

CABLE TV ORDINANCE OF BROWNFIELD, MAINE

Adopted 19 Nov 01

Section 1. PURPOSE

An Ordinance providing for Town regulation and use of the community antenna television systems including their construction, operation and maintenance in, along, upon, across, above, 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 Brownfield, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation of the community antenna television system and to provide conditions accompanying the grant of franchises for the construction, installation, maintenance and operation of community antenna television systems in the Town of Brownfield, in the best interests of the Town of Brownfield and its citizens.

Section 2. 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 term 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 Brownfield, sometimes hereinafter referred to as "the company".

(c) "Town" shall mean the Town of Brownfield organized and existing under the laws in the State of Maine and the area within its territorial limits.

Section 3. 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 4. FRANCHISE CONTRACT AUTHORITY AND PROCEDURE

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

(b) The proposed Franchise Agreement shall be filed with the Town Clerk and shall contain such information as the Town may require, such as but not limited to a general description of the applicant's proposed operation, a schedule of proposed charges, a statement detail its business or corporate organization with a financial statement for the two previous

fiscal years, an estimated fifteen (15) 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.

(c) Said Franchise Agreement 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 Oxford County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

(d) Prior to the preparation by the Town of any future requests for proposals for franchises or renewals thereof the Town shall hold a public hearing with at least seven days notice by publication in a newspaper of general circulation within the Town, to solicit public comment regarding special local needs and interests with respect to cable television services.

(e) Applications for a franchise to operate a CATV system in the Town and related documents are public records to be filed with and maintained by the Town Clerk pursuant to the State Freedom of Access Law. Reasonable notice must be given to the public of their right to inspect and copy such applications and documents during the regular business hours of the Brownfield Municipal Office.

(f) 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 throughout the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

(g) Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount of \$50,000 conditioned upon the faithful performance of the contract and full compliance with any laws, ordinances, or regulations governing the franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. The performance bond shall be reduced to \$25,000 upon the completion of the installation of the system as per the contract.

Section 5. 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 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 M.R.S.A. section 3010 and 47 U.S.C. sections 551 and 552 regarding consumer rights and protection and any amendments thereto;

(f) Any other terms and conditions that are in the best interests 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 30-A M.R.S.A. section 3010 and U.S.C. section 531 and any amendments thereto.

Section 6. RULES, REGULATIONS AND PROCEDURES

The Municipal Officers of the Town of Brownfield shall:

(a) Adopt such rules and regulations as it any 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 Oxford County Superior Court under Rule 80-B.

(e) All such rules, regulations 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 7. 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 8. SEVERABILITY

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