

**TITLE 4**

**BUSINESS REGULATIONS AND LICENSING**

## TITLE 4

### BUSINESS REGULATIONS AND LICENSING

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## Chapter 4.02

### CABLE TELEVISION FRANCHISE TO GALAXY CABLEVISION, INC.

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**4.02.010 Short title.** This ordinance shall be known and may be cited as the Chrisney Franchise Ordinance. (Ord. 1984-4, S1, April 5, 1984)

**4.02.020 Definitions.** For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- (1) "Town" is the Town of Chrisney
- (2) "Board" is the Town Board of Chrisney
- (3) "Community Antenna Television System", hereinafter referred to as CATV System" or "System", means a system of coaxial cables or other conductors and equipment used or to be used primarily to receive television or radio signals directly or indirectly off-the-air and transmit them to subscribers for a fee; but does not include the operation of a pay TV system.
- (4) "Person" is any person, firm, partnership, association, corporation, company, or organization of any kind.
- (5) Grantee is Galaxy Cablevision, Inc., a corporation, or anyone who succeeds said corporation in accordance with the provisions of this Franchise. (Ord. 1984-4, S2, April 5, 1984)

**4.02.030 Grant of non-exclusive authority.**

- (1) There is hereby granted by the Town to the Grantee the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over, and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the Town, poles, wires, cables, underground conduits, manholes, and other television conductors and fixtures necessary for the maintenance and operation in the Town of a CATV System for the interception, sale, and distribution of television and radio signals.
- (2) The right to use and occupy said streets, alleys, public ways and places for the purpose herein set forth shall not be exclusive, and the Town reserves the right to grant similar use of said streets, alleys, public ways and places to any person at any time during the period of this License and Permit. (Ord. 1984-4, S3, April 5, 1984)

**4.02.040 Compliance with applicable laws and ordinances.** The Grantee shall, at all times during the life of this License and Permit, be subject to all lawful exercise of the police power by the Town and to such reasonable regulations as the Town shall hereafter provide. (Ord. 1984-4, S4, April 5, 1984)

**4.02.050 Territorial area involved.** This License and Permit is related to the present territorial limits of the Town and to any area henceforth added thereto during the term of this License and Permit. (Ord. 1984-4, S5, April 5, 1984)

#### **4.02.060 Liability and indemnification.**

- (1) This Grantee shall pay and by its acceptance of this License and Permit the Grantee specifically agrees that it will pay all damages and penalties which the Town may legally be required to pay as a result of granting this License and Permit. These damages and/or penalties shall include, but shall not be limited to, damages arising out of copyright installation, operation, or maintenance of the CATV System authorized herein whether or not any act or omission complained of is authorized, allowed, or prohibited by this License and Permit.
- (2) The Grantee shall pay and by its acceptance of this License and Permit specifically agrees that it will pay all expenses incurred by the Town in defending itself with regard to all damages and penalties mentioned in Subsection (1) above. These expenses shall include all out-of-pocket expenses, such as attorney fees, and shall also include the reasonable value of any services rendered by the Town Attorney or his assistants or any employees of the Town.
- (3) The Grantee shall maintain, and by its acceptance of this License and Permit specifically agrees that it will maintain throughout the term of this License and Permit liability insurance insuring the Town and the Grantee with regard to all damages mentioned in subparagraph (1) above in the minimum amounts of:
  - A. \$100,000 for bodily injury or death to any one person, within the limit, however, of \$300,000 for bodily injury or death resulting from any one accident.
  - B. \$100,000 for property damage resulting from any one accident.
  - C. \$100,000 for infringement of copyrights and,
  - D. \$100,000 for all other types of liability.
  - E. The Grantee shall maintain Workman's Compensation Coverage for the protection of its employees. (Ord. 1984-4, S6, April 5, 1984)

**4.02.070 Color television.** The facilities used by the Grantee shall be capable of distributing color TV signals, and when the signals the Grantee distributes are received in color, they shall be distributed in color where technically feasible. (Ord. 1984-4, S7, April 5, 1984)

**4.02.080 Signal quality requirements.** The Grantee shall:

- (1) Produce a picture whether in black or white or in color, that is undistorted, from ghost images, and accompanied with proper sound on typical standard production TV sets in good repair, and as good as the state of art allows.
- (2) Transmit signal or adequate strength to produce good pictures with good sound at all outlets without causing cross-modulation in the cables or interfering with other electrical or electronic systems.
- (3) Limit failures to a minimum by locating and correcting malfunctions promptly.
- (4) Demonstrate by instruments and otherwise to subscriber that a signal of adequate strength and quality is being delivered. (Ord. 1984-4, S8, April 5, 1984)

**4.02.090 Operation and maintenance of the system.**

- (1) The Grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible, such interruptions, insofar as possible, shall be preceded by notice and shall occur during the periods of minimum use of the system. (Ord. 1984-4, S9, April 5, 1984)

**4.02.100 Carriage of signals.** The Grantee shall receive and distribute television and radio signals which are disseminated to the general public without charge by broadcasting stations licensed by the Federal Communications Commission. All FCC regulations shall be complied with by the Grantee. (Ord. 1984-4, S10, April 5, 1984)

**4.02.110 Emergency use of facilities.** In the case of any emergency or disaster, the Grantee shall make its facilities available to the Town for emergency use. (Ord. 1984-4, S11, April 5, 1984)

**4.02.120 Safety requirements.**

- (1) The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

- (2) The Grantee shall install and maintain its wires, cables, fixtures, and other equipment in accordance with the requirements of the National Electrical Safety Code Promulgated by the National Bureau of Standards and the National Electrical Code of the National Board of Fire Underwriters, and in such manner that they will not interfere with any installation of the Town or of a public utility serving the Town.
- (3) All structures and all lines, equipment, and connections in, over, under, and upon the streets, sidewalks, alleys, and public ways or places of the Town, wherever situated or located, shall at all times be kept and maintained in a safe, suitable, substantial condition, and in good repair. (Ord. 1984-4, S12, April 5, 1984)

**4.02.140 New development.** It shall be the policy of the Town liberally to amend this License and Permit, upon application of the Grantee when necessary to enable the Grantee to take advantage of any developments in the field of transmission of television and radio signals which will afford it an opportunity to more effectively, efficiently, or economically to serve customers. Provided, however, that this Section shall not be construed to require the Town to make any amendment or prohibit it from unilaterally changing its policy stated herein. (Ord. 1984-4, S14, April 5, 1984)

**4.02.150 Conditions on street occupancy.**

- (1) All transmissions and distributions structures, lines, and equipment erected by the Grantee within the Town shall be so located so as to cause minimum interference with the proper use of streets, alleys, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets, alleys, or other public ways and places.
- (2) In case of disturbance of any street, sidewalk, alley, public way or paved area, the Grantee shall, at its own cost and expense and in a manner approved by the Town Board, replace and restore such street, sidewalk, alley, public way or paved area in as good a condition as before the work involving such disturbance was done.
- (3) If at any time during the period of this License and Permit, the Town shall lawfully elect to alter or change the grade of any street, sidewalk, alley, or other public way, the Grantee, upon reasonable notice by the Town, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at its own expense.
- (4) Any poles or other fixtures placed in any public way by the License shall be placed in such a manner as not to interfere with the usual travel on such public way.

- (5) The Grantee shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes.
- (6) The Grantee shall have the authority to trim trees upon overhanging streets, alleys, sidewalks, and public ways and places of the Town so as to prevent the branches of such trees from coming in contact with the wires and cables of the Grantee, except that at the option of the Town, such trimming may be done by it or under its supervision and direction at the expense of the Grantee.
- (7) In all sections of the Town where the cables, wires, or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires, or other like facilities underground to the minimum extent that existing technology reasonably permits the Grantee to do so. (Ord. 1984-4, S15, April 5, 1984)

**4.02.160 Preferential or discriminatory practices prohibited.** The Grantee shall not, as to rates, charges, service, service facilities, rules, regulations or in any other respect, make or grant any undue preference or advantage to any person, nor subject any person to any prejudice or disadvantage. (Ord. 1984-4, S16, April 5, 1984)

**1.02.170 Removal of facilities upon request.** Upon termination of service to any subscriber, the Grantee shall promptly remove all its facilities and equipment from the premises of such subscriber upon his request. (Ord. 1984-4, S17, April 5, 1984)

**4.02.180 Transfer of license and permit.** Except for a mortgage or assignment to secure a loan to construct and operate said system in the Town of Chrisney, Indiana, or transfer within the Galaxy group of companies, Grantee shall not sell, lease, sublet, or transfer its system and the privileges granted herein without the consent of the Town Board. (Ord. 1984-4, S18, April 5, 1984)

**4.02.190 Filings and communications with regulatory agencies.** Copies of all petitions, applications and communications submitted by the Grantee to the Federal Communications Commission, Securities and Exchange Commission, or any other agency having jurisdiction in respect to any matters affecting CATV operation authorized pursuant to this License and Permit, shall also be submitted simultaneously to the Town Board, if requested by the Town. (Ord. 1984-4, S19, April 5, 1984)

#### **4.02.200 Town rights in license and permit.**

- (1) The right to hereby reserve to the Town of the Town Board to adopt, in addition to the provisions contained herein and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power; provided that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights herein granted.
- (2) The Town shall be furnished with a statement compiled by a certified Public Accountant reflecting and showing the gross income of the service charges paid by users, and the Town shall have the right to examine such of the Company's records relative to the gross income received by the company for service charges paid by users.
- (3) The Town shall have the right, during the life of this License and Permit to install and maintain free of charge upon the poles of the Grantee any wire and pole fixtures necessary for any municipal use on the condition that such wire and pole fixtures do not interfere with the CATV operations of the Grantee.
- (4) The Town shall have the right to supervise all construction or installation work performed subject to the provisions of the License and Permit and make such inspections as it shall find necessary to insure compliance with terms of this License and Permit and other pertinent provisions of Law.
- (5) At the expiration of the term for which the License and Permit is granted, or upon its termination and cancellation, as provided for herein, the Town shall have the right to require the Grantee to remove at its own expense all portions of the CATV System from all public ways within the Town. (Ord. 1984-4, S20, April 5, 1984)

#### **4.02.210 Maps, plats, and reports.**

- (1) The Grantee shall file with the Town Clerk true and accurate maps or plats of all existing and proposed installations
- (2) The Grantee shall keep on file with the Town Clerk a current list of its shareholders and bondholders. (Ord. 1984-4, S21, April 5, 1984)

**4.02.220 Payment to the Town.** The Grantee shall pay to the Town annually an amount equal to 3% of the annual gross basic service charge paid by the users within the Town during the year, for the use of the streets and other facilities of the Town in the operation of the CATV System and for the municipal supervision thereof. This annual payment shall be made to the Town within sixty (60) days subsequent to the System's annual accounting period. This payment shall be in addition to any other tax or payment owed to the Town

by the Grantee, including any payment for ad valorem taxes, if any. (Ord. 1984-4, S22, April 5, 1984)

**4.02.230 Forfeiture of license and permit.**

- (1) In addition to all other rights and power pertaining to the Town by virtue of this License and Permit or otherwise, the Town reserves the right to terminate and cancel this License and Permit and all rights and privileges of the Grantee hereunder in the event that the Grantee:
  - A. Violates any provision of this License and Permit or any rule, order, or determination of the Town or Town Council made pursuant to this License and Permit, except where such violation, other than Section 4.02.240, or subsection B below, is without fault or through excusable neglect.
  - B. Becomes insolvent, unable or unwilling to pay debts, or is adjudged as bankrupt.
  - C. Attempts to evade any of the provisions of this License and Permit or practices any fraud or deceit upon the Town, or
  - D. Fails to complete construction and commence operations under this License and Permit according to provisions in Section 4.02.260.
- (2) Such termination and cancellation shall be duly adopted after thirty (30) days notice to the Grantee and shall in no way affect any of the Town's rights under this License and Permit or any provisions of law. In the event that such termination and cancellation depends upon a finding of fact, such finding of fact as made by the Town Board or its representative shall be conclusive. Provided, however, that before this License and Permit may be terminated and canceled under this Section, the Grantee must be provided an opportunity to be heard before the Town Board. (Ord. 1984-4, S23, April 5, 1984)

**4.02.240 Town's rights of intervention.** The Grantee agrees not to oppose intervention by the Town in any suit or proceeding to which the Grantee is a party. (Ord. 1984-4, S24, April 5, 1984)

**4.02.250 Further agreement and waiver by grantee.** The Grantee agrees to abide by all provisions of this License and Permit, and further agrees that it will not at any future time set up as against the Town or Town Board the claim that the provisions of the License and Permit are unreasonable, arbitrary, or void. (Ord. 1984-4, S25, April 5, 1984)

**4.02.260 Duration and acceptance of license and permit.**

- (1) This License and Permit and the rights, privileges and authority hereby granted shall take effect and be in force from and after final passage hereof, as provided by law, and effect for a term of 15 years, provided that within 5 days subsequent to the date of the passage of this Ordinance the Grantee shall file with the Town Clerk its unconditional acceptance of this License and Permit and promise to comply with and abide by all its provisions, terms, and conditions. Such acceptance and promise shall be in writing duly executed and sworn to, by or on behalf of the Grantee before a Notary Republic or other officer authorized by law to administer oaths.
- (2) Should the Grantee fail to comply with subsection (1) above, it shall acquire no rights, privileges, or authority under this License and Permit whatever.
- (3) The Grantee shall have a right of renewal of this License and Permit upon such terms as the Town and Grantee may agree upon, subject to such state or Federal regulations as may be in effect as of the time of renewal. (Ord. 1984-4, S26, April 5, 1984)

**4.02.270 Number of channels.** The Grantee's cable distribution system shall be capable of carrying at least twenty (20) television channels. (Ord. 1984-4, S27, April 5, 1984)

**4.02.280 Publication costs.** The Grantee shall assume the entire cost of publication of this License and Permit if such publication is required by law. Such amount is payable upon the Grantee's filing of acceptance of this License and Permit. (Ord. 1984-4, S28, April 5, 1984)

**4.02.290 Separability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. 1984-4, S29, April 5, 1984)

**4.02.300 Effective date of license and permit.** This Ordinance and License and Permit granted herein shall become effective upon approval by the Town Board. (Ord. 1984-4, S30, April 5, 1984)

## Chapter 4.03

### CABLE TELEVISION FRANCHISE TO COUNTRY CABLE SYSTEM, INC.

#### Sections:

- 4.03.010 Purpose
- 4.03.020 Definitions
- 4.03.030 Ordinance – Grant of Franchise
- 4.03.040 Compliance – Required Generally
- 4.03.050 Compliance – National Electrical Safety Code
- 4.03.060 Compliance – FCC Rules and Regulations
- 4.03.070 Modification of FCC Rules
- 4.03.080 Transfer
- 4.03.090 Company rules and regulations
- 4.03.100 Franchise – Term
- 4.03.110 Franchise – Renewal
- 4.03.120 System construction and maintenance
- 4.03.130 Construction schedule
- 4.03.140 Line extension
- 4.03.150 Town rights
- 4.03.160 Publication costs and legal fees
- 4.03.170 Payments to the Town
- 4.03.180 Rates and Charges – Designated
- 4.03.190 Rates and Charges – Change
- 4.03.200 Recordkeeping
- 4.03.210 Service procedures
- 4.03.220 Protection of privacy
- 4.03.230 Program content restrictions
- 4.03.240 Liability and indemnification
- 4.03.250 Activities prohibited
- 4.03.260 Repealer
- 4.03.270 Severability clause
- 4.03.280 When effective

#### 4.03.010 Purpose.

- (1) The purpose of this ordinance is to provide regulatory provisions of the cable television system in the Town of Chrisney, Indiana. (Ord. 1988-2, S1A, Sept. 12, 1988)
- (2) This ordinance shall be known and may be cited as the "Chrisney Cable Television Regulatory Ordinance." (Ord. 1988-2, S1B, Sept. 12, 1988)

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

- (1) "Company" means Country Cable Systems, Inc. an Indiana Corporation with its offices in Kouts, Indiana the grantee of rights under this regulatory ordinance. (Ord. 1988-2, S2A, Sept. 12, 1988)
- (2) "Federal Communications Commission" or "FCC" means that federal agency constituted by the Communications Act of 1934 and as amended. (Ord. 1988-2, S2B, Sept. 12, 1988)
- (3) "Gross subscriber revenues" means only those revenues derived from the monthly service charges paid by subscribers located within the Town for regular cable television reception service, which service includes only the transmission of broadcast signals and the programming presented on the required access and originations channels, if any. Gross subscriber revenues shall not include any revenues received:
  - A. As reimbursement of expense in the operation of any access channels;
  - B. As advertising payments;
  - C. From the leasing of cable channels;
  - D. From programs for which a per-channel, per-program, or tier charge is made; and
  - E. From furnishing other communications and non-broadcast services either directly or as a carrier for another party or any other income derived from the system. Gross subscriber revenues shall also not include revenues received as installation charges and fees for reconnections, inspections, repairs or modifications of any installments. (Ord. 1988-2, S2C, 1,2,3,4,5, Sept. 12, 1988)
- (4) "Person" means any person, firm, partnership, association, corporation, company or organization of any kind. (Ord. 1988-2, S2D, Sept. 12, 1988)
- (5) "System" means the lines, fixtures, equipment, attachments and appurtenances thereto which are used in the construction, operation and maintenance of the cable television system authorized in this ordinance. (Ord. 1988-2, S2E, Sept. 12, 1988)

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

proceeding. Therefore, the Town grants to the company a nonexclusive franchise, right and privilege to construct, erect, operate, modify and maintain, in, upon, among, across, above and over and under the highways, streets, alleys, sidewalks, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto, in the Town, for poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Town of a cable television system for the purpose of distributing television and radio signals, and other electronic impulses in order to furnish television and radio programs, data, telephone and various communications and other electronic services to the public. The right so granted includes the right to use and occupy said streets, alleys, public ways and public places and all manner of easements for the purposes set forth in this ordinance. (Ord. 1988-2, S3, Sept. 12, 1988)

**4.03.040 Compliance – Required Generally.** The company shall, at all times during the life of this regulatory ordinance be subject to all lawful exercise of the police power by the Town and to such reasonable regulation as the Town shall hereafter by resolution or ordinance provide. The construction, operation and maintenance of the system by the company shall be in full compliance with such portions of the National Electrical Safety Code as may be applicable and in full compliance with all applicable rules and regulations of the Federal Communications Commission, the Town or any other agency of the state or the United States, which may hereafter acquire jurisdiction of the operations of the company authorized in this ordinance. (Ord. 1988-2, S4, Sept. 12, 1988)

**4.03.050 Compliance – National Electrical Safety Code.** All facilities and equipment of the company shall be constructed and maintained in accordance with the requirements of the National Electrical Safety Code. (Ord. 1988-2, S5, Sept. 12, 1988)

**4.03.060 Compliance – FCC Rules and Regulations.** The company shall, at all times, comply with the rules and regulations of the FCC governing CATV operations. (Ord. 1988-2, S6, Sept. 12, 1988)

**4.03.070 Modification of FCC Rules.** Consistent with the requirements of Rule 76.31 (a) (6) of the FCC, any modification of Rule 76.31 resulting in amendment thereto by the FCC, shall automatically be incorporated in this ordinance by specific amendments thereto and by lawful action of the Town, within one year from the effective date of the FCC's amendment. (Ord. 1988-2, S7, Sept. 12, 1988)

**4.03.080 Transfer.** The Company shall not sell or transfer any rights granted under this ordinance to another without written notice and approval by the Town; provided, that such approval shall not be unreasonably withheld if the company, or assignee has filed with the Town an instrument duly executed, reciting the fact of such sale or assignment, accepting the terms of this ordinance and agreeing to perform all conditions thereof. The Company shall have the right, without the consent of the Town, to assign or transfer this franchise to a corporation owned by the company or to a limited partnership of which the company is a partner, general partner or affiliate. No consent by the Town Board shall be required for a transfer in trust, mortgage, or other financial instrument to secure an indebtedness of the Cable System or Company. (Ord. 1988-2, S8, Sept. 12, 1988)

**4.03.090 Company rules and regulations.** The company shall have the authority to establish such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the company to exercise its rights and perform its obligations under this ordinance, and to assure an uninterrupted service to each and all subscribers. (Ord. 1988-2, S9, Sept. 12, 1988)

**4.03.100 Franchise – Term.** The franchise granted the company in this ordinance shall terminate twenty-five (25) years from date of grant, subject to renewal for additional twenty-five (25) year periods of duration on the same terms and conditions as contained in this ordinance, and as are consistent with the requirements of Rule 76.31 of the FCC or as amended by the FCC. If company has reasonably performed to the requirements and conditions of this ordinance, the Town will not withhold granting a renewal of this franchise to the company. (Ord. 1988-2, S10, Sept. 12, 1988)

**4.03.110 Franchise – Renewal.** The company shall be a party to any such proceedings and any other proceedings in which its rights, privileges or interest would be affected and shall be fully entitled to such due process rights as may be available under applicable laws, ordinances, rules and regulations. (Ord. 1988-2, S11, Sept. 12, 1988)

**4.03.120 System construction and maintenance.**

- (1) Upon grant of the franchise to construct and maintain a cable television system in the Town, and in furtherance of the company's execution of contracts with public utility companies, the company may obtain right-of-way permits from appropriate state, county and federal officials necessary to cross highways or roads to supply main trunk lines from the company's receiving antennas. The company shall construct its cable system using material of good and durable quality, and all work involved in the construction, installation, maintenance and repair of the cable system shall be performed in a safe, thorough and reliable manner. Any municipal property damaged or destroyed shall be promptly repaired or replaced by the company. (Ord. 1988-2, S12A, Sept. 12, 1988)
- (2) In the event that the Town elects to alter or change the grade of any street, alley or other public way, the company, upon notice by the Town shall remove, relay or relocate its wires, cables and other fixtures at the company's own expense. (Ord. 1988-2, S12B, Sept. 12, 1988)
- (3) The company shall, on the request of any person holding a building moving permit issued by the Town, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same and the company shall have the authority to require such payment in advance. The company shall be given not less than forty-eight (48) hours advance notice to

arrange for such temporary wire changes. (Ord. 1988-2, S12C, Sept. 12, 1988)

- (4) The company shall provide, upon request and without charge, service to any municipal buildings owned and operated by the Town and to any public elementary or secondary school if located in the town where cable is already installed to service others. This shall mean only an energized cable to such building. The cost of any internal wiring shall be borne by the institution. (Ord. 1988-2, S12D, Sept. 12, 1988)

**4.03.130 Construction schedule.** The company shall accomplish significant construction at least twenty percent (20%) within one (1) year after receiving FCC certification and other necessary federal approvals, and shall thereafter reasonably make cable service available to all residents of the Town, subject to the line extension provisions of Section 4.03.140, within two (2) years after receiving above federal approval. (Ord. 1988-2, S13, Sept. 12, 1988)

**4.03.140 Line extension.**

- (1) It shall be the obligation of the company to serve all residents of the Town except to the extent that density of homes, adverse terrain or other factors render providing service impracticable, technically unfeasible or economically noncompensatory to the company. (Ord. 1988-2, S14, Sept. 12, 1988)

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

**4.03.150 Town rights.**

- (1) **Town Rules.** The right is reserved by the Town to adopt, in addition to the provisions contained in this ordinance, such additional regulations as it shall find necessary in the exercise of the police power; provided, that such regulations, by ordinance or otherwise, shall be reasonable and not in conflict with the rights granted in this ordinance, and shall not be in conflict with the applicable laws of the state or the United States, or any FCC regulations. (Ord. 1988-2, S15A, Sept. 12, 1988)
- (2) **Emergency.** In the case of any emergency, the company shall, upon request of the Town, make available its facilities to the Town for emergency use during the emergency period. (Ord. 1988-2, S15B, Sept. 12, 1988)
- (3) **Liability.** The Town shall not be liable for any damage occurring to the property of the company caused by employees of the Town in the

performance of their duties. The Town shall not be liable for the interruption of service by actions of Town employees in the performance of their duties, nor shall the Town be held liable for the failure of the company to be able to perform normal services due to other factors beyond the control of the Town. (Ord. 1988-2, S15C, Sept. 12, 1988)

- (4) No Property Right. Nothing in this Ordinance shall grant to the company any right of property in the Town owned property. (Ord. 1988-2, S15D, Sept. 12, 1988)
- (5) Construction Approval by Town. The Town shall have the right to inspect the construction, operation and maintenance of the cable television system by the company. (Ord. 1988-2, S15E, Sept. 12, 1988)
- (6) Correction of Defects. In the event the company should violate any of the terms of this regulatory ordinance, the Town shall immediately give to the company, sixty (60) day's written notice to correct such violation and in the event the company does not make such correction within sixty (60) days from the receipt of such written notice, the Town may make such correction itself and charge the cost of same to the company, and the company shall pay such charges. (Ord. 1988-2, S15F, Sept. 12, 1988)

**4.03.160 Publication costs and legal fees.** The company shall assume the costs of the publication of the ordinance if such publication is required by law. A bill for publication costs shall be presented to the company and said publication costs shall be paid at that time by the company. The Town shall assume the costs of the Town Attorney and associated town legal fees. (Ord. 1988-2, S16, Sept. 12, 1988)

**4.03.170 Payments to the Town.**

- (1) The company shall, commencing one (1) year from the date of the first service, and during each year of operation, pay to the Town three percent (3%) of the annual gross subscriber revenues received by the company for regular monthly cable television services rendered to customers located within the Town. At the time of this annual payment, the company shall furnish to the Town a report showing the cable television systems annual gross subscriber revenue for the period that payment is being made. (Ord. 1988-2, S17A, Sept. 12, 1988)
- (2) All payments as required by the company to the Town shall be made semi-annually and shall be due forty-five (45) days after the close of the six (6) month period. (Ord. 1988-2, S17B, Sept. 12, 1988)

#### **4.03.180 Rates and Charges – Designated.**

- (1) Except as otherwise provided the company shall have the right, privilege and authority to charge the rates and charges fixed in this section to its subscribers for its services. (Ord. 1988-2, S18A, Sept. 12, 1988)
- (2) At system turnon single-user rates and charges may be as follows:
  - Installation--Not to exceed \$25.00 per standard installation.
  - Basic Service Charge--Initial Outlet--Not to exceed \$12.00 monthly.
  - Basic Service Charge--Additional Outlets Each - Not to exceed \$4.00 monthly. (Ord. 1988-2, S18B, Sept. 12, 1988)
- (3) Multi-user rates and charges may be negotiated between the company and the subscriber. (Ord. 1988-2, S18C, Sept. 12, 1988)
- (4) In addition to the specified monthly service rate, the company may add to that rate, taxes and town fees imposed upon the company's gross subscriber revenues or property by the town, county, state or federal governmental or legislative bodies and fees or charges imposed upon the company for the use and distribution of copyrighted program material. (Ord. 1988-2, S18D, Sept. 12, 1988)
- (5) Company may, at its own discretion, waive, reduce or suspend connection fees for specific or indeterminate periods and/or monthly service fees for promotional purposes. (Ord. 1988-2, S18E, Sept. 12, 1988)

#### **4.03.190 Rates and Charges – Change.**

- (1) For the purpose of this section, "basic monthly cable television service" is the provision of television broadcast signals and access and origination channels, if any, and does not include advertising services, rental of studios or equipment, provision of program production services, tiered channels, per-channel or per-program charges to subscribers ("pay cable"), rental of channels, sale of channel time, provision of commercial services such as security systems, or any other services of the system, the rates and charges for which shall not require approval by the Town. (Ord. 1988-2, S19A, Sept. 12, 1988)
- (2) In consideration for the services rendered to the subscribers, company may have the right to charge and collect reasonable and just compensation which shall reflect, among other things, the grantee's need to attract new capital and provide a reasonable return on invested capital. The Company, from time to time, may alter these rates at its discretion. The Company and the Town

agree that rates charged to subscribers are no longer subject to regulation by local government. The Federal Cable Communications Policy Act deregulated Cable Television. (Ord. 1988-2, S19B, Sept. 12, 1988)

**4.03.200 Recordkeeping.** The company shall keep accurate and current maps, and plans of the system, and these items shall be made available to the Town. (Ord. 1988-2, S20, Sept. 12, 1988)

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

- (1) Any complaints from subscribers shall be investigated and acted upon as soon as possible, but at least within five (5) business days of their receipt. The company shall keep a maintenance service log which will indicate the nature of each service complaint, and the date and time it was received. (Ord. 1988-2, S21A, Sept. 12, 1988)
- (2) The company shall by appropriate means, such as a card or brochure, as subscribers are connected or reconnected to the system, furnish information concerning the procedures for making inquiries and/or complaints, including the name, address and toll-free telephone number of the company. (Ord. 1988-2, S21B, Sept. 12, 1988)
- (3) The equipment installed by the Company in the subscribers home shall remain the property of the Company, and shall be subject to reasonable inspection and service by the Company at reasonable hours, and removal upon non-payment or termination of the service. (Ord. 1988-2, S21C, Sept. 12, 1988)
- (4) In the event that any subscriber shall fail to meet his obligations for payment of CATV service and to meet reasonable Company rules and regulations, the Company shall have the right to withhold or deny or disconnect CATV services to such subscriber. (Ord. 1988-2, S21D, Sept. 12, 1988)

**4.03.220 Protection of privacy.**

- A. The Company shall not permit the installation of any special terminal equipment in any subscriber's premises that will permit transmission from subscriber's premises of two-way services utilizing aural, visual or digital signals without first obtaining permission of the subscriber. (Ord. 1988-2, S22A, Sept. 12, 1988)
- B. It is unlawful for any person to attach or affix or cause to be attached or affixed any equipment or device which allows access or use of the CATV

service without payment to the grantee for same. Such action shall be a simple misdemeanor. (Ord. 1988-2, S22B, Sept. 12, 1988)

**4.03.230 Program content restrictions.** In addition to providing basic cable television service consisting of broadcast and automated signals, the company may offer subscribers optional services on a per-program or per-channel basis. However, the company shall not display X-rated motion pictures either as part of its basic cable or pay cable services. (Ord. 1988-2, S23, Sept. 12, 1988)

**4.03.240 Liability and indemnification.** The company shall indemnify the Town, and hold it harmless from all liability, damage, cost or expense arising from claims of injury to persons or damage to property occasioned by reason of any conduct undertaken pursuant to this ordinance. The Town shall notify the company's representative within fifteen (15) days after the presentation of any claim or demand to the Town, either by suit, or otherwise, made against the Town on account of any negligence on the part of the company. (Ord. 1988-2, S24, Sept. 12, 1988)

- (1) Company shall carry Workmen's Compensation insurance with statutory limits, and Employers' Liability insurance with limits of not less than One Hundred Thousand Dollars (\$100,000.00), which shall cover all operations to be performed by company as a result of this ordinance. (Ord. 1988-2, S24A, Sept. 12, 1988)
- (2) The amounts of insurance to be carried for liability due to property damage shall be One Hundred Thousand Dollars (\$100,000.00) as to any one occurrence and against liability due to injury or death of persons, One Hundred Thousand Dollars (\$100,000.00) as to any one person and Five Hundred Thousand Dollars (\$500,000.00) as to any one occurrence. (Ord. 1988-2, S24B, Sept. 12, 1988)
- (3) Company's Workmen's Compensation, Comprehensive General Liability and Comprehensive Automobile Liability insurance shall be written by an insurance company authorized to do business in the state. Company agrees to furnish Town with certificates of insurance of said policies. (Ord. 1988-2, S24C, Sept. 12, 1988)

**4.03.250 Activities prohibited.**

- (1) The company shall not allow its cable or other operations to interfere with television reception of others or the operation of the various utilities serving the town residents. (Ord. 1988-2, S25A, Sept. 12, 1988)
- (2) A. No person, whether or not a subscriber to the cable system may intentionally or knowingly damage, or cause to be damaged, any wire, cable, conduit, equipment or apparatus of the company, or commit any act with intent to cause such damage, or to tap, tamper with, or

otherwise connect any wire or device to a wire, cable, conduit, equipment and apparatus, or appurtenances of the company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to the company, or to obtain cable television or other communications service with intent to cheat or defraud the company of any lawful charge to which it is entitled.

- B. Any person convicted of violating any provision of this section is subject to a fine of not less than Fifty Dollars (\$50.00), nor more than Five Hundred Dollars (\$500.00) for each offense. Each day's violation of this section shall be considered a separate offense. (Ord. 1988-2, S25B, 1, 2, Sept. 12, 1988)

**4.03.260 Repealer.** That all ordinances in conflict herewith are hereby repealed. They are: NONE (Ord. 1988-2, S26, Sept. 12, 1988)

**4.03.270 Severability clause.** If any section provision or part of this ordinance shall be adjudged invalid or unconstitutional, such part shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional. (Ord. 1988-2, S27, Sept. 12, 1988)

**4.03.280 When effective.** This ordinance shall be in effect after its final passage, approval, publication, or posting as provided by law. (Ord. 1988-2, S28, Sept. 12, 1988)

## Chapter 4.04

### LICENSE FOR CIRCUS, MENAGERIES, THEATERS, MUSEUMS, CONCERTS, PEDDLERS, AUCTIONEERS

#### Sections:

- 4.04.010 License required for circus, menageries, theaters, museums, concerts, peddlers, auctioneers
- 4.04.020 License fee for shows
- 4.04.030 Charitable shows not required to obtain permits
- 4.04.040 Penalty for violation
- 4.04.050 Fees for peddlers license
- 4.04.060 Fees for auctioneers license
- 4.04.070 How to obtain permit

**4.04.010 License required for circus, menageries, theaters, museums, concerts, peddlers, auctioneers.** That it shall be unlawful for any circus, menageries, theaters, museums, concerts, peddlers or auctioneers to show or perform or sell or peddle any goods, wares or merchandise within the corporate limits of the Town of Chrisney, without first securing a license to do so as follows. (Ord. 52, S1, Sept. 19, 1910) (Ord. 5, S1, S2, S3, May 13, 1891)

**4.04.020 License fee for shows.** For each circus and animal show combined a license fee of Five Dollars per day shall be charged, for each show or museum exhibiting under a tent a license fee of Two Dollars per day shall be charged. For any traveling theater, musical performance, jugglery, slight of hand, ventriloquism, puppet show or any other traveling show or exhibition a license fee of Two Dollars per day shall be charged. (Ord. 52, S2, Sept. 19, 1910) (Ord. 9, S1, May 13, 1891)

**4.04.030 Charitable shows not required to obtain permit.** Provided, that nothing herein contained shall authorize said Town to require any license for any exhibitions, shows, concerts, or theaters, organized in said Town, nor for any lectures, reading or literacy exhibition of any kind given for charitable purposes or where there is no fee charged for admission. (Ord. 52, S3, Sept. 19, 1910) (Ord. 9, S2, May 13, 1891)

**4.04.040 Penalty for violation.** Any person or persons violating Section 4.04.010 or 4.04.020 of this Chapter shall be deemed guilty of disorderly conduct and shall upon conviction thereof be fined in any sum not less than Five Dollars or more than Ten Dollars. (Ord. 52, S4, Sept. 19, 1910)

**4.04.050 Fees for peddlers license.** That traveling peddlers selling goods, wares or merchandise in said Town of Chrisney shall pay a license fee as follows: (except farmers or gardeners, selling their own products or anyone selling fish or game.) Each pack or foot-peddler shall pay a license of Two Dollars per day. Each peddler in one horse vehicle Three Dollars per day, each peddler in Two Horse Vehicle, Three Dollars and Fifty cents per day. Any Peddler of patent-medicine Two Dollars per day, every peddler of jewelry or prize packages or where parties are giving away in connection with the sale of goods, Two Dollars per day. Any person violating this Section shall be deemed guilty of disorderly conduct and upon conviction shall be fined in any sum not less than Three Dollars nor more than Five Dollars. (Ord. 52, S5, Sept. 19, 1910) (Ord. 9, S3, May 13, 1891) (Ord. 5, S2, May 13, 1891)

**4.04.060 Fees for auctioneers license.** A license fee of Three Dollars per day shall be charged any person (except an officer legally authorized) to sell at auction within the corporate limits of said Town of Chrisney and goods or other property or to establish an auction house within said Town of Chrisney without first procuring said license and anyone violating this Section shall be deemed guilty of disorderly conduct and on conviction thereof shall be fined not less than Five Dollars nor more than Ten Dollars. (Ord. 52, S6, Sept. 19, 1910) (Ord. 5, S1, May 13, 1891)

**4.04.070 How to obtain permit.** Any person or persons desiring license under these Ordinances shall pay to the Clerk of the Town of Chrisney the price of such license, and the Clerk shall there upon issue and deliver to the proper person or persons a license for the time paid for and he shall forthwith turn over to the Treasurer of said Town of Chrisney the money received therefor and take his receipt for the same. (Ord. 52, S7, Sept. 19, 1910) (Ord. 9, S4, May 13, 1891) (Ord. 5, S4, May 13, 1891)

## Chapter 4.10

### GAMING

#### Sections:

#### 4.10.010 Gaming prohibited

#### 4.10.050 Enforcement

**4.10.010 Gaming prohibited.** It shall be unlawful for any person within the corporate limits of said Town of Chrisney, Indiana to keep any billiard, pool, pigeon-hole, Jenny Lynn table, ten pin alley, slot machine or other tables or machines for the purposes of gaming or gambling, and any person or persons on conviction of violating the provisions of this Section, shall be fined in any sum not exceeding Ten (\$10.00) Dollars for each offense with the costs of prosecution. (Ord. 37, S4, May 28, 1906) (Ord. 11, S4, May 13, 1891) (Ord. 5, S5, May 13, 1891)

**4.10.050 Enforcement.** It is hereby made the duty of the Marshal of said Town of Chrisney, Indiana to seize and destroy any and all gambling apparatus found within the incorporated limits of said town and also to enforce the further provisions of this Ordinance, and to institute suit against any person violating the same and any failure to do so he shall be liable and his official bond in any amount not less than Ten (\$10.00) Dollars nor more than Fifty (\$50.00) Dollars. (Ord. 37, S5, May 28, 1906) (Ord. 11, S5, May 13, 1891)