

Chapter 13

Licenses, Permits and General Business Regulations

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Part 1**Junkyards****§13-101. License Required.**

From and after the approval of this Part, it shall be unlawful for any person or persons, corporation, partnership, unincorporated association, or other legal entity, to keep, operate or maintain, or permit to be maintained, any junk yard within the limits of the Township, unless said junkyard shall be kept or maintained in accordance with the regulations herein provided, and unless a license therefor shall have been previously obtained as hereinafter provided.

(*Ord. 3, 11/7/1969, §1*)

§13-102. License Application.

A license to keep or maintain any junkyard as aforesaid, shall be granted only by the Secretary of the Board of Supervisors and shall be for a period of 1 year or any fractional part thereof. The said licensing year shall commence on the first Monday of January of each year. Every person or persons, corporation, partnership, unincorporated association, or other legal entity, keeping, operating, maintaining or permitting to be maintaining any junkyard within the limits of said Township, shall file with the Secretary of the Board of Supervisors, an application for license, which application shall contain (A) the name and address of the applicant, (B) the particular place for which the license is desired and the size of the area, and (C) the name of the owner or owners of the premises.

(*Ord. 3, 11/7/1969, §2*)

§13-103. Junkyard Defined.

Junkyards shall consist of buildings, structures, lands and premises where junk (as defined in the following paragraph), waste, discarded or salvage materials are bought, sold, exchanged, stored, baled, packed, disassembled or handled, including automobile wrecking yards or automobile graveyards of two or more unlicensed, unused or junked motor vehicles, house wrecking and structural steel materials and equipment, but not including the purchase or storage of used furniture and household equipment and used motor vehicles held for sale in operating condition, and not for the purpose of being sold for scrap or salvage.

(*Ord. 3, 11/7/1969, §3*)

§13-104. Junk Defined.

Junk shall be deemed to include junked automobiles, scrap iron, scrap tin, scrap brass, scrap copper, scrap lead or scrap zinc, and all other scrap metals and their alloys, used rubber, used rope, used tinfoil, old or used machinery, used tools, used appliances, used plumbing, heating and other fixtures, used lumber, used pipe or pipe fittings, used tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition, but are subject to being dismantled.

(*Ord. 3, 11/7/1969, §4*)

§13-105. Junkyard and Automobile Graveyard Includes Stored of Junked Motor Vehicles.

The terms “junkyard” and “automobile graveyard,” as used in this Part, shall include the storage or the keeping or receiving for storage, of two or more unlicensed, unused or junked motor vehicles by any person, partnership, corporation, unincorporated association, or any other legal entity, without having first obtained a license therefor, as heretofore provided in this Part.

(*Ord. 3, 11/7/1969, §5*)

§13-106. Regulations.

No junkyard shall be kept, maintained or operated within the meaning of this Part, except in accordance with the following regulations:

A. All outdoor storage facilities shall be enclosed by a substantial nontransparent enclosure, not less than 8 feet nor more than 10 feet high. Said enclosure shall be at all times painted and maintained in good repair and order. Such walls and fences shall be distant not less than 100 feet from abutting property lines, or street or roads.

B. No junk shall be deposited on any junkyard in such form or manner that it may be transferred off such premises by natural causes or forces.

C. Any junk placed in any junkyard shall be stored so as to remain within the enclosure, and shall not be piled higher than the height of the enclosure.

D. It shall be unlawful to burn in any junkyard any refuse or junk, including rubber tires, batteries and rubber from wires, or any type of junk or old used automobiles, or other substance which may cause noxious fumes or odors injurious to the health and welfare of adjoining residents.

E. All controlled outdoor burning is in compliance with all other statutes, rules and regulations including, but not limited to, the rules and regulations of the Pennsylvania Department of Environmental Protection at 25 Pa.Code §129.14 and §307 of the International Fire Code, most recent edition, or as may be amended from time to time. [*Ord. 41*]

(*Ord. 3, 11/7/1969, §6; as amended by Ord. 41, 11/10/2011*)

§13-107. Fees and Penalties.

1. The fee for licensing junkyards by the Secretary of the Board of Supervisors shall be in an amount as established from time to time by resolution of the Board of Supervisors for each yard or premises for which application is made.

2. Any person, firm or corporation who shall violate any provision of this Part, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall 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 90 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. 3, 11/7/1969, §7; as amended by Ord. 41, 11/10/2011*)

§13-108. Proration of License Fee.

Said license fee may be prorated on a monthly basis.

(*Ord. 3, 11/7/1969, §9*)

§13-109. One License per Person.

No person licensed under this Part shall, by virtue of one license, keep more than one place of business within the Township for the purpose of buying, selling and dealing in junk. Nor shall any such person engage in business as a junk dealer in any place other than the place designated upon his license. Nor shall any such person, or any other person, operate upon any of the streets of the Township, whether from a vehicle or upon foot, as a scavenger or an itinerant buyer or seller of junk.

(*Ord. 3, 11/7/1969, §10*)

§13-110. License Nontransferable Except upon Change of Ownership of Licensed Premises.

No license issued under this Part shall be transferrable from one person to another person, except when the ownership of a licensed premises shall change. In any such case, the new owners shall apply for a transfer of such license to him and shall pay a transfer fee in an amount as established from time to time by resolution of the Board of Supervisors.

(*Ord. 3, 11/7/1969, §11; as amended by Ord. 41, 11/10/2011*)

§13-111. Record of Purchases.

Every junk dealer shall provide and shall constantly keep a book in which shall be clearly written down in the English language at the time of the purchase of any junk, a description of every article or material purchased or received by him, the date and hour of such purchase or receipt, and the person from whom such article or material was purchased or received. Such book and all junk purchased, received or handled by any junk dealer shall at all times be subject to the inspection of the Chief of Police and any other official of the Township.

(*Ord. 3, 11/7/1969, §12*)

§13-112. Maintenance of Licensed Premises.

Every junk dealer licensed under this Part shall constantly maintain the licensed premises in the manner prescribed by this Section, as follows:

A. Such premises shall at all times be maintained so as not to constitute a menace to the health of the community or of residents nearby, or a place for the breeding of rodents and vermin.

B. No garbage or other organic waste, and no paper, rubbish, rags or other flammable articles or materials shall be stored in such premises.

C. Whenever any motor vehicle shall be received in such premises as junk, all gasoline and oil shall be drained and removed therefrom, and none shall be permitted to remain upon the premises.

D. The manner of storage and arrangement of junk, and the drainage facilities of the premises shall be such as to prevent the accumulation of stagnant

water upon the premises, and to facilitate access for firefighting purposes.

E. Such premises shall not be open for business nor shall any work be done therein in connection with the storage, processing and transporting or removal of junk at any time on the first day of the week, commonly called Sunday, or on any other day of the week before 7 a.m. or after 6 p.m.

F. All controlled outdoor burning is in compliance with all other statutes, rules and regulations including, but not limited to, the rules and regulations of the Pennsylvania Department of Environmental Protection at 25 Pa.Code §129.14 and §307 of the International Fire Code, most recent edition, or as may be amended from time to time. [*Ord. 41*]

(*Ord. 3, 11/7/1969, §13; as amended by Ord. 41, 11/10/2011*)

§13-113. Penalties.

Any person who shall violate any of the provisions of this Part shall, upon conviction thereof in an action brought before a magisterial district judge in the manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure, shall 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 90 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. 3, 11/7/1969, §14; as amended by Ord. 41, 11/10/2011*)

Part 2**CATV Franchises****§13-201. Definitions.**

The following words and phrases as used in this Part shall have the meaning ascribed to them in this Section unless the context clearly indicates otherwise. Other terms not specifically defined will have the meanings generally accorded to them in the cable television industry:

Board—the Board of Supervisors, the governing body of the Township.

Cable television system or its acronym *CATV*—a system composed of antenna, cables, wires, lines, towers, wave guides, or any other conductors, convertors, equipment or facilities, designed, constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, audio/visual radio, television, electronic or electrical signals.

Company—any cable television company licensed by the Commonwealth of Pennsylvania to do business in the State and authorized by the Township Board of Supervisors to construct, operate and/or maintain, a cable television system in the Township.

Federal Communications Commission or *FCC*—is the Federal administrative agency authorized to regulate cable television under the statutes or laws of the United States and any successor agency of the United States lawfully exercising such authority.

Franchise—the right, privilege and authority granted by this Part to construct, maintain and operate a cable television over or under the streets in the Township.

Franchise fee—include all monies required to be paid to the Township by the company for the right to operate a cable television system which are allowable by any federal statute or regulations.

Public street—the surface of and the space above and below any public street, public right of way or other public place in the Township, now or hereafter existing which the Board may lawfully burden by the franchise hereby granted.

Subscriber—any person or entity contracting to receive CATV service and subject to the payment of rates provided for such service.

Township—the Township, a municipal corporation under the Second Class Township Code, 53 P.S. §65101 *et seq.*, situate in the County of Lackawanna of the Commonwealth of Pennsylvania.

(*Ord. 24, 10/19/1989, §1*)

§13-202. Grant of Authority.

The Board hereby grants to the company the nonexclusive franchise, right and privilege to enter upon the public streets to construct, operate and maintain a CATV system in the Township, and for the purpose to erect, install, construct, repair, replace, reconstruct, maintain and retain in, on, over, under, upon, across and along any public streets, poles, wires, cable, conductor, ducts, conduit vaults, manholes, amplifiers,

appliances, attachments, and other property as may be necessary or appurtenant thereto.

(*Ord. 24, 10/19/1989, §2*)

§13-203. Nonexclusive Grant.

The franchise hereby granted is not exclusive and the Township shall have the right to grant one or more such franchises during the term hereof, for the right to use and occupy public streets for CATV purposes.

(*Ord. 24, 10/19/1989, §3*)

§13-204. No Right of Renewal.

The franchise hereby granted is not intended and shall not be construed as providing a right of renewal at the end of its term.

(*Ord. 24, 10/19/1989, §4*)

§13-205. Effective Date of Franchise.

The franchise to be granted shall take effect and be in force when a written agreement is executed between the Township and the company embodying the terms of this Part.

(*Ord. 24, 10/19/1989, §5*)

§13-206. Terms of Franchise.

The franchise to be granted shall continue in force for a term of 15 years from and after the effective date set forth in §13-205 hereof.

(*Ord. 24, 10/19/1989, §6*)

§13-207. Conditions of Public Street Occupancy.

1. All transmission and distribution structures, lines and equipment erected by the company in public streets shall be so located as to cause no interference with the public's proper use thereof or the use of the Township thereof for public purposes, nor shall the company's use thereof interfere with the rights and reasonable convenience of the public. The CATV system shall be constructed and operated in compliance with current construction and electrical codes and shall be maintained in accordance with applicable revisions thereof. All pole installations and replacements and all buried service in public streets or rights of way shall be subject to the prior approval of the Board.

2. The company shall construct, maintain and operate its facilities so as to cause no distortion to direct off the air television signals and the company shall, during the continuance of this franchise, provide facilities and service sufficient to meet the needs of its subscribers and shall maintain its facilities and service up-to-date and in keeping with technical progress. The company shall maintain and operate and render efficient service in accordance with rules and regulations as are or in the future may be set forth by the FCC. The system shall be installed and maintained in accordance with good engineering practices, and any spurious electromagnetic radiation must fall within the limits specified by the Federal Communications Commission. All construction must be

done in a good and workmanlike manner free of obvious defects which may be hazardous to life and limb, and in conformance with the standards set forth in the National Electric Safety Code. The company shall operate and maintain its cable system in full compliance with the standards set forth by the Federal Communications Commission and/or the Pennsylvania Utility Commission.

3. In case of disturbance of any public street, the company shall, at its own expense and in a manner approved by the Township, promptly replace and restore such public street in as good a condition as before such disturbance was done or in as good a condition as required in any applicable Township ordinance as determined by the Board. The company shall secure a Township permit for any work involving disturbance of any public road prior to initiating such work.

4. If any time during the period of the franchise, the Township shall elect to alter or change the grade of any public street, the company, at its own expense upon reasonable notice by the Township, shall remove, relay and relocate its poles, wires, cable, underground conduits, manholes and other fixtures.

5. The company shall, at its own expense and after reasonable notice, protect, support, temporarily disconnect, relocate, or remove any company property when required by the Township by reason of traffic conditions, public safety, street vacating, street conditions, change or establishment of street grade, installation of sewers, drains, water lines, power lines, signal lines or any other public facilities.

6. In case of disturbance of any street or otherwise improved area, the company shall, at its own expense, and in a manner approved by the Township, replace and restore such street or improved area in as good a condition as theretofore. The company shall secure any required applicable permits prior to initiating such work.

7. In any event the company shall notify the Township of pending work which will disturb streets, public facilities or improved areas prior to initiating such work and provide a schedule for the conduct and completion of such work.

(*Ord. 24, 10/19/1989, §7*)

§13-208. Franchise Area.

The company shall use its best efforts to install and construct its cable television system to and in all areas of the Township. The written agreement to be executed between the Township and the company shall include a map of the Township showing the areas of the Township to be serviced and the proposed location of service lines to be installed by the company. The agreement by description and map reference shall specify the schedule for installing service lines and initiating service to the various areas of the Township. Where the company has constructed its cable television system, the company shall provide service at the normal installation cost to potential subscribers whose home can be reached by an aerial drop line of 150 feet or less. Notwithstanding anything herein to the contrary, the company shall have the right to deny service to prospective subscribers if the above-mentioned conditions are not met, unless the prospective subscriber or subscribers in question agree to reimburse the company for any extraordinary costs. Extraordinary costs shall be actual costs (labor and materials) in excess of the amount required to provide one aerial cable drop of 150 feet at then current costs.

(*Ord. 24, 10/19/1989, §8*)

§13-209. Pole Attachments.

1. The poles and posts used for the company's cable television system shall be those erected by the company or owned by such public utility company or other persons, firms or corporations maintaining poles or posts within the Township limits, providing mutually satisfactory rental agreements can be entered into with such persons, firms or corporations.

2. The Township shall have the right, where aerial construction exists, during the life of this franchise, free of charge, of maintaining upon the poles of the company within the Township limits, such wire and pole fixtures as are necessary for a police and fire alarm system, such wires and fixtures to be erected and maintained to the satisfaction of the company. The Township, in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of the company so that there may be a minimum danger of contact or conflict. between the wires and fixtures of the company and the wires and fixtures used by the Township.

3. The rights and powers conferred upon the company by this Part shall be subject to existing utility easements and ordinances of the Township relating to electric light, electric power, telephone and telegraph and telegraph wires and cables for the conveyance of electrical energy for any purposes.

(Ord. 24, 10/19/1989, §9)

§13-210. Company's Compliance with Applicable Laws and Ordinances.

Notwithstanding any other provisions of this franchise agreement to the contrary, the company shall, at all times, comply with all laws and regulations of the State and Federal government or any administrative agency thereof including, but not limited to, FCC regulations. If any such Federal or State law or regulation shall require the company to perform any action, or shall permit the company to perform any action, or shall prohibit company from performing any action in conflict with the terms of this franchise or of any law or regulation of the Township, the obligations expressed by the Federal or State regulation shall be controlling and observance of these Federal or State laws in conflict with this franchise shall not violate this franchise.

(Ord. 24, 10/19/1989, §10)

§13-211. Preferential or Discriminatory Practices Prohibited.

The company's rate schedule shall be uniform, nonpreferential, and nondiscriminatory within reasonable classifications throughout the Township. The company shall have the right from time to time throughout the term hereof to offer promotional inducements with respect to connection, service and other rate charges.

(Ord. 24, 10/19/1989, §11)

§13-212. Subscriber Service Standards.

1. The company shall render efficient and good service, make repairs promptly and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall occur during periods of minimum system use. The company shall have a publicly listed telephone, and be so operated that complaints and requests for repairs may be received on a 24-hour basis.

2. The company shall investigate and resolve all subscriber complaints regarding the quality of service, equipment malfunctions and similar matters expeditiously and in accordance with the following procedures:

A. The company shall have qualified personnel available during normal working hours to investigate and resolve subscriber complaints.

B. Upon notification of service complaint, the company shall dispatch a qualified employee to investigate the complaint and adjust, repair or replace company equipment as necessary to resolve the complaint. No charge shall be made to the subscriber for this service unless due to subscriber's negligence or intentional acts.

C. The company shall maintain work orders or similar service records of each complaint, including the date of notification thereof, the nature of the complaint and the means by which it was resolved. Such records shall be maintained for a minimum of 2 years.

D. The Township may, from time to time, make specific inquiry of the company concerning the operation of the company subscriber complaint procedure and conduct periodic review of subscriber complaints and their resolution by the company. At the Township's written request, the company shall provide, within 30 days, any specific or general information regarding the company efforts to resolve the complaints and operation of the company subscriber complaint procedures.

E. If the Township, during its review, finds company performance unsatisfactory, Township shall give company 60 days to cure such problems or to take affirmative actions toward their corrections.

(Ord. 24, 10/19/1989, §12)

§13-213. Franchise Payments.

The company shall pay to the Township, quarterly, a franchise license fee of 2 percent of its gross revenue for fees charged subscribers or users. The gross revenue received by the company from Township subscribers shall be audited at the close of each calendar year by an independent certified public accountant at the expense of the company and a copy of such audit done by such accountant shall be furnished within 90 days following the close of each calendar year during the term hereof to the Secretary-Treasurer of the Township. The books and records of the company containing any entry or source of such gross revenue may be inspected and examined annually by the Board or by any duly authorized representative of the Board.

(Ord. 24, 10/19/1989, §13)

§13-214. Rates to Be Charged.

1. The service charges and connection fees to be charged by the company shall be set by the company from time to time in accordance with the Federal Communications Commission regulations or other applicable Federal or State regulations or law.

2. The initial rates established by the company for Township subscribers attached as Exhibit A¹ shall remain in effect for not less than 12 full successive calendar months

¹Editor's Note: Exhibit A is on file in the Township office.

from and after the effective date of the franchise hereby granted.

(Ord. 24, 10/19/1989, §14)

§13-215. Revision of Rates.

The rates set forth in §13-214 may from time to time be revised by the company provided that:

A. No rate revision shall be effective until any earlier revision of rates shall have been in force and effect for a minimum of 12 successive calendar months.

B. No rate revision shall increase the last approved rate revision by more than 10 percent.

(Ord. 24, 10/19/1989, §15)

§13-216. Indemnification.

1. The company shall at all times protect and hold harmless the Township, the Board, and all Township officers, agents and employees from all claims, actions, suits, liability, loss, expenses, or damages of every kind and description, including investigation costs, court costs and attorney fees, which may accrue or be suffered, on account of the claim by any person or persons arising out of the negligence of the company in the ownership, construction, repair, replacement, maintenance, and operation of said cable television system and/or by reason of any license, copyright, property right or patent of any article or system used in construction or use in said CATV system. The Township shall give the company notice in writing of any such claims, actions and suits without limitation, promptly following notice received by the Township.

2. The company shall maintain in full force and effect during the term of the franchise hereby granted, public liability insurance providing coverage to the Township as an additional named insured in the following minimum amounts:

- | | |
|---|-------------|
| A. Public liability insurance: | \$300,000 |
| B. Personal injury or wrongful death to any one person: | \$1,000,000 |
| C. Property damage to any one property: | \$100,000 |

Said insurance shall be provided by a company or companies authorized to do business in the Commonwealth of Pennsylvania and the coverage to be provided shall be subject to the approval of the Board acting upon the opinion of the Township.

The Township reserves the right to require that any and all investigations of claims made by any person, firm or corporation against the Township, the Board, or any officer, agent or employee of the Township arising out of any use or misuse of privileges granted to the company hereunder shall be made by or at the expense of the company or its insurer.

3. No work, construction, erection, installations, operation or maintenance shall begin by the company under the authority of the franchise hereby granted until the company shall submit a certificate of such insurance of the terms of such coverage, in reasonable detail, which shall provide that no cancellation shall be effective as to the company without 30 days prior notice to the Township.

(Ord. 24, 10/19/1989, §16)

§13-217. Termination.

The rights, interests and privileges granted under this agreement shall be terminated upon the happening of any of the following conditions:

A. The expiration of 15 years from the date of this agreement.

B. The mutual agreement of both parties to terminate the rights and privileges under this agreement.

C. Any material breach of any material term or condition of this agreement. The Township shall notify company of its intent to terminate and the reason(s) for such termination. Company shall be afforded 60 days to cure the breach or to take affirmative action to commence a cure of said breach. If the company fails to cure or to take affirmative action toward curing the breach within said 60-day period, the Township shall schedule a public hearing on its notice, representation and the right to be heard at said public hearing. After such public hearing, Township shall have the right to terminate company for just cause if said cause is so established.

(Ord. 24, 10/19/1989, §17)

§13-218. Expiration of Franchise.

Upon expiration of the term of the franchise hereby granted, if the company shall not have acquired an extension or renewal thereof and accepted the same, the company shall have the right to enter upon the public streets of the Township for the purpose of removing company property and installations; provided, however, that the company shall secure a Township road permit and restore the street to Township specifications. The company shall also provide financial security acceptable to the Township equal to the estimated cost of street repair or replacement.

(Ord. 24, 10/19/1989, §18)

§13-219. Restriction Against Transfer.

The company shall not sell, assign or transfer its CATV system in the Township or any part thereof to another, other than a parent company or a wholly owned subsidiary of the company, nor transfer any rights under this franchise to another without the Township's approval. In addition, no sale or transfer shall be effective until the vendee, assignee or lessee has filed in the office of the Township Secretary an instrument duly executed reciting the fact of sale, assignment or lease accepting the terms of the franchise and agreeing to perform all the conditions thereof and to remedy or correct any inadequacies of facilities or services and to resolve subscriber's complaints as requested through Township review or inquiry as provided for within this Part.

(Ord. 24, 10/19/1989, §19)

§13-220. Reservation of Right to Further Amend the Franchise Granted.

The Township reserves the right throughout the term of the franchise hereby granted, at any time and from time to time, to adopt regulations governing the franchise hereby granted as it may deem required to serve the best interest of the Township and/or Township subscribers; provided, that such regulations shall not be retroactively applied and shall not take effect sooner than 30 days after their adoption; and, further provided, that the company shall be given reasonable opportunity to meet

with the Board and discuss any proposed regulation prior to the Board's final action to consider adoption of said proposed regulation. Any provision hereof to the contrary notwithstanding, the franchise hereby granted may not, without the consent of the company, be modified to:

- A. Reduce the franchised area.
- B. Reduce the term of the franchise hereby granted.
- C. Substantially alter the provisions of §13-215 of this Part providing to the company the right to revise its rates without the prior consent of the Board.

(*Ord. 24, 10/19/1989, §20*)

§13-221. Miscellaneous Provisions.

1. When not otherwise prescribed herein, all matters to be filed with the Township will be filed with the Township Secretary.

2. The company shall assume the cost of publication of this franchise as such publication is required by law.

3. In case of emergency or disaster, the company shall, upon the request of the Township, make available without charge its facilities to the Township through the emergency or disaster period.

(*Ord. 24, 10/19/1989, §21*)

§13-222. Federal Regulations.

Any modification resulting of the rules and regulations of the Federal Communications Commission relating to the CATV industry shall be incorporated into this Part and shall govern the franchise hereby granted as of the date such modification becomes obligatory under FCC regulations, and in the event that no obligatory date may be established, within 1 year after FCC adoption.

(*Ord. 24, 10/19/1989, §22*)