

ORDINANCE NO. 1994-01

An Ordinance To Amend Chapter
VII ~~XIII~~ Of The Code Of Ordinances
For The City Of Orangeburg, South
Carolina For The Purpose Of Amending
The Business License Fee Schedule
For Life Insurance Companies

Be it ordained by the Mayor and Members of Council of the City of
Orangeburg, South Carolina, in Council assembled, and by the
authority of the same that the Business License Schedule be
amended by charging the following:

423300 Life, Health, & Hospital Insurance Companies
on gross premiums.....2%

Done & ratified by City Council of Orangeburg, South Carolina, in
Council assembled this 4th day of January, 1994.



Martin L. Chatham
Mayor
James Haire
Landra T. Kintz
Marion F. Warr
L. J. ...
James W. ...
D. ...

ATTEST:
Sharon M. Jamming
City Clerk

ORDINANCE NO. 1994-02

AN ORDINANCE AUTHORIZING THE MUNICIPAL ASSOCIATION OF SOUTH CAROLINA TO ACT AS AN AGENT FOR THE CITY OF ORANGEBURG, SOUTH CAROLINA, FOR THE PURPOSE OF COLLECTING ALL BUSINESS LICENSE TAXES FROM PROPERTY AND CASUALTY INSURANCE COMPANIES AND BROKERS FOR NON-ADMITTED INSURANCE COMPANIES

WHEREAS, the Municipal Association of South Carolina has developed a program for statewide collection of all current and delinquent business license taxes due from insurance companies licensed in this state, and is continuing a program for collection of business license taxes from brokers for non-admitted surplus lines insurers insuring risks in this state, in which some municipalities participate; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for insurers and brokers, and a uniform due date of May 31 for such license taxes; and

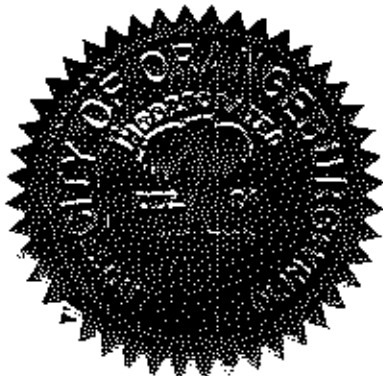
WHEREAS, municipalities are authorized to contract for assistance in collection of business license taxes pursuant to South Carolina Code Ann. 5-7-300.

NOW, THEREFORE, BE IT ORDAINED by Mayor and Councilmembers of the City of Orangeburg, South Carolina, in Council duly assembled this 18th day of January, 1994, that:

The Municipal Association of South Carolina is authorized to collect business license taxes for the City of Orangeburg from property and casualty insurance companies and brokers for non-admitted insurance companies and that the Mayor of the City of Orangeburg is authorized to execute an Agreement with the Municipal Association of South Carolina (attached hereto) outlining services to be provided by the Association and detailing fees to be paid for collection services.

This Ordinance does not apply to the collection of business license taxes for Life and Health Insurance Companies or brokers.

PASSED AND APPROVED by the City Council of Orangeburg, South Carolina, this 18th day of January, 1994.



Martin C. Crawford
MAYOR

Jay H. [Signature]
[Signature]
[Signature]

COUNCILMEMBERS

ATTEST:
Sharon M. Jamming
CITY CLERK

1994

AGREEMENT
FOR COLLECTION OF ALL BUSINESS LICENSE TAXES FROM INSURANCE
COMPANIES AND BROKERS FOR NON-ADMITTED INSURANCE COMPANIES

WHEREAS, the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA has developed a program for statewide collection of all current and delinquent business license taxes due from insurance companies licensed in this state, and is continuing a program for collection of business license taxes from brokers for non-admitted surplus lines insurers insuring risks in this state, in which some municipalities participate; and

WHEREAS, participating municipalities have adopted uniform rates and delinquent penalties for insurers and brokers, and a uniform due date of May 31 for such license taxes; and

WHEREAS, municipalities are authorized to contract for assistance in collection of business license taxes pursuant to S. C. Code Ann. §5-7-300; now therefore,

WITNESSETH

THIS AGREEMENT is made between the MUNICIPAL ASSOCIATION OF SOUTH CAROLINA (MASC) and the City/Town of City of Orangeburg (Municipality).

It is agreed between the parties as follows:

1. MASC will make the necessary investigations, develop a database for the Municipality, establish procedures for determining the amount of business license taxes due, communicate with insurance companies and brokers subject to the taxes, collect all current and delinquent business license taxes due from **Property and Casualty** insurers and from brokers on an annual basis.
2. MASC will bear all expenses incurred in connection with the services rendered.
3. MASC will deposit all funds received in an appropriate account for which accurate records will be maintained. Taxes collected for the municipality, less the service charge here in agreed to, will be disbursed to the Municipality on a monthly basis, unless otherwise agreed.
4. MASC is hereby designated as the exclusive agent of the Municipality for assessment and collection of the said business license taxes and penalties utilizing all procedures and actions authorized by ordinance or State law, and such procedures and actions may be invoked in the name of the Municipality without further approval by the Municipality.
5. MASC will notify all **Property and Casualty** insurance companies licensed in the state of this agreement and the requirement that all business license taxes be paid to MASC.

6. The Municipality acknowledges that it is an essential element of the programs for all such taxes to be paid to MASC, and no such taxes will be accepted, waived or compromised by the Municipality directly from or with an insurer or broker. All communications from Property and Casualty insurance companies and brokers will be sent to MASC. Payments accepted by the Municipality will be included in the computation of compensation to MASC.

7. The Municipality shall provide MASC with a report on the collection of Property and Casualty insurance company license taxes for the last full year prior to the agreement.

8. The Municipality agrees that MASC shall retain one (1%) per cent on a base amount equal to the amount collected directly by the Municipality from insurers in the last full license year prior to this Agreement, and ten (10%) per cent on all MASC collections from insurers above the base amount and on all amounts collected from brokers, together with any interest earned on funds held on deposit prior to disbursement, as compensation for the services rendered.

9. The Municipality represents that this agreement has been approved by ordinance duly adopted pursuant to S.C. Code Ann. §5-7-300.

10. This Agreement is effective until December 31, 1998, and shall continue from year to year thereafter until terminated by either party upon 90 days notice in writing given prior to December 31.

MUNICIPAL ASSOCIATION OF SOUTH CAROLINA

By: _____

Howard E. Duvall, Jr.
Howard E. Duvall, Jr.
Executive Director

CITY/TOWN OF City of Orangeburg

By: _____

Martin E. Cheatham
Mayor

DATE: _____, 1994.

January 25,

ORDINANCE NO. 1994-03

AN ORDINANCE OF THE CITY OF ORANGEBURG, SOUTH CAROLINA; PRESCRIBING REGULATIONS FOR RATES CHARGED TO CABLE TELEVISION SUBSCRIBERS FOR THE BASIC SERVICE TIER; PROVIDING THAT THIS ORDINANCE IS CUMULATIVE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Federal Communications Commission ("FCC") has issued rules pursuant to the Cable Television Consumer Protection and Competition Act, Pub. L. No. 102-385 (1992) ("1992 Cable Act"), implementing the regulation of cable television subscriber rates; and

WHEREAS, these rules allocate the regulation of rates for the basic service tier and associated equipment rates to local franchising authorities and require local authorities to become certified and adopt their own regulations governing the process of rate regulation; and

WHEREAS, the City of Orangeburg franchises cable television service for the benefit of its citizens; and

WHEREAS, the City has submitted its application for certification to the FCC and it is expedient to adopt the required regulations now, in order to implement regulations at the earliest possible date to obtain the most competitive rates for the City's cable ratepayers; **NOW, THEREFORE,**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ORANGEBURG:

SECTION 1. DEFINITIONS

In this ordinance:

BASIC CABLE RATES means the monthly charges for a subscription to the basic service tier and the associated equipment.

BASIC SERVICE TIER means a separately available service tier to which subscription is required for access to any other tier of service, including as a minimum, but not limited to, all must-carry signals, all PEG channels, and all domestic television signals other than superstations.

BENCHMARK means a per channel rate of charge for cable service and associated equipment which the FCC has determined is reasonable.

CABLE ACT OF 1992 means the Cable Television Consumer Protection and Competition Act of 1992.

CABLE OPERATOR means any person or group of persons:

(a) Who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such a cable system; or

(b) Who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

CHANNEL means a unit of cable service identified and selected by a channel number or similar designation.

COST OF SERVICE SHOWING means a filing in which the cable operator attempts to show that the benchmark rate of the price cap is not sufficient to allow the cable operator to fully recover the costs of providing the basic service tier and to continue to attract capital.

FCC means the Federal Communications Commission.

INITIAL BASIC CABLE RATES means the rates that the cable operator is charging for the basic service tier, including charges for associated equipment, at the time the city notifies the cable operator of the city's qualification and intent to regulate basic cable rates.

MUST-CARRY SIGNAL means the signal of any local broadcast station (except superstations) which is required to be carried on the basic service tier.

PEG CHANNEL means the ceiling set by the FCC on future increases in basic cable rates regulated by the city based on a formula using the GNP fixed weight price index, reflecting general increases in the cost of doing business and changes in overall inflation.

REASONABLE RATE STANDARD means a per channel rate that is at, or below, the benchmark or price cap level.

SUPERSTATION means any nonlocal broadcast signal secondarily transmitted by satellite.

SECTION 2. INITIAL REVIEW OF BASIC CABLE RATES

(A) Notice. Upon the adoption of this ordinance and the certification of the city by the FCC, the city shall immediately notify all cable operators in the city, by certified mail, return receipt requested, that the city intends to regulate subscriber rates charged for the basic service tier and associated equipment as authorized by the Cable Act of 1992.

(B) Cable operator response. Within 30 days of receiving notice from the city, a cable operator shall file with the city, its current rates for basic service tier and associated equipment and any supporting material concerning the reasonableness of its rates.

(C) Expedited determination and public hearing. (1) If the city council is able to expeditiously determine that the cable operator's rates for the basic service tier and associated equipment are within the FCC's reasonable rate standard, as determined by the applicable benchmark, the city council shall:

(a) Hold a public hearing at which interested persons may express their views; and

(b) Act to approve the rates within 30 days from the date the cable operator filed its basic cable rates with the city.

(2) If the city council takes no action within 30 days from the date the cable operator filed its basic rates with the city, the proposed rates will continue in effect.

(D) Extended review period. (1) If the city council is unable to determine whether the rates in issue are within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the city council shall, within 30 days from the date the cable operator filed its basic cable rates with the city and by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

(a) 90 days if the city council needs more time to ensure that a rate is within the FCC's reasonable rate standard; or

(b) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate above the applicable benchmark.

(2) If the city council has not made a decision within the 90 or 150 day period, the city council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate and on whose behalf the amounts are paid.

(E) Public hearing. During the extended review period and before taking action on the proposed rate, the city council shall hold at least one public hearing at which interested persons may express their views and record objections.

(F) Objections. An interested person who wishes to make an objection to the proposed initial basic rate may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the city clerk with the objector's name and address.

(G) Benchmark analysis. If a cable operator submits its current basic cable rate schedule as being in compliance with the FCC's reasonable rate standard, the city council shall review the rates using the benchmark analysis in accordance with the standard form authorized by the FCC. Based on the city council's findings, the initial basic cable rates shall be established as follows:

(1) If the current basic cable rates are below the benchmark, those rates shall become the initial basic cable rates and the cable operator's rates will be capped at that level.

(2) If the current basic cable rates exceed the benchmark, the rates shall be the greater of the cable operator's per channel rate on September 30, 1992, reduced by 10 percent, or the applicable benchmark, adjusted for inflation and any change in the number occurring between September 30, 1992 and the initial date of regulation.

(3) If the current basic cable rates exceed the benchmark, but the cable operator's per channel rate was below the benchmark on September 30, 1992, the initial basic cable rate shall be the benchmark, adjusted for inflation.

(H) Cost-of-service showings. If a cable operator does not wish to reduce the rates to the permitted level, the cable operator shall have the opportunity to submit a cost-of-service showing in an attempt to justify initial basic cable rates above the FCC's reasonable rate standard. The city council will review a cost-of-service submission pursuant to FCC standards for cost-of-service review. The city council may approve initial basic cable rates above the benchmark if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in rates below the benchmark or below the cable operator's September 30, 1992 rates minus 10 percent, will prescribe the cable operator's new rates.

(I) Decision. (1) **By formal resolution.** After completion of its review of the cable operator's proposed rates, the city council shall adopt its decision by formal resolution. The decision shall include one of the following:

(a) If the proposal is within the FCC's reasonable rate standard or is justified by a cost-of-service analysis, the city council shall approve the initial basic cable rates proposed by the cable operator; or

(b) If the proposal is not within the FCC's reasonable rate standard and the cost-of-service analysis, if any, does not justify the proposed rates, the city council shall establish initial basic cable rates that are within the FCC's reasonable rate standard or that are justified by a cost-of-service analysis.

(2) Rollbacks and refunds. If the city council determines that the initial basic cable rates submitted exceed the reasonable rate standard or that the cable operator's cost-of-service showing justifies lower rates, the city council may order the rates reduced in accordance with paragraph (G) or (H) above, as applicable. In addition, the city council may order the cable operator to pay to subscribers, refunds of the excessive portion of the rates with interest (computed at applicable rates published by the Internal Revenue Service for tax refunds and additional tax payments), retroactive to September 1, 1993. The method for paying any refund and the interest rate will be in accordance with FCC regulation as directed in the city council's resolution.

(3) Statement of reasons for decision and public notice. If rates proposed by cable operator are disapproved in whole or in part, or if there were objections made by other parties to the proposed rates, the resolution must state the reasons for the decision and the city council must give the public notice of its decision. Public notice will be given by advertisement once in a newspaper of general circulation in the city.

(J) Appeal. The city council's decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations.

SECTION 3. REVIEW OR REQUEST FOR INCREASE IN BASIC CABLE RATES

(A) Notice. A capable operator in the city who wishes to increase the rates for the basic service tier or associated equipment shall file a request with the city and notify all subscribers at least 30 days before the cable operator desires the increase to take effect. This notice may not be given more often than annually and not until at least one year after the determination of the initial basic cable rates.

(B) Expedited determination and public hearing. (1) If the city council is able to expeditiously determine that the cable operator's rate increase request for basic cable service is within the FCC's reasonable rate standard, as determined by the applicable price cap, the city council shall:

(a) Hold a public hearing at which interested persons may express their views; and

(b) Act to approve the rate increase within 30 days from the date the cable operator filed its request with the city.

(2) If the city council takes no action within 30 days from the date the cable operator filed its request with the city, the proposed rates will go into effect.

(C) Extended review period. (1) If the city council is unable to determine whether the rate increase is within the FCC's reasonable rate standard based on the material before it, or if the cable operator submits a cost-of-service showing, the city council shall, by adoption of a formal resolution, invoke the following additional periods of time, as applicable, to make a final determination:

(a) 90 days if the city council needs more time to ensure that the requested increase is within the FCC's reasonable rate standard as determined by the applicable price cap; and

(b) 150 days if the cable operator has submitted a cost-of-service showing seeking to justify a rate increase above the applicable price cap.

(2) The proposed rate increase is tolled during the extended review period.

(3) If the city council has not made a decision within the 90 or 150 day period, the city council shall issue a brief written order at the end of the period requesting the cable operator to keep accurate account of all amounts received by reason of the proposed rate increase and on whose behalf the amounts are paid.

(D) **Public hearing.** During the extended review period and before taking action on the requested rate increase, the city council shall hold at least one public hearing at which interested persons may express their views and record objections.

(E) **Objectives.** An interested person who wishes to make an objection to the proposed rate increase may submit the objection in writing anytime before the decision resolution is adopted. In order for an objection to be made part of the record, the objector must provide the city clerk with the objector's name and address.

(F) **Delayed determination.** If the city council is unable to make a final determination concerning a requested rate increase within the extended time period, the cable operator may put the increase into effect, subject to subsequent refund if the city council later issues a decision disapproving any portion of the increase.

(G) **Price cap analysis.** If a cable operator presents its request for a rate increase as being in compliance with the FCC's price cap, the city council shall review the rate using the price cap analysis in accordance with the standard form authorized by the FCC. Based on the city council's findings, the basic cable rates shall be established as follows:

(1) If the proposed basic cable rate increase is within the price cap established by the FCC, the proposed rates shall become the new basic cable rates.

(2) If the proposed basic cable rate increase exceeds the price cap established by the FCC, the city council shall disapprove the proposed rate increase and order an increase that is in compliance with the price cap.

(H) **Cost-of-service showings.** If a cable operator submits a cost-of-service showing in an attempt to justify a rate increase above the price cap, the city council will review the submission pursuant to the FCC standards for cost-of-service review. The city council may approve a rate increase above the price cap if the cable operator makes the necessary showing; however, a cost-of-service determination resulting in a rate below the price cap or below the cable operator's then current rate will prescribe the cable operator's new rate.

(I) **Decision.** The city council's decision concerning the requested rate increase shall be adopted by formal resolution. If a rate increase proposed by a cable operator is disapproved in whole or in part, or if objections were made by other parties to the proposed rate increase, the resolution must state the reasons for the decision. Objections may be made at the public hearing by a person in writing at anytime before the decision resolution is adopted.

(J) **Refunds.** (1) The city council may order refunds of subscribers' rate payments with interest if:

(a) The city council was unable to make a decision within the extended time period as described in paragraph (C) above; and

(b) The cable operator implemented the rate increase at the end of the extended review period; and

(c) The city council determines that the rate increase as submitted exceeds the applicable price cap or that the cable operator failed to justify the rate increase by a cost-of-service showing, and the city council disapproves any portion of the rate increase.

(2) The method for paying any refunds and the interest rate will be in accordance with FCC regulations as directed in the city council's decision resolution.

(K) Appeal. The city council's decision concerning rates for the basic service tier or associated equipment, may be appealed to the FCC in accordance with applicable federal regulations.

SECTION 4. CABLE OPERATOR INFORMATION

(A) City may require. (1) In those cases when the cable operator has submitted initial rates or proposed an increase that exceeds the reasonable rate standard, the city council may require the cable operator to produce information in addition to that submitted, including proprietary information, if needed, to make a rate determination. In these cases, a cable operator may request the information be kept confidential in accordance with this section.

(2) In cases where initial or proposed rates comply with the reasonable rate standard, the city council may request additional information only in order to document that the cable operator's rates are in accord with the standard.

(B) Request for Confidentiality. (1) A cable operator submitting information to the city council may request in writing that the information not be made routinely available for public inspection. A copy of the request shall be attached to and cover all of the information and all copies of the information to which it applies.

(2) If feasible, the information to which the request applies shall be physically separated from any information to which the request does not apply. If this is not feasible, the portion of the information to which the request applies shall be identified.

(3) Each request shall contain a statement of the reasons for withholding inspection and a statement of the facts upon which those reasons are based.

(4) Casual requests which do not comply with the requirements of this subsection shall not be considered.

(C) City council action. Requests which comply with the requirements of subsection (B) will be acted upon by the city council. The city council will grant the request if the cable operator presents by a preponderance of the evidence, a case for nondisclosure consistent with applicable federal regulations. If the request is granted, the ruling will be placed in a public file in lieu of the information withheld from the public inspection. If the request does not present a case for nondisclosure and the city council denies the request, the city council shall take one of the following actions:

(1) If the information has been submitted voluntarily without any direction from the city, the cable operator may request that the city return the information without considering it. Ordinarily, the city will comply with this request. Only in the unusual instance that the public interest so requires will the information be made available for public inspection.

(2) If the information was required to be submitted by the city council, the information will be made available for public inspection.

(D) Appeal. If the city denies the request for confidentiality, the cable operator may seek review of that decision from the FCC within five working days of the city council's decision, and the release of the information will be stayed pending review.

SECTION 5. AUTOMATIC RATE ADJUSTMENTS

(A) Annual inflation adjustment. In accordance with FCC regulations, the cable operator may adjust its capped base per channel rate for the basic service tier annually by the final GNP-PI index.

(B) Other external costs. (1) The FCC regulations also allow the cable operator to increase its rate for the basic service tier automatically to reflect certain external cost factors to the extent that the increase in cost of those factors exceed the GNP-PI. The factors include retransmission consent fees, programming costs, state and local taxes applicable to the provision of cable television service, and costs of franchise requirements. The total cost of an increase in a franchise fee may be automatically added to the base per channel rate, without regard to its relation to the GNP-PI.

(2) For all categories of external costs other than retransmission consent and franchise fees, the starting date for measuring changes in external costs for which the basic service per channel rate may be adjusted will be the date on which the basic service tier becomes subject to regulation or February 28, 1992, whichever occurs first. The permitted per channel charge may not be adjusted for costs of retransmission consent fees or changes in those fees incurred before October 6, 1994.

(C) Notification and review. The cable operator shall notify the city at least 30 days in advance of a rate increase based on automatic adjustment items. The city shall review the increase to determine whether the item or items qualify as automatic adjustments. If the city makes no objection within 30 days of receiving notice of the increase, the increase may go into effect.

SECTION 6. ENFORCEMENT

(A) Refunds. The city may order the cable operator to refund to subscribers a portion of previously paid rates under the following circumstances:

(1) A portion of the previously paid rates have been determined to be in excess of the permitted tier charge or above the actual cost of equipment; or

(2) The cable operator has failed to comply with a valid rate order issued by the city.

(B) Fines. If the cable operator fails to comply with a rate decision or refund order, the cable operator shall be subject to a fine of \$500 for each day the cable operator fails to comply.

PASSED and APPROVED by the City Council of Orangeburg, South Carolina, in Council duly assembled, this 15th day of February, 1994.



Walter C. Cheatham
MAYOR

James H. Hairs
Charles F. Knotts
Walter G. Hays
Raymond H. Kelly
James H. Kirt
Joseph W. Klemm
COUNCIL MEMBERS

ATTEST:
Sharon M. Jamming
CITY CLERK