

## *Town Of Perry, Maine*

### **Cable Television System Ordinance**

An Ordinance providing for Town regulation and use of the cable television system including its 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 Perry including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Perry of the cable television system and to provide conditions accompanying the grant of franchise; and providing for Town of Perry regulation of CATV operations.

#### **Section 1. Definitions**

(a) "C.A.T.V." shall mean any cable 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 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 Company" shall mean any person, firm or corporation owning, controlling, operating, managing or leasing a CATV system within the Town of Perry sometimes hereinafter referred to as "the company."

(c) "Town" shall mean the Town of Perry, Maine, a municipality organized and existing under the laws in 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 of Perry 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 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 Televisions Companies for the operation of a CATV system throughout the Town of Perry, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years. Such a franchise or franchises shall be non-exclusive.

(b) Applicants for a franchise shall pay a non-refundable filing fee to the Town of Perry 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 of Perry 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 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) Any franchise agreement entered into or renewed under this ordinance may be revoked by the Board of Selectmen for good and sufficient cause after due notice to the Cable Television 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.

(d) Prior to the preparation by the Town of Perry of 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 of Perry, to solicit public comment regarding special local needs and interests with respect to cable television services.

(e) Before authorizing the issuance of any such franchise agreement or agreements the Board of Selectmen 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 of Perry, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

(f) Upon the execution of any such franchise agreement the Cable Television Company shall file a surety company performance bond in the amount of \$100,000 conditional 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 Board of Selectmen may require. Said performance bond shall be reduced to \$50,000 upon the completion of the installation of said system as per said contract.

(g) Applications for a franchise to operate a CATV system in the Town of Perry and related documents are public records maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 M.R.S.A. ss. 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 Town of Perry Clerk's office.

#### **Section 4. Franchise Agreement Contents**

Any franchise agreement entered into after the effective date of this ordinance, and any renewal of a franchise agreement, which renewal is entered into after the effective date of this ordinance, between the Town of Perry and any Cable Television Company, shall be nonexclusive and shall contain 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 terms of which may not exceed 15 years;
- (d) Procedures for the investigation and resolution of the complaints by the Cable Television Company;
- (e) Provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels; and
- (f) Any other terms and conditions that are in the best interests of the Town of Perry.

### **Section 5. Amendment**

The Board of Selectmen as the Municipal Officers of the Town shall have the exclusive power to enact and amend this Ordinance. The Town of Perry's Board of Selectmen shall provide at least seven days' notice of any hearing on the proposed amendment to this Ordinance, and notice of such hearings shall be provided by publication in a newspaper of general circulation within the Town of Perry as well as by the posting of an attested copy in some conspicuous, public place in the Town of Perry together with a return on the notice in accordance with 30-A M.R.S.A. ss 2523 as amended from time to time. Pursuant to 30-A M.R.S.A. ss 3008, such amendments shall become effective immediately.

### **Section 6. 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 7. 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.