of notification by the Board of the place and time established for a hearing on the petition, the grantee shall notify its subscribers of the hearing on the petition by announcement on the 3 major network channels of its system, between the hours of 7:00 p.m. and 9:00 p.m., for 5 consecutive days. Additionally, hearings shall be announced in a newspaper of general circulation at least 5 days, not including the day of publication or the day of the hearing, before the date of the hearing and at the expense of the grantee. Following all proper notice, but in no event later than 90 days from the date of the petition, the Board shall hold an appropriate public hearing to consider the proposed new rates, at which hearing all parties desiring to be heard, including the grantee, shall be heard on any matters relating to performance under this franchise, the grantee's services, and the proposed new rates.

(3) Within 90 days after the hearing, the Board shall render a written decision on the grantee's petition, either accepting, rejecting, or modifying it, and reciting the basis of its decision.

(4) If the Board fails to act within 180 days of the grantee's petition, the grantee shall thereafter be entitled to put its proposed new rates into effect on a provisional basis, provided that it shall keep a full and accurate accounting of all income resulting from the provisional rates, and shall be obliged for a period of 180 days thereafter to refund the amount by which the provisional rates exceed the rates ultimately established by the Board. Upon request by the Board, the grantee shall provide a bond or other reasonable surety to ensure that possible refunds due under this division shall be promptly made. The bond or surety shall be in an amount not to exceed the difference between the amount of revenues generated in 180 days at the previously existing rates and the amount of revenues expected to be generated in 180 days at the provisional rates.

(C) (1) The criteria for the Board's decision in the matters outlined in division (B) shall be the establishment of rates which are fair and reasonable to both the grantee and its subscribers and shall be generally defined as the minimum rates necessary to meet all applicable costs of service, including fair return on all invested capital, all assuming efficient and economical management. In order for the Board to determine whether proposed rate changes conform with the established criteria, the grantee's petition for a rate increase shall include if requested by the Board the following financial reports, which shall reflect the operations of the system serving Rockwell:

- (a) A balance sheet;
- (b) An income statement;
- (c) A statement of sources and applications of funds;

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(d) Detailed supporting schedules of expenses, income, assets and other items as may be required; and

(e) A statement of current and projected subscribers and penetration.

(2) The grantee's accounting records applicable to the Rockwell system shall be available for inspection by the town at all reasonable times. The town shall have access to records of financial transactions for the purpose of verifying burden rates or other indirect costs prorated to the town operation. The documents listed above shall include sufficient detail or footnotes as may be necessary to provide the town with the information needed to make accurate determinations as to the financial condition of the system. All financial statements shall be certified as accurate by the chief financial officer of the grantee. Any disagreement between the town and the grantee concerning interpretations and calculations of the financial and statistical information provided by the grantee may be submitted to a court of competent jurisdiction when permitted by law.

(D) The grantee shall not engage in the sale, service, repair, rental, or lease of television receivers, radio receivers, parts, or accessories nor shall any employee or stockholder hold any interest in any business venture in the county. The grantee shall not require or attempt to influence its subscribers to deal with any particular person in regard to the above-mentioned services.

(E) Construction and maintenance of the CATV system, including house connection, shall be in accordance with the provisions of the National Electrical Safety Code of the Institute of Electrical and Electronic Engineers, the National Electrical Code of the National Fire Protection Association and the Concord Telephone Systems Code of pole line construction.

(1989 Code, ' 5-9) Penalty, see ' 112.99

' 112.10 CONDITIONS TO USE OF STREETS.

(A) The poles used for a distribution system shall be those erected and maintained by the town, the power company, the telephone company, or either, whenever agreement can be reached with the owners of the poles. Any poles, wires, cables, conduits, or other properties to be realigned or reset to permit their use for purposes of the grantee under an agreement with the owner thereof shall be constructed or installed only at the locations and depths and in the manner as shall be approved by the owner and the Board. They shall be located so as to cause minimum interference with the proper use of streets and to cause minimum interferences with the rights or reasonable convenience of the general public and of property owners who adjoin the streets.

(B) The installation of the facilities, including service drops to subscribers, shall be made underground in areas where facilities of both the telephone company or the power company are underground or hereafter may be placed underground. In addition to the foregoing, installation of the facilities shall be made underground when required by town ordinances or policies.

(C) The grantee shall, at its expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from the street or other public place, any property of the grantee when required by the town by reason of traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines, or any other type of structures or improvements by the town, and the town shall not be liable for any disturbance of the grantee's installations resulting therefrom. The grantee shall carry out the instructions and directions of the Board whenever it is necessary to raise or remove any of the grantee's wires or cables temporarily for the purpose of moving or removing buildings or structures on the public streets of the town, and shall perform any tree trimming or other maintenance work as shall be required or as shall be directed by the Board, all at the grantee's expense.

(D) (1) Whenever a grantee takes up or disturbs any pavement, sidewalk, or other improvement of any street, it shall be replaced and the surface restored in as good a condition as before entry in accordance with ordinances, regulations, technical standards and fee schedules of the town as administered by the Board.

(2) Any opening or obstruction in the streets shall be guarded and protected at all times by the placement of adequate barriers, fences, or boardings, the bounds of which shall be clearly designated by warning lights of approved types.

(1989 Code, ' 5-10) Penalty, see ' 112.99

' 112.11 REQUESTS FOR REMOVAL OR CHANGE.

The grantee shall, on the request of any person hold a building moving permit, temporarily raise or lower its wires to permit the moving of the building. The expense of the temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and the grantee shall have the authority to require the payment in advance. The grantee shall be given not less than 5-days= advance notice of any move contemplated to arrange for temporary wire changes.

(1989 Code, ' 5-11) Penalty, see ' 112.99

' 112.12 PERMITS, INSTALLATION AND SERVICE.

(A) Within 45 days after the effective date of the franchise, the grantee shall proceed with due diligence to obtain all necessary permits and authorizations which are required in the conduct of its business, including, but not limited to, any utility joint use attachment agreements. Within 8 months after obtaining all necessary permits, licenses and authorizations, the grantee shall commence construction and installation of the CATV system. Within 1 year after obtaining all necessary permits

and authorization, the grantee shall proceed to render to subscribers in at least 40% of the franchise area, and the completion of the system shall be pursued with reasonable diligence thereafter with extension of service to the remaining franchise area within the next succeeding year.

(B) Failure on the part of the grantee to commence and diligently pursue each of the requirements of division (A) above and to complete each of the matters set forth in this section shall be grounds for termination of the franchise, under and pursuant to the terms of ' ' 112.07 through 112.12. However, the Board may extend the time for the commencement and completion of construction and installation for additional periods if the grantee, acting in good faith, experiences delays by reason of circumstances beyond its control.

(C) The grantee shall file a map with the town at the close of each franchise year, showing the areas and locations of the town being served by the CATV system and the location and identification of component parts of the system.

(1989 Code, ' 5-12) Penalty, see ' 112.99

' 112.13 OPERATIONAL REQUIREMENTS.

(A) The grantee shall install and maintain a CATV system which shall be in accordance with the highest and best accepted standards of the industry to the effect that subscribers shall receive the highest possible service. In addition, the grantee shall comply with all requirements of duly constituted regulatory agencies having jurisdiction over the operator of CATV systems.

(B) (1) The grantee must obtain individual permits for street openings, must have the installation or construction plans approved prior to construction, must secure all necessary permits at its expense and must pay all fees charged for closing pavement cuts.

(2) When any portion of the CATV system is to be installed on public utility poles and facilities, a certification that agreements for joint use have been entered shall be filed with the town.

(1989 Code, ' 5-13) Penalty, see ' 112.99

' 112.14 COMPLAINTS.

The grantee shall maintain a local office in this county for the purpose of handling subscriber complaints and providing prompt maintenance service. The local office shall be open during all regular business hours, and have a publicly listed telephone which shall be so operated that complaints and requests for repairs or adjustments may be received on a 24-hour basis. The grantee shall establish procedures for receiving, acting upon and resolving subscriber complaints to the satisfaction of the Board, which shall include but not be limited to, maximum response time to serve the complaint of 24 hours. The grantee shall furnish a notice of the procedures to each subscriber at the time of initial subscription to the system.

(1989 Code, ' 5-14) Penalty, see ' 112.99

' 112.15 REMUNERATION TO TOWN.

(A) Within 60 days after the close of its first fiscal year after acceptance of a franchise, and each succeeding fiscal year thereafter during the life of the franchise, the grantee shall pay to the town for the privilege of constructing, operating and maintaining the CATV system, and for the privilege of providing the CATV service during the preceding fiscal year, a percentage, as determined annually by the Board, of the grantee's gross annual receipts, which shall not be less than 3% nor more than the percentage of the annual franchise tax levied under G.S. ' 105-116(a) on electric light and power companies.

(B) (1) Within 45 days after the expiration of the grantee's fiscal year, the grantee shall file with the Town Clerk a certified financial statement prepared by a certified public accountant, or other person satisfactory to the Board, showing in detail the gross annual receipts of the grantee during the fiscal year.

(2) The payment of this fee is in addition to any ad valorem taxes which the town may levy on the grantee's real or personal property.

(3) At any time during the 3 fiscal years following the payment of the annual fee, the town shall have the right to inspect the grantee's records showing the gross annual receipts from which these payments are computed and the right of audit and recomputation of any and all amounts under this chapter.

(4) Acceptance of payments hereunder shall not be construed as a release or as an accord and satisfaction of any claim the town may have for further or additional sums payable under this chapter or for the performance of any other obligations under the provisions of this chapter.

(5) If the grantee holds over after expiration or other termination of any franchise granted under the provisions of this chapter, without the consent of the town, the grantee shall pay to the town reasonable compensation and damages, of not less than 100% of its total gross profits during the period.

(1989 Code, ' 5-15) Penalty, see ' 112.99

' 112.16 RIGHTS RESERVED TO TOWN.

(A) Nothing herein shall be deemed or construed to impair or affect, in any way, to any extent, any right of the town to acquire the property of the grantee, either by purchase or through the exercise of eminent domain.

(B) The town hereby reserves the right to amend any section or part of this chapter.

(C) At all reasonable times, the grantee shall permit any duly authorized representative of the town to examine any and all financial records maintained by or under the control of the grantee relating to all revenue obtained by it from its operations under the franchise; to inspect and obtain copies of any maps or other diagrams maintained by or under the control of the grantee showing the location and the

layout

of the various components of the CATV system operated by it under its permit; and to inspect any and all installations owned, maintained, or used by the grantee in its operations under its franchise including all towers, cables and other components of the grantee's CATV system.

(D) The grantee shall indemnify and save harmless the town, its officers and employees, from and against any and all claims, demands, actions, suits, and proceedings by others, and against all liability to others, arising out of the exercise or enjoyment of its franchise, including but not limited to any liability for damages by reason of or arising out of any failure of the grantee to secure consents from the owners, authorized distributors, or licensees of programs to be delivered by the grantee's CATV system, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees.

(E) Concurrently with the filing of the written acceptance of the franchise, the grantee shall file with the Town Clerk, and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, a good and sufficient liability insurance policy, providing a minimum of \$300,000 coverage for personal injuries to each person; \$500,000 coverage for all personal injuries in each accident; and \$500,000 coverage for all property damage in each accident. The policy shall name the town as an additional insured and shall be for the purpose of insuring the town against any damages to it and any and all legal liability, court costs, claims, or demands for personal injury, death, or property damage arising out of the operations of the grantee under this chapter or its franchise. Any coverage of the grantee in addition to the above minimum limits shall also name the town as an additional insured or beneficiary.

(F) The grantee shall, concurrently with the effective date of the franchise ordinance, post with the town and at all times thereafter maintain in full force and effect for the term of the franchise or any renewal thereof, at the grantee's sole cost and expense, a corporate surety bond issued by a responsible insurance company licensed to do business in this state and approved by the town in the amount of \$100,000, renewable annually, and conditioned upon the faithful performance of the grantee of all the provisions of the franchise agreement and this chapter, and upon the further condition that in the event the grantee shall fail to comply with any 1 or more of the provisions of the franchise agreement or this chapter, there shall be recoverable jointly and severally from the principal and surety of the bond any damages or loss suffered by the town as a result thereof, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the grantee as prescribed hereby plus a reasonable allowance for attorney's fees and costs, up to the full amount of the bond, this condition to be a continuing obligation for the duration of the franchise and any renewal thereof and thereafter until the grantee has liquidated all of its obligations arising out of the acceptance of this franchise or renewal by the grantee or from the exercise of any privileges or right herein granted or the performance of any covenants or obligations imposed hereby. The bond shall provide that at least 30 days prior written notice of intention not to renew, cancellation, or material change, be given to the town by filing the notice with the Town Clerk.

(1989 Code, ' 5-16)

' 112.17 FRANCHISE AREA AND EXTENSION OF SERVICE.

Unless otherwise limited by the franchise ordinance, the franchise area shall include the present corporate limits of the town and any area added thereto during the term of the franchise or any extension thereof, including territory annexed pursuant to satellite annexation authority. Neither the franchise ordinance nor this chapter shall affect the rights of any other cable television grantor holding a governmental franchise in an annexed area, and the town does not guarantee that no franchise operators shall exist in the annexed area. Subject to the provisions of ' 112.12, the grantee shall make cable television service available to all residents of the franchise area who apply therefor and are willing to pay the various service rates and installation or reconnection charges established by the grantee pursuant to the terms of this chapter, the grantee's application, and the franchise ordinance.
(1989 Code, ' 5-17)

' 112.18 PROGRAMMING.

Grantee will provide as many off-air signals of programming and as many channels of service as are required by FCC regulations.
(1989 Code, ' 5-18)

' 112.19 EXPENSE REIMBURSEMENT TO TOWN.

(A) A grantee under this chapter shall pay the town a sum of money which will reimburse all costs and expenses incurred by it in connection with preparation of the franchise agreement, and the granting of a franchise, including, but not limited to, consultant fees, attorney's fees, publication fees, travel expenses and all other costs.

(B) The town shall submit a detailed schedule of all the costs.

(C) Payment shall be made within 30 days after the town furnishes the grantee with a written statement of the expenses.

(1989 Code, ' 5-19)

' 112.20 OPERATIONAL GUIDELINES.

The grantee shall abide by all federal laws and regulations relative to the operation of a CATV system.

(1989 Code, ' 5-21)

' 112.21 BOUNDARY GUIDELINES.

This chapter is drawn pursuant to authority granted in G.S. ' 160A-319. Any applicant for the award of a franchise under the terms of this chapter shall specify in its application that portion of the town within which applicant desires to operate and the portion may be described by the use of boundary reference generally known or easily ascertainable, such as roads and residential subdivisions or building complexes.

(1989 Code, ' 5-22)

112.99 PENALTY; VIOLATIONS.

(A) No person shall make any unauthorized connection, whether physically, acoustically, inductively, or otherwise, with any part of a franchised CATV system within the town for the purpose of taking or receiving television signals, radio signals, pictures, programs, or sound.

(B) No person shall make any unauthorized connection, whether physically, electrically, acoustically, inductively, or otherwise, with any part of a franchised CATV system within the town for the purpose of enabling himself or herself or others to receive any television signal, radio signal, picture, program, or sound, without payment to the owner of the system.

(C) No person, without the consent of the owner, shall willfully tamper with, remove, or injure any cables, wires, or equipment used for distribution of television signals, pictures, programs, or sound.

(D) The violation of any provision of this chapter shall be a misdemeanor in addition to any civil remedies for enforcement as otherwise provided by law.

(1989 Code, ' 5-20)