

TOWN OF NORTH YARMOUTH CATV ORDINANCE

SECTION I: PURPOSE

The purposes of this Ordinance are to provide for Town regulation and use of community antenna television systems including all aspects of their construction, installation, maintenance, and operation, and any additions or extensions thereto in the Town of North Yarmouth; and to provide rules, regulations, and conditions for the granting of franchises or any part thereof for the construction, installation, maintenance, and operation of community antenna television systems in the Town of North Yarmouth, in the best interests of the Town of North Yarmouth and its citizens.

SECTION II: DEFINITIONS

- A. Board - shall mean the CATV Regulatory Board of the Town of North Yarmouth as established by this Ordinance.
- B. Community Antenna Television System (referred to in this Ordinance as "CATV System" - shall mean any facility that, in whole or part, receives television or radio signals or originates its own signal or signals and transmits them to subscribers paying a fee for such service, but shall not include any such facility serving only the residents of one or more apartment dwellings under common ownership, control, or management, unless such facility operates in the municipal right of way.
- C. Company - shall mean any person, persons, firm, partnership, or corporation granted a CATV System Franchise by the Town of North Yarmouth
- D. Franchise - shall mean the written agreement between the Company and the Town which defines the rights, duties, and liabilities of the parties regarding the construction, installation, maintenance, and operation of a CATV System within the Town, as set forth by the Town.
- E. Municipal Officers - shall mean those persons duly elected as the governing body of the Town of North Yarmouth.
- F. Subscriber - shall mean any person or group electing to have CATV System services on their premises.
- G. Town - shall mean the Town of North Yarmouth, organized and existing under the laws of the State of Maine, and the area within its territorial boundaries.

SECTION III: FRANCHISE REQUIRED

No person, persons, firm, partnership, corporation, or other entity shall construct, install, maintain, operate, or own a CATV System or any part thereof within the Town unless it has obtained a franchise from the Town pursuant to the terms and provisions of this Ordinance and unless said franchise is in full force and effect.

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SECTION IV: REGULATORY BOARD

- A. Upon adoption of this Ordinance, the Municipal Officers are hereby authorized to appoint a CATV Regulatory Board. In the absence of such appointment, the municipal officers shall serve as The Board. The term of office of an appointed member shall be three years.
- B. The Board shall have a Chair, Vice Chair, and Secretary, and shall have the following responsibilities and duties:
 - 1. Create, revise, and update the application form for CATV Systems;
 - 2. Recommend regulations to the Municipal Officers concerning CATV Systems;
 - 3. Review and recommend to the Municipal Officers all applications and any renewals or extensions for CATV Systems within the Town;
 - 4. Review the performance of the Company and its compliance with the franchise agreement at least once a year;
 - 5. Review the rates, fees, and deposits for CATV System services at least once a year;
 - 6. Review all notices for rate increases and make recommendations to the Municipal Officers;
 - 7. Review and recommend to the Municipal Officers local programming and services, if applicable;
 - 8. Review and settle disputes and grievances concerning CATV Systems;
 - 9. Assume other CATV related duties as designated by the Municipal Officers or this Ordinance.
- C. Grievance Procedure
 - 1. This section shall regulate the Grievance Procedure concerning CATV Systems.
 - 2. All complaints and disputes concerning the Company regarding any aspect of the CATV System shall be submitted in writing to the Board.
 - 3. The Board shall investigate the complaint, hear all parties, and shall file a written report stating its findings of facts, and either dismiss the complaint or direct the Company to remedy the complaint, which remedy may include the ordering of a refund or rebate to any subscriber. The Board shall give reasonable notice to all parties of the time and place of the hearing.
 - 4. The decision of the Board shall be binding unless appealed to the Municipal Officers within ten (10) days after the decision of the Board is announced. Said appeal shall be in writing and filed with the Town Clerk.

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SECTION V: PROCEDURES FOR OBTAINING A FRANCHISE

- A. Any person, firm, partnership, or corporation desiring to obtain a franchise to establish or operate a CATV System must apply only in response to a Request for Applications issued by the Town. An incumbent operator must notify the Town in accordance with Section 626 of the Cable Act
- B. An applicant must first complete an application form furnished by the Town and in addition to this form, the applicant shall furnish any information requested by the Town or the Board.
- C. Upon receipt of all applications pursuant to its Request for Applications, the Municipal Officers shall hold a public hearing to review the Applications. The public hearing shall be advertised and conducted in accordance with the North Yarmouth Town Charter.
- D. Applications for a franchise to operate a CATV system in the Town and related documents are public records maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 M.R.S.A. Sec. 401 et seq. as amended from time to time) and the public has the right to inspect and copy such applications and documents during the regular business hours of the North Yarmouth Town Clerk's office.
- E. The municipal officers shall assess such fees as are reasonably necessary to defray the costs of public notice, advertising and other expenses incurred by the Town in acting upon franchise applications and renewals

SECTION VI: FRANCHISE CONTRACT TERMS

- A. The terms of the franchise shall be set forth in the franchise agreement. The Company shall abide by the terms of this Ordinance and the franchise agreement.
- B. The Municipal Officers may grant a non-exclusive franchise for a period not to exceed ten (10) years, on such terms and conditions as are in the best interests of the Town and its citizens to include:
 - 1. A statement of the area or areas to be served by the Cable Television Company;
 - 2. A line extension policy;
 - 3. Provision for renewal not to exceed 10 Years
 - 4. Procedures for the investigation and resolution of the complaints by the Cable Television Company; and
 - 5. Any other terms and conditions that are in the best interests of the Town.
- C. The company shall report all information requested by the Board or the Municipal Officers concerning the construction, installation, maintenance, or operation of the CATV System. Further, the Company shall submit any information requested by the Board or the Municipal Officers necessary for reviewing rates, determining rate increases, settling disputes or grievances, or evaluating the general performance of the company.

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- D. All fees, rates, deposits, or charges to subscribers shall be fair and reasonable, and shall be filed with the Municipal Officers 30 days prior to becoming effective.
- E. The Municipal Officers shall have the right, in addition to any other remedy contained herein or in the franchise agreement, to revoke a franchise for cause after notice to the Company and a public hearing thereon. The Company may appeal such action to the Cumberland County Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

SECTION VII: PERFORMANCE BOND

Upon the signing of the franchise agreement, the Company shall file and maintain a surety company performance bond in an amount which the Municipal Officers deem fair and appropriate, conditioned on its performance of the franchise contract and its compliance with any rule, regulation, ordinance, or law concerning the franchise and CATV Systems. The amount of this bond may be reduced at the discretion of the Municipal Officers as construction of the CATV System is completed.

SECTION VIII: INSURANCE

The Company shall carry public liability insurance covering its activities in constructing, installing, maintaining, and operating a CATV System in the Town, in an amount and on such terms as set forth in the franchise agreement.

SECTION IX: ENFORCEMENT

Any person, persons, partnership, firm, or corporation violating any provision of this Ordinance shall be punished by a fine not to exceed Two-Hundred Dollars (\$200.00) for each such violation. In addition, this Ordinance and any franchise agreement awarded hereunder may be enforced by injunctive relief or any other legal means of enforcement.

SECTION X: SEPARABILITY

In the event a Court declares any provision of this Ordinance invalid, illegal, or unconstitutional, such provision shall be deemed to stand alone and all other provisions shall remain in full force and effect.

ADOPTED: March 2, 1982

AMENDED: April 8, 2017