

**TOWN OF YORK, MAINE
CABLE TELEVISION ORDINANCE**

Section I. Establishment and Purpose

An ordinance provided for Town regulation and use of the cable television system including its construction, operation and maintenance in, along, upon, across, 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 of York, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for a cable television system and to provide conditions accompanying the grant of franchise, and providing for the Town regulation of cable television system operation.

Section II. Definitions

- a) "Cable Television System" means any facility that, in whole or in part, receives directly or indirectly, over the air, and amplifies or otherwise modifies signals transmitting programs broadcast by one or more television or radio stations, or originates its own signal or signals produced through any of its community access channels and distributes such signals by wire or cable to subscribing members of the public who pay for such services. The term does not include any such facility that serves fewer than fifty (50) subscribers or that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.
- b) "Cable Television Company" or "Company" means any person, firm or corporation owning, controlling, operating, managing or leasing a cable television system within the Town of York.
- c) "Town" shall mean the Town of York organized and existing under the laws in the State of Maine and the area within its territorial limits.

Section III. Franchise Required

No person, firm or corporation shall install, maintain or operate within the Town or any of its public streets or other public areas any equipment or facilities for the operation of a cable television system unless a franchise authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this ordinance and unless said franchise is in full force and effect.

Section IV. Franchise Contract

The Municipal Offices of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Television Companies for the operation of a cable television system within the Town, including the granting of non-exclusive franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years.

Applicants for a franchise, including applicants for renewal of a franchise, shall pay a non-refundable filing fee to the Town as determined by the Board of Selectmen to defray the cost of public notices, advertising and other expenses relating to, or incurred by the Town in acting upon such applications. The application shall be filed with the Town Clerk and shall contain such information as the Town may require, including, but not limited to, a general description of the applicant's proposed operation, a schedule of proposed changes, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed system and its proposed annual town franchise fee or the basis for same, and a statement detailing the prior operational experience of the applicant in both cable television and Microwave service including that of its officers, management, and staff to be associated with the proposed operation. Franchise applications, including renewal applications and any submittals in response to a request for proposals or solicitation of bids, are public records. Upon the filing of such documents, the town shall provide reasonable notice to the public of the filing of such documents and indicating that such documents are open to public inspection during reasonable hours.

Said Franchise Contract may be revoked by the Municipal Officers for good and sufficient cause after due notice to the company and a public hearing thereon, with the right to appeal to the York County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

Section V. Public Hearing

Before authorizing the issuance of any such franchise, including transfers of ownership or renewals, contract or contracts, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement or transfer.

Section VI. Performance Bond & Insurance Coverage

Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount and in such form as is acceptable to the Town. The Town, in making this determination, may rely upon the advice of the Municipal Officers, Town Manager, Town Attorney and/or other appropriate Town Officials. The amount of said bond shall not be less than the estimated cost of performing any work specified in the franchise agreement and may include the cost of dismantling the cable television system. Said bond shall be conditioned upon the faithful performance of said contract and full compliance with any laws, ordinances, or regulations governing said franchise.

When the Cable Television Company has completed construction of the system as set forth in the franchise agreement and provided that the Cable Television Company is otherwise in compliance with the terms of the franchise agreement, the Municipal Officers may permit the Company to reduce said bond to an amount sufficient to cover the cost of dismantling the system.

The Cable Television Company shall also, upon execution of any such franchise contract, provide evidence of such public liability, copyright infringement and other insurance coverage as the Municipal Officers may require.

The Board of Selectmen may opt to allow for a Corporate Guarantee in lieu of a Performance Bond and appropriately condition the Corporate Guarantee.

Section VII. Cable Television Regulatory Board

The Board of Selectmen is hereby authorized to enter into an interlocal agreement with the Towns of Wells, Ogunquit and North Berwick for the purpose of establishing a Cable Television Regulatory Board.

Membership

The Board of Selectmen is hereby authorized to appoint two members to the Cable Television Regulatory Board from the Town of York.

Section VIII. Franchise Contract Contents

Each franchise contract between the Town and any Cable Television Company shall contain, but is not limited to, the following provisions:

- a) A statement of the area or areas to be served by the Cable Television Company,
- b) A line extension policy,
- c) A provision for renewal, the term of which may not exceed fifteen (15) years,
- d) Procedure for the investigation and resolution of complaints by the Cable Television Company,
- e) An agreement to comply with the requirements of 30-A MRSA, Subsection 3010 regarding Consumer rights and protection and any amendments thereto,
- f) Any other terms and conditions that are in the best interest of the Towns; and
- g) Provisions for access to, and facilities to make use of, one or more local public educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549 and any amendments thereto.

Section IX. Rules, Regulations And Procedures

The Municipal Officers of the Town of York shall:

- a) Adopt such rules and regulations as it may deem necessary for monitoring the operation of a cable television system,
- b) Make recommendations to the Cable Television Company concerning educational and local interest programming,
- c) Prepare specifications for bids or requests for proposals for cable television franchises and invite bids or issue request for proposals for said franchises. Before issuing a request for proposals or soliciting bids, the Municipal Officers shall determine any special local needs or interests, whether by actively seeking to determine those needs or interests or by allowing for a period for public comment on a proposed request for proposals.
- d) Resolve complaints, disputes, or disagreements between subscribers and the Company.
- e) Conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of the system. The

municipal officers decisions and findings shall be final and binding upon all parties including the Company, except such decision or finding may be appealed to the York County Superior Court under Rule 80-B; and

- f) All such ordinances, regulations, rules and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems, except that unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations.
- g) Enforce the requirements of any franchise agreement with a Cable Television Company and enforce the provisions of any local ordinances, regulations, rules and orders, including the provisions of this Ordinance. As part of such enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for declaratory and injunctive relief. The Town shall be entitled to recover its costs, including reasonable attorneys fees, incurred in the enforcement of this Ordinance, the provisions of a franchise agreement, or any local rules or regulations adopted pursuant to the Ordinance.

Section X. Compliance With All Laws

Cable Television Companies shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulations, ordinances, codes, and orders.

Section XI. Severability

Should any section of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

This Ordinance shall be effective on the date of its adoption by the Municipal Officers of the Town of York.