

TOWN OF SKOWHEGAN

CATV Ordinance

(Adopted: Regular Selectmen's Meeting 9/25/90)

The Town of Skowhegan, acting by and through its municipal officers, hereby ordains the following Cable Television Ordinance.

SECTION 1. The purpose of this ordinance is to provide for the Town regulations 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 Skowhegan, including poles, wires, cables, underground conduits, manholes, conductors, and fixtures necessary for the maintenance and operation in the Town of Skowhegan, of the community antenna television system, and to provide conditions accompanying the grant of franchise; and providing the Town regulations of CATV operation.

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 terms shall not include any such facility that serves only residents of one or more apartment dwellings under common ownership, control or management.
- B. "Cable Television Company" shall mean any person, firm or corporation owning, controlling, operation, managing or leasing a CATV system within the Town of Skowhegan, sometimes referred to as "the company".
- C. "Town" shall mean the Town of Skowhegan, organized and existing under the laws of 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 ways or other public areas, equipment or facilities for the operation of a CATV system unless a franchise authorizing the use of said public ways 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

A. The municipal officers of the Town may contract on such terms, conditions and fees as they deem in the best interest of the Town and its residents with one or more cable television companies for the operation of CATV system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed ten (10) years, and said 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 ten (10) years;
- (4) Procedures for the investigation and resolution of complaints by the cable television company in accordance with 30S M.R.S.A. §3010; and
- (5) Such other terms and conditions which are in the best interest of the Town.

B. Applications for a franchise shall pay a non-refundable filing fee to the Town for Two hundred and fifty dollars (\$250.00) to defray the cost of the public notice and other advertising expenses relating to such application. The application 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 charges, sufficient financial information to determine the applicant's financial capacity, and estimated ten-year financial projection of its proposed system, its proposed annual Town franchise fee, if any, 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. 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 5. PUBLIC COMMENT PERIOD

A. Before issuance of a request for proposals, the Town shall hold a public hearing with at least seven (7) days advance notice for the purpose of determining any special local needs or interests regarding cable television.

B. Any proposal submitted by a prospective CATV franchise shall be filed in triplicate with the Town Clerk's office, shall be deemed a public record, shall be available for a period of not less than thirty (30) days prior to the Town's taking any formal action thereon, and public notice of the filing shall be given.

C. 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 its qualification to operate a CATV system within the Town, and shall conduct a public hearing thereon, with at least seven (7) days advertised notice prior to said public hearing.

SECTION 6. FINANCIAL GUARANTEE & INSURANCE COVERAGE

Upon the executive of any such franchise contract the cable television company shall file a financial guarantee in an amount not less than 25,000 conditioned upon the faithful performance of said contracts and full compliance with any laws, ordinances, regulations governing said franchise, including cost of dismantling the system. Cable Television Company shall show evidence of such public liability, copyright infringement and other insurance coverage as the municipal officers may require. When the cable television company has completed its proposed system as set forth in its proposal, and in compliance with its franchise agreement, the municipal officers may permit the company to reduce said guarantee to an amount sufficient to cover cost of dismantling the system.

The financial guarantee options are:

A. performance bond from a surety bonding company authorizing to do business in the State of Maine which bond shall be payable to the Town.

B. An irrevocable letter of credit from a bank or other reputable institution satisfactory to the municipal officers and in a form satisfactory to them, which letter of credit shall certify the following:

(1) That the issuer does guarantee funds in a specified amount and for a specified duration; and

(2) That, in case of failure on the part of the company to satisfactorily perform said contract within the required time period, the issuer shall pay to the Town immediately, without further action, such funds as are necessary to finance the proper completion of dismantling of the system, up to the credit limit stated in the letter.

C. Evidence that cash has been deposited in an escrow account at a bank or other reputable institution acceptable to the municipal officers, and the escrow agreement acceptable to the municipal officers. The agreement shall provide that in case of failure on the part of the company to satisfactorily perform said contract within the required time period, the escrow agent shall pay to the Town immediately, and without further action, such funds as are necessary to finance the proper completion or dismantling of the system, up to the amount of the escrow account.

SECTION 7.

To the extent, if any, that this ordinance conflicts with a franchise agreement, which is in effect as of the date of the adoption of this ordinance, the franchise agreement, including renewal provisions contained therein, shall control.