

TOWN OF BAILEYVILLE, MAINE

CABLE TELEVISION ORDINANCE

The Town Council of the Town of Baileyville, State of Maine, hereby ordains:

TITLE: CABLE TELEVISION ORDINANCE

PURPOSE AND AUTHORITY: An ordinance providing 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 Baileyville, including poles, wires, cables, underground conduits, manholes, conductors, and fixtures necessary for the maintenance and operation in the Town of Baileyville of the community antenna television system and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of CATV operation. This ordinance is enacted pursuant to the authority granted the municipal officers in 30 M.R.S.A. Sec. 2158.

SECTION 1. 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 transmitting programs broadcast by one or more televisions 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 or 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 Baileyville, sometimes hereinafter referred to as "the company."

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

SECTION 2. 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 3. FRANCHISE CONTRACT

(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 within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen years. The municipal officers may issue a request for proposals prior to issuing a franchise contract. Prior to the issuance of a request for proposals, the municipal officers shall conduct a public hearing thereon with at least seven (7) days advertising notice for the purpose of determining special local needs or interests. Copies of the proposed request for proposals shall be available in the Town Office at least seven (7) days prior to said hearing for review by interested parties.

(b) Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$ 100. to defray the cost of public notice, 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 charges, a statement detailing its previous two fiscal years, an estimated fifteen 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. The filing of franchise applications and related documents are public records which shall be available to the public for inspection during normal business hours. The public notice required by Section 4 of this Ordinance shall include notice to the public of the availability of these records for inspection.

(c) 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 Washington County Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

SECTION 4. 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 5. PERFORMANCE BOND & INSURANCE COVERAGE

(a) 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 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 \$25,000. upon the completion of the installation of said system as per said contract.

(b) When a franchise is granted to provide CATV to an area substantially less than the territorial limits of the Town, the Town Council, after notice and hearing, may reduce or waive the performance bonds required by this section.

SECTION 6. REGULATION

In the administration of this Ordinance and the regulation of the maintenance and operation of a CATV system, the Municipal Officers of the Town shall have the authority and duty to:

(a) Adopt such rules and regulations as they may deem necessary for monitoring and regulating the operation of the system; and

(b) Make recommendations to the Cable Television Company concerning educational and local interest programming; and

(c) Include in the franchise contract a complaint procedure for the resolution of complaints, disputes or disagreements between subscribers and the Company; and

(d) Have the authority to conduct public hearings and issue such appropriate orders as they may deem necessary to correct any deficiencies in the operation of said system, which 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 Washington County Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure; and

(e) Review and approve annually the rates and charges assessed on the subscribers of the Cable Television Company

to the extent permissible by law, pursuant to such terms, conditions and criteria as are agreed upon in the franchise agreement.

SECTION 7. SEVERABILITY

If any part or parts, section or subsection, sentence, clause or phrase of this Ordinance or the rules and regulations promulgated thereunder is for any reason declared to be unconstitutional or invalid, such shall not affect the validity or constitutionality of the remaining portions of this Ordinance or the rules and regulations promulgated thereunder.

This Ordinance shall take effect when enacted.

Introduced - October 13, 1986

First Reading - October 27, 1986

Public Hearing - November 10, 1986

Adopted - November 10, 1986

Effective - November 10, 1986

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COUNCILORS OF BAILEYVILLE