

Published by Municipal Code Corporation

Chapter 6 CABLE TELEVISION*

***Cross reference(s)**--Administration, Ch. 2; buildings and building regulations, Ch. 5; housing, Ch. 8; housing code, § 8-26 et seq.; licenses and business regulations, Ch. 10; utilities, Ch. 16.

State law reference(s)--Cable television ordinances, 30-A M.R.S.A. § 3008.

Sec. 6-1. Purpose.

The purpose of this chapter is to regulate the establishment and operation of cable television systems in the Town of Brunswick (the "Town") for the safety, convenience, and general welfare of the public and to provide the procedures and conditions accompanying the application for and grant of cable television franchise agreements, including the renewal of existing franchise agreements.

(Ord. of 5-21-79, § 1; Ord. of 4-22-03)

Sec. 6-2. Agreement required.

No person, firm or corporation may construct, install, maintain or operate a cable television system in the Town without first obtaining a cable television franchise agreement from the Town Council and without maintaining said franchise agreement in full force and effect.

(Ord. of 5-21-79, § 3(1--5); Ord. of 4-22-03)

Sec. 6-3. Application for Franchise Agreement.

- 1) In order to obtain a new or renewal cable television franchise agreement to establish or operate a cable television system in the Town, the applicant shall first submit an application to the Town Clerk which meets the requirements of this section.
- 2) Each applicant for a franchise agreement, including each applicant for renewal of an existing franchise agreement, shall pay a reasonable fee to the Town to defray the cost of public notices, advertising and other expenses relating to, or incurred by the Town in acting upon such applications, including all legal and consulting fees and expenses. The Town Council shall determine the amount of this fee.

- 3) Any application for a cable television franchise or renewal of a franchise must contain the following information:
- a) The name, address, telephone number and e-mail address of the applicant and the applicant's local manager or other primary contact with the Town;
 - b) A detailed statement of the corporate or other business organization of the applicant, including but not limited to, the following:
 - (i) The names, residence and business addresses of all officers and directors of the applicant, and all employees of the applicant who will have management-level responsibility for the cable system serving the Town;
 - (ii) The names, residence and business addresses of all officers, persons and entities having, controlling, or being entitled to have or control 1% or more of the ownership of the applicant and each parent or subsidiary of the applicant and the respective ownership share of each such person or entity;
 - (iii) The names and addresses of any parent or subsidiary of the applicant and any other business entity owning or controlling the applicant in whole or in part or owned or controlled in whole or in part by the applicant, and a statement of the nature of any such parent or subsidiary business entity, including but not limited to cable television systems owned or controlled by the applicant, its parent and subsidiary and the areas served thereby;
 - (iv) A detailed description of all previous experience of the applicant in providing cable television service and in any other related fields such as telecommunications or information services;
 - (v) A detailed and complete financial statement of the applicant, its parent and its subsidiaries, prepared by a certified public accountant, for the fiscal year next preceding the date of the application hereunder, or a letter or other acceptable evidence in writing from a recognized lending institution or funding source, addressed to both the applicant and the Town Council, setting forth the basis for a study performed by such lending institution or funding source to provide whatever capital shall be required by the applicant to construct and operate the proposed system in the Town; and
 - (vi) A statement identifying, by place and date, any other cable television franchise(s)

awarded to the applicant, its parent or subsidiary, the status of said franchise(s) with respect to completion thereof; the total cost of completion or such system(s); and the amount of applicant's and its parent's or subsidiary's resources committed to the completion thereof;

- c) A detailed description of the applicant's plan for operating the cable system serving Brunswick, including, but not limited to, the following:
 - (i) A detailed map indicating all areas proposed to be served, and a proposed construction time schedule for the installation of all equipment necessary to become operational throughout the entire area to be served, and the time of commencement of construction and anticipated operation date;
 - (ii) A statement or schedule setting forth all proposed rates and charges to be made to each classification of subscribers, including installation charges, service charges, equipment rental charges and any deposit requirements;
 - (iii) A detailed statement describing the actual equipment and operational standards proposed by the applicant. In no event shall said operational and performance standards be less than those contained in Title 47 C.F.R. Subpart K (Sections 76.601, et seq.), of the Rules and Regulations of the Federal Communications Commission, as amended in the future; and
 - (iv) A copy of the form of any proposed or standard agreement between the applicant and any subscriber;
 - d) A detailed and complete statement describing the design of the cable system serving, or proposed to serve, the Town. Such statement shall include system architecture, channel capacity, channel uses, access, programming facilities, studio location, point to point service, two-way service, subscriber privacy, and interconnection; and
 - e) Such other information as the Town may require at the time of the franchise application.
- 4) Prior to issuing a request for proposals to any cable television company or companies for initial or renewal franchise agreements, the Town shall hold a public hearing or conduct some other process to determine any special local needs or interests with respect to cable television service and shall allow for a period of public comment on the request for proposals.

- 5) Franchise agreement applications, including renewal applications, and any submittals in response to a request for proposals or solicitation of bids and related documents, are public records. Upon the filing of such documents, the Town shall provide reasonable notice to the public that such documents are open to public inspection during reasonable hours.
- 6) A franchise agreement may be revoked by the Town Council for good and sufficient cause after due notice has been given to the cable operator and a public hearing thereon, with the sole right to appeal to the Cumberland County Superior Court pursuant to Rule 80B of the Maine Rules of Civil Procedure.
- 7) Before authorizing the issuance of any franchise agreement, including franchise renewals, and approvals of any transfers of ownership, property or rights under franchise agreements, the Town Council shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a cable television system within the Town, and shall conduct a public hearing thereon. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement, renewal or transfer. Before doing so, the Town shall publish a notice in a newspaper having general circulation in the Town at least seven (7) days before the hearing advising the name and address of the proposed franchisee, the fact that the Council will consider entering into an initial or renewal franchise agreement or transfer, and the time and place of the hearing.

(Ord. of 5-21-79, § 3(6); Ord. of 4-22-03)

State law reference(s)--Franchise agreement or contract requirements, 30-A M.R.S.A. § 3008.

Sec. 6-4. Issuance of Franchise Agreements.

The Town Council shall enter into non-exclusive franchise agreements for not more than ten (10) years with those applicants that the Town Council finds are best able to establish and operate cable television systems in the Town on terms that are most favorable to the Town and its residents. Each franchisee shall provide the Town with a performance bond in the sum of not less than fifty thousand dollars (\$50,000.00) conditioned on the franchisee's performance of its obligations under the franchise agreement.

Each franchise agreement between the Town and any cable television operator shall contain the following:

- 1) A statement of the area or areas to be served by the cable television operator;

- 2) A line extension policy;
- 3) A provision for renewal;
- 4) Procedures for the investigation and resolution of subscriber complaints by the cable television operator;
- 5) An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;
- 6) Provisions for access to, and facilities to make use of local public, educational and governmental access channels;
- 7) A provision authorizing the Town to conduct one or more performance evaluation hearings during the term of the franchise agreement in order to evaluate the cable operator's compliance with its obligations under the franchise agreement, to hear public input, to consider new technologies and services applicable to cable service and to hear from the cable operator; and
- 8) Any other terms and conditions that are in the best interest of the Town.

(Ord. of 5-21-79, § 4; Ord. of 4-22-03)

Sec. 6-5. Establishment of New Cable Television Systems.

- 1) In the case of a franchise agreement for a new cable television system, as soon as the franchise agreement has been executed, the cable franchisee shall:
 - a) apply to the Federal Communications Commission for any required authorization to receive and transmit local and distant signals and to operate the cable system;
 - b) after the authorization has been granted, prepare the necessary engineering surveys, plans, and specifications in conformity with state and local laws;
 - c) after plans and specifications have been approved by state and local officials, prepare and execute any necessary pole contracts to permit alteration of poles so as to accept the necessary cables; and
 - d) install the cable system distribution plant in the Town in accordance with a time schedule to be submitted by the cable franchisee and approved by the Town Council.

- 2) Until the system is in operation in the Town, the cable franchisee shall report its progress to the Town Council at least every three (3) months. Should the cable franchisee fail to make all reasonable efforts to establish the system and put it into operation, or fail to comply with the requirements set forth in Section 6-5(1) above, the Town Council shall, after notice and hearing, revoke the franchise agreement, and the cable franchisee shall forfeit the proceeds of the performance bond to the Town. In making this determination, the Town Council shall take into consideration those matters beyond the control of the cable franchisee including delays caused by any federal, state or local governmental agency, or by any public utility.

(Ord. of 4-21-03)

Sec. 6-6. Installation of service.

Each cable franchisee shall install and maintain the cable system in a workmanlike manner using only those materials and methods of installation, which are accepted in the industry as being safe and suitable to the purpose for which they were designed.

(Ord. of 5-21-79, § 5; Ord. of 4-22-03))

Sec. 6-7. Public liability insurance.

Each cable franchise shall carry all-risk public liability insurance with limits of at least seven million dollars per occurrence and seven million dollars (\$7,000,000) in the aggregate, for bodily injury, personal injury, death or property damage, which coverage may be supplied by a combination of primary and excess policy limits. Each cable franchise shall furnish the Town Council with, and keep current, a certificate of insurance that indicates compliance with this section.

(Ord. of 5-21-79, Ord. of 4-22-03)

Sec. 6-8. Type and scope of system.

Each cable franchisee shall:

- 1) install and maintain at least an eighty-channel cable system designed to receive and transmit color television programming;
- 2) provide for reception and transmission of the television and radio broadcast signals required by the Federal Communications Commission;

- 3) provide public, educational and governmental access channels as required by the terms of the franchise agreement; and
- 4) provide leased channels and channels utilized for other non-broadcast purposes as are required by the Federal Communications Commission.

(Ord. of 5-21-79, § 8; Ord. of 4-22-03)

Sec. 6-9. Hours of operation.

Each cable franchisee shall keep the cable system serving the Town in operation twenty-four (24) hours per day, seven days per week.

(Ord. of 5-21-79, § 9; Ord. of 4-22-03))

Sec. 6-10. Non-duplication of programming.

Each cable franchisee shall provide for non-duplication of programs and program exclusivity as required by the rules of the Federal Communications Commission.

(Ord. of 5-21-79, § 12; Ord of 4-22-03))

Sec. 6-11. Annual statement and Manager's Report to Council.

Annually, within ninety (90) days after the end of the cable franchisee's fiscal year, each cable franchisee shall file with the Town Manager an annual statement including a balance sheet and a profit and loss statement and all other information required by the terms of the franchise agreement. The Town Manager shall provide a report to the Town Council at least every two years regarding the status of each cable franchise agreement then in effect, including the cable operator's performance of its obligations under the franchise agreement and any quality of service issues. The Town Manager shall solicit public input prior to issuing this report.

(Ord. of 5-21-79, § 13; Ord. of 4-22-03))

Sec. 6-12. Free service to Town.

Each cable franchisee shall provide free basic cable service and cable programming service, including a free installation and service drop to each school and municipal building in the Town. The Town shall pay for any costs of installation of internal wiring necessary to distribute the cable service within the interior of such buildings.

(Ord. of 4-22-03)

Sec. 6-13. Basic service tier rates.

- 1) The Town will follow the FCC Rate Regulation in its regulation of the Basic Service Rates and Charges of any cable television system operating in the Town, notwithstanding any different or inconsistent provisions in the franchise.
- 2) In connection with such regulation, the Town will ensure a reasonable opportunity for consideration of the views of interested parties.
- 3) The Town Manager, or his or her designee, is authorized to execute on behalf of the Town and file with the FCC such certification forms or other instruments as are now or may hereafter be required by the FCC Rate Regulations in order to enable the Town to regulate basic service rates and charges.

(Ord. of 12-6-93; Ord. of 4-22-03)

Sec. 6-14. Enforcement.

A cable operator that violates this chapter shall be punished by a fine of one hundred dollars (\$100.00) or such other amount as provided by the terms of the franchise agreement. The Town Council may enforce this chapter and any franchise agreement hereunder by seeking any available civil remedies, including injunctive relief as provided in 30-A M.R.S.A. §3008(3) (E).

(Ord. of 5-21-79, § 14; Ord. of 12-6-93; Ord. of 4-22-03)

Sec. 6-15. Severability

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

Sec. 6-16. Effective Date

This chapter shall take effect immediately upon its adoption and shall apply to all cable television franchise agreements executed after the adoption of this chapter.