

adopted 2/1/90

TOWN OF HOPE

CABLE TELEVISION ORDINANCE

The Town of Hope, County of Knox and State of Maine, acting by and through its municipal officers, HEREBY ORDAINS the following Cable Television Ordinance:

Section 1. PURPOSE

This ordinance authorizes the municipal officers to control the franchising and regulation of cable television systems using public ways in the Town of Hope in order to assure that the needs and interests of the local citizens are adequately met; and to determine, according to the judgment of the municipal officers, the type and degree of regulations deemed to be in the best interests of the citizens of the Town. Cable television systems located in accordance with this ordinance, implementing regulations and franchises are not considered defects in public ways.

Section 2. DEFINITIONS

a. "Cable service" means (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

b. "Cable television system" means any facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the Town. Such term shall not include a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way. The term shall also not include any facilities of any electric utility used solely for operating its electric utility systems.

c. "Cable television operator" means any person, group of persons, firm or corporation (A) who provides cable service over a cable television system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system.

d. "Town" means the Town of Hope, organized and existing under the laws of the State of Maine and the area within its territorial limits.

e. Federal definitions controlling. The definitions contained in this ordinance rely on those contained in the Cable Communications Policy Act of 1984 (47 U.S.C. Section 521 et seq.), as it is from time to time amended and interpreted. Any ambiguity shall be resolved by reference to the federal statutes, regulations and the decisions interpreting the same. 1 In the event of any conflict between this ordinance and the federal statutes, the latter shall control.

Section 3.

FRANCHISE REQUIRED

No cable system operator shall install, maintain, or operate with the Town or place or maintain along the Town's public ways, any cable television system and appurtenances, or parts thereof, unless a franchise authorizing the use of said public ways has first been obtained pursuant to the provisions of this ordinance and unless said franchise is in full force and effect.

Section 4.

GENERAL REQUIREMENTS

a. Any cable television system shall be constructed and operated in accordance with Federal Communications Commission regulations and in such a manner as to provide a safe, adequate and reliable service to subscribers.

b. No cable television operator, notwithstanding any provision in a franchise, may abandon service or any portion thereof without having given six months' prior written notice to the Town and to any other town which may be affected by the abandonment. If abandonment of service is prohibited by the terms of the franchise, no cable television operator may abandon that service without written consent of the municipal officers. Any cable television operator which violates this paragraph shall be subject to a fine of \$50.00 per day, for each day that the violation continues.

c. The Town shall be entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred by this ordinance or state law (30 M.R.S.A., Section 2158, as amended).

Section 5.

FRANCHISE CONTRACT

a. The municipal officers of the Town may contract on such terms, conditions and impose such fees as are in the best interests of the Town, including the grant of exclusive or non-exclusive franchises for a period not to exceed fifteen (15) years, for the placing and maintenance of cable television systems within the territorial limits of the Town.

b. Each franchise shall contain the following provisions:

1. The area or areas to be served;
2. A line extension policy;
3. A provision for renewal, the term of which shall not exceed 15 years;
4. Procedures for the investigation and resolution of complaints by the cable television operator; and
5. Such other terms and conditions which are in the best interests of the municipality.

c. The municipal officers are authorized to require the cable television operator to file a surety performance bond conditioned upon the faithful performance of the contract and full compliance with any laws, ordinances, or regulations governing said franchise, including the cost of dismantling the system. When the cable television operator has completed its proposed system as set forth in its proposal, and in compliance with its franchise agreement, the municipal officers may permit the operator to cancel such bond except for an amount to cover cost of dismantling the system.

d. Applicants for a non-transferable franchise shall pay a non-refundable filing fee to the Town of Five Hundred Dollars (\$500.00) to defray the cost of public notice, advertising, legal and other expenses incurred in acting upon applications.

e. Ten copies of the application shall be filed with the Town Clerk and shall contain such information as the Town may require, including but not limited to:

1. A general description of the applicant's proposed operation;
2. A statement detailing its business or corporate organization;
3. A written commitment to timely service and restoration of property;
4. A schedule of proposed charges;
5. A statement detailing its previous two fiscal years, and an estimate ten-year financial projection of its proposed system;
6. Its proposed annual Town franchise fee, if any, or the basis for the same; and
7. A statement detailing the prior operational experience of the applicant in cable television systems and/or microwave service, including that of its officers, management and staff to be associated with the proposed operation.

f. Any 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 Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

Section 6.

PUBLIC COMMENT PERIODS

a. This ordinance and any amendment thereto requires a seven-day notice of the meeting at which the ordinance or amendments to the ordinance are to be proposed and acted upon. Said notice shall be given in the manner provided for town meetings and such ordinances shall be effective immediately upon adoption.

b. Upon filing, any franchise application and related documents are public records open to inspection by the public during reasonable hours, including specifically the regular business hours of the Town Office.

c. Before issuance of a request for proposals, the Town shall maintain the proposed required for proposals on the agenda of the Selectmens Meeting for a period of at least seven days for the purpose of determining any special local needs or interests. Any citizen of the Town shall have the right to comment, by writing filed in advance, or orally at the meeting at which the proposed request for proposals is to be considered.

d. Following reasonable notice to the public, any franchise application shall be available for inspection for a period of at least twenty days prior to the municipal officers taking action on the same. Any citizen of the Town shall have the right to comment, by writing filed in advance, or orally at the meeting at which the franchise applications are to be

considered.

e. Before authorizing the issuance of any franchise contract, 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.