

TOWN OF NORTH BERWICK, MAINE
CATV ORDINANCE

Section I - ESTABLISHMENT AND PURPOSE

An ordinance provided for Town regulation and use of the community antenna 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 North Berwick, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operation.

Section II. DEFINITIONS.

- a) "C.A.T.V." shall mean any community antenna television system or 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, but such terms shall not include any such facility that serves only the residents of one or more apartment dwellings under common ownership, control or management.
- b) "Cable Television Co." shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of North Berwick, sometimes hereinafter referred to as "the company".
- c) "Town." shall mean the Town of North Berwick 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 CATV 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 Officers 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 CATV system within the Town, including the granting of a franchise of franchises for the operation thereof for a period not to exceed Fifteen (15) years.

Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$100.00 to defray the cost of public notices, and advertising expenses relating to such application. The applications 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 CATV and Microwave service including that of its officers, management and staff to be associated with the proposed operation.

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 30-B of the Court Rules of Civil Procedure in accordance with due process.

Section V. PUBLIC HEARING.

Before authorizing the issuance of any such franchise 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 CATV system within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

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 of \$100,000.00 conditioned upon the faithful performance of said contract and full compliance with any laws, ordinances, or regulations governing said franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. Said performance bond shall be reduced to \$50,000.00 upon the completion of the installation of said system as per said contract. 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 - CATV REGULATORY BOARD

The Board of Selectmen are hereby authorized to enter into an interlocal agreement with the Towns of Wells, Ogunquit and York for the purpose of establishing a CATV Regulatory Board.

MEMBERSHIP

The Board of Selectmen are hereby authorized to appoint two members to the CATV Regulatory Board from the Town of North Berwick. In addition, the Town Manager shall be an advisory member to the North Berwick delegates.

DUTIES OF THE BOARD

The CATV Regulatory Board shall have the following duties:

- a) Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of the system, said rules and regulations being subject to the approval of the Selectmen of each Town which is the signatory to the interlocal agreement mentioned in the first paragraph hereof.
- b) Make recommendations to the Cable Television Company concerning educational and local interest programming.
- c) Resolve complaints, disputes, or disagreements between subscribers and the company.
- d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiency in the operation of said system. The Board's decisions and findings shall be final and binding upon all parties including the company, except such a decision or finding may be appealed to the Municipal Officers and/or to the York County Superior Court under said Rule 80-B.
- e) Regulate rates and charges to subscribers of the Cable Television Company pursuant to such terms, conditions and criteria as are agreed upon the franchise agreement.
- f) Shall prepare specifications for bids for CATV franchise and invite bids for said franchises. Upon receipt of bids, it shall study same and make recommendations on the awarding of a franchise, said recommendations being subject to the approval of each Selectmen of each Town which is the signatory to the interlocal agreement mentioned in the first paragraph hereof.
- g) After the awarding of the franchise, shall negotiate the franchise agreement between the company and the municipalities who are signatories to the interlocal agreement as mentioned in the first paragraph above, said recommendations being subject to the final and full approval of each municipality.

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) Procedures for the investigation and resolution of complaints by the Cable Television Company;

- e) An agreement to comply with the requirements of 30-A MRSA section 3010 regarding Consumer rights and protection and any amendments thereto;
- f) Any other terms and conditions that are in the best interest of the Town; and
- g) Provide 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 North Berwick shall:

- a) Adopt such rules and regulations as it may deem necessary for monitoring and regulating the operation of a CATV system;
- b) Make recommendations to the Cable Television Company concerning educational and local interest programming;
- c) Resolve complaints, disputes, or disagreements between subscribers and the Company;
- d) Have the authority to 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
- e) All such 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.

Section X - COMPLIANCE WITH ALL LAWS

Cable Television Companies shall at all times comply with all applicable federal, state and local laws, statutes, rules, regulation, 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 North Berwick