

TOWN OF WAYNE

CABLE TELEVISION ORDINANCE

The Town of Wayne, Kennebec County 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 and administer the franchising and regulation of cable television systems using public ways in the Town of Wayne and to enter into agreement on behalf of the Town of Wayne in order to assure that the needs and interests of the local citizens are adequately met; and to determine, according to the judgement 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 which are located in accordance with this ordinance and the regulations of the franchise are not considered defects in public ways.

Section 2. DEFINITIONS

a. "Cable Service" means (a) the one-way transmission to subscribers of video programming, or 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 is provided to multiple subscribers within the Town. Such terms 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 Wayne, organized and existing under the laws of the State of Maine and the area within its territorial limits.

e. "Municipal Officers" means the Wayne Board of Selectmen.

f. Federal Definition 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. 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 within 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 Municipal Officers and to the Municipal Officers of 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 that 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 (Title 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 or conditions, and impose such fees as are in the best interests of the Town, including the granting 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;
5. Such other terms and conditions which are in the best interests of the municipality; and
6. The provision of full-service, all-channel cable service free of charge to the Wayne Grammar School and the Ladd Recreation Center.

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. 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.

d. Applicants for a franchise may be required to pay a non-refundable filing fee to the Town of up to one hundred dollars (\$100.00) to defray the cost of public notices, advertising, legal and other expenses incurred in acting upon applications.

e. Five 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 estimated five-year financial projection of its proposed system;
6. A statement detailing the applicant's prior operational experience in cable television systems and/or microwave service, including that of its officers, management and any staff to be associated with the proposed operation; and
7. A general statement of the applicant's ability and intent to incorporate technological improvements and advancements in the Wayne Cable T.V. system as such improvements or advancements are generally available in the industry.

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 request for proposals on the agenda of the Selectmen's Meeting for a period of at least seven days for the purpose of determining any special local needs or interest. Any citizen of the Town shall have the right to comment in 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 in 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 such franchise contract, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of the applicant's 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.