

TOWN OF LINCOLNVILLE CATV ORDINANCE

Pursuant to Title 30 MRSA Section 2158 (2) the inhabitants of the Town of Lincolnville, enacts the following ordinance governing the franchising and regulation of cable television systems using public ways within the Town of Lincolnville: said ordinance shall be known as the Cable Television Ordinance of the Town of Lincolnville.

Section 1 Preamble

In order to provide for town regulation and use of the communittee and antenna television system including its construction, operation, and maintenance in, upon, across, over, and under the streets, alleys, public ways and public places now laid out or dedicated in the Town of Lincolnville, with all extensions thereof and additions thereto, including poles, wires, cables, underground conduits, conductors and fixtures necessary for the maintenance and operation in said Town of the communittee antenna television system; and to provide for the Town regulation of a CATV operation and the granting of a franchise therefore, the Board of Selectmen of the Town of Lincolnville hereby enacts the ordinance set forth herein.

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 modified signals transmitting programs broadcast by one or more television or radio stations, or originated its own signal or signals produced through any of its community access channels and distribution 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 Company" shall mean any person, firm, or corporation owning, controlling, operation, managing, or leasing a CATV system within the Town of Lincolnville sometimeshereinafter referred to as "the company".

C. "Town" shall mean the Town of Lincolnville, 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 any equipment or facilities for the operation of a CATV system until a franchise authorizing the use of such public ways or areas has first been obtained pursuant to the provisions of this ordinance and pursuant to Title 30 MRSA Section 2158, and unless such franchise is in full force and effect.

Section 4 Franchise Agreement

A. The Selectmen of the Town of Lincolnville may contract on such terms, conditions, and with such fees as the Selectmen deem in the best interest of the Town and residents of the Town with one or more cable television companies for the operation of a CATV system within the Town of Lincolnville, including the granting of a franchise or franchises for the operation of such system for a period not to exceed ten (10) years with provisions for renewal of that franchise agreement on such terms and conditions as the Selectmen deem proper for an additional period not to exceed ten (10) years.

B. Applicant for a franchise shall pay a non-refundable filing fee to the Town of \$350 to defray the cost of public notice and advertising expenses relating to the application. The application shall be filed with the Town Clerk on such forms as provided by the Town Clerk and those forms shall contain at least the following information, and may contain more information:

1. A general description of the applicants proposed operation;
2. A schedule of proposed charges;
3. A financial statement showing the financial situation of the company for at least two (2) fiscal years;
4. A financial projection of the cost of the proposed system for the term of the franchise;
5. The proposed annual franchise fee payable to the Town;
6. A statement showing prior operational experience of the applicant in the provision of cable television which shall include the officers, management and staff to be associated with the proposed cable television system to be located in the Town of Lincolnville.

In addition, the Selectmen may require the submission of a complete construction schedule together with timetables for construction for the completion of the entire project; and that construction schedule shall require that the entire project be completed within twelve (12) months from the date of approval of the franchise agreement by the Selectmen of the Town. The applicant shall also submit a list of each cable franchise held by applicant and the name of the municipal official responsible for overseeing the cable t.v. activities in each of those communities served, together with the telephone number and address of that individual. The Selectmen may also require additional submission of letters demonstrating financial stability of the company which such letters may come from bank officials and others familiar with the financial operations of the company.

Section 5 Revocation of Franchise Agreement

Any franchise agreement made may be revoked by the municipal officers for good and sufficient cause, after due notice to the company and a public hearing, with the right of the company to appeal any such revocation to the Superior Court under Rule 8 B of the Maine Rules of Civil Procedure.

Section 6 Public Records

Any franchise application and other documents submitted with the franchise application shall be considered as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours at the Town Office.

Section 7 Public Comment and Public Hearing

A. Prior to the issuance of any request for proposals for franchise agreements, 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 concerning cable television for the Town of Lincolnville.

B. Any proposal submitted by a CATV franchise applicant shall be filed in triplicate with the Town Clerk's office. Such proposals shall also be considered a public record, and shall be available for public inspection for a period not less than thirty (30) days prior to any action by the Selectmen on the application; and the Selectmen shall provide public notice of the filing of any such application which such public notice shall include publishing a notice of the filing of that application in a newspaper of general circulation in the Town of Lincolnville.

C. Prior to the issuance of any such franchise agreement, the Selectmen of the Town of Lincolnville shall review the applicants character, financial, and technical qualifications, and the adequacy and feasibility of its qualifications to operate a CATV system within the Town of Lincolnville, and shall further consider the relationship of the applicant's proposal to the best interests of the Town of Lincolnville. The Town shall further conduct a public hearing on the issuance of a franchise agreement prior to the date of issuance and such public hearing shall have at least seven (7) days advertised notice prior to said public hearing; which notice shall include publication in a newspaper of general circulation in the Town of Lincolnville.

Section 8 Franchise Agreement Contents

Any franchise agreement authorized by the Selectmen of the Town of Lincolnville shall include at least provisions which identify the area or areas to be served, a line extension policy, and provisions for the investigation and resolution of complaints brought against the cable television company.

Section 9 Performance Bond and Insurance Coverage

Upon the execution of any such franchise contract, the cable television company shall file a surety company performance bond in an amount not less than Twenty Five Thousand Dollars (\$25,000) or the projected financial cost for construction of the cable television system in the Town of Lincolnville, which such bond shall be conditioned upon the faithful performance of said franchise agreement and full compliance with any laws, ordinances, and regulations governing said franchise, including costs of dismantling the system. The company shall also provide evidence of public liability insurance, copyright infringement insurance and other insurance coverage in a form satisfactory and in an amount satisfactory to the Selectmen of the Town of Lincolnville. Upon completion of the construction of the proposed cable television system and in the event that such construction is in compliance with the franchise agreement, then the municipal officers shall permit the company to cancel said performance bond.

Section 10 Compliance with the Laws of the State of Maine

Any franchise agreement issued pursuant to this ordinance shall comply with the provisions of Title 30 MRSA Section 2158 in the same manner as though those provisions were fully set forth in this ordinance.

Section 11 Enactment Date. December 28, 1987

Amendment 1 Effective 3-10-92, voted unanimously at the March 9, 1992, Selectmen's meeting. Paragraph 9, last sentence – place a period (.) after the word 'bond'; then delete the remaining words in the sentence.