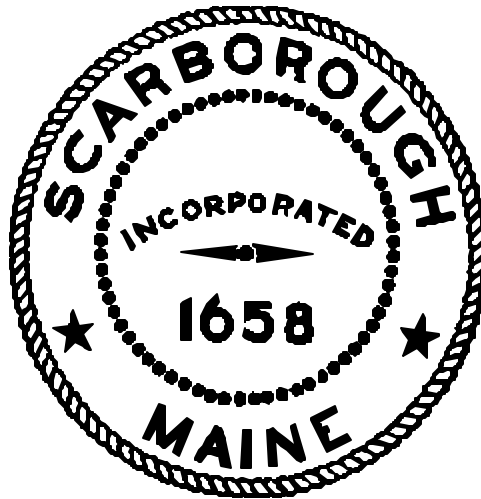


CHAPTER 1007

TOWN OF SCARBOROUGH

CABLE TV ORDINANCE



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**CHAPTER 1007
CATV ORDINANCE
AMENDMENT TO TOWN OF SCARBOROUGH
CABLE TELEVISION ORDINANCE**

CATV ORDINANCE

Section 1. ESTABLISHMENT AND PURPOSE

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

There shall be a Scarborough Cable Television System, the head of which shall be the Scarborough Cable Television Committee, the members of which shall be appointed by the Scarborough Town Council. As of June 1985, the Cable Television Committee was placed directly under the Department of Community Services of the Town Government.

The Scarborough Cable Television Committee is responsible for providing the citizens of Scarborough with such coverage of civil and public events, as the interest of the public and the availability of equipment and citizen volunteers permits.

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 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 Scarborough, sometimes hereinafter referred to as "the company".

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

Section 3. MEMBERS APPOINTED BY THE TOWN COUNCIL

(a) The Scarborough Cable Television Committee shall consist of seven (7) members of the public appointed at large who shall be responsible to the Town Council for the legal and proper management of Scarborough's Cable Television System.

(b) The initial appointments shall be: three members to serve until June 30, 1985; two members to serve until June 30, 1986; and two members to serve until June 20, 1987.

(c) All subsequent appointments, other than those required to fill unexpired terms of office, shall be for a term of three years.

Section 4. ADVISORY MEMBERS

One advisory non-voting member each shall be designated by the Town Manager and the Superintendent of Schools, such members to serve until replaced by the designating authority concerned.

Section 5. PUBLIC INVOLVEMENT

The Scarborough Cable Television Committee is authorized and responsible for the establishment, modification, supervision, and disestablishment of such subordinate committees, groups, and teams as that committee may deem necessary; to appoint and remove volunteers to and from such committees, groups and teams; and to perform the foregoing functions in accordance with the By-laws to be adopted by the Scarborough Cable Television Committee as approved by the Town Council.

Section 6. FINANCIAL PROCEDURE

The Committee is authorized to receive donations and contributions for the purpose of operating, maintaining, and expanding the television system of Scarborough. Recognition may be given by appropriate acknowledgments of the sources of partial funding, providing that all receipts and expenditures shall be included within the budget approved by the Scarborough Town Council within the fiscal year of the Town of Scarborough.

Section 7. VOLUNTEER PERSONNEL

No member of the Committee shall, without Town Council approval, receive compensation or reimbursement for his/her services nor shall the Committee, without Town Council approval, hire paid employees.

Section 8. OWNERSHIP OF PROPERTY

All equipment, materials and supplies procured or received by the Committee shall, upon receipt, become the property of the Town of Scarborough.

Section 9. ANNOUNCEMENTS

Announcements regarding municipal business shall be reviewed by the Town Manager, the Superintendent of Schools, the Chairman of the elective or appointive committee or board, as appropriate in each case.

Section 10. 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 11. 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 Television Companies for the operation of a CATV system throughout the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years. All franchises shall be non-exclusive.

(b) Applicants for a franchise shall pay a non-refundable filing fee to the Town as specified in the *Schedule of License, Permit and Application Fees* established by the Town Council, to defray the cost of public notice, and advertising expenses relating to such application, and must sign a document, in a form satisfactory to the town manager, committing the applicant to payment of legal fees associated with the contract negotiations. 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 detail its business or corporate organization with a financial stated 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) 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 Cumberland County Superior Court under Rule 80-B of the Maine Rules of Civil Procedure in accordance with due process.

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

(e) Applications for a franchise to operate a CATV system in the Town and related documents are public records to be filed with and maintained by the Town Clerk pursuant to the State Freedom of Access Law (1 Maine Revised Statutes Annotated (“M.R.S.A.”) section 401 et seq. as amended from time to time). Reasonable notice must be given to the public of their right to inspect and copy such applications and documents during the regular business hours of the Scarborough Town Clerk’s Office.

(f) 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 throughout the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing.

(g) Upon the execution of any such franchise contract the Cable Television Company shall file a surety company performance bond in the amount of \$200,000 conditioned upon the faithful performance of the contract and full compliance with any laws, ordinances, or regulations governing the franchise, and also evidence of such public liability insurance coverage as the Municipal Officers may require. The performance bond shall be reduced to \$100,000 upon the completion of the installation of the system as per the contract.

Section 12. FRANCHISE CONTRACT CONTENTS

Each franchise contract between the Town and any Cable Television Company shall contain, but is not limited to, 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 term of which may not exceed 15 years;
- (d) Procedures for the investigation and resolution of complaints by the Cable Television Company;
- (e) An agreement to comply with the requirements of 30-A M.R.S.A. section 3010 regarding Consumer rights and protection and any amendments thereto;
- (f) Any other terms and conditions that are in the best interests of the Town; and
- (g) Provide for access to, and facilities to make use of, one or more local public, educational and governmental access channels subject to the definitions and requirements of the Cable Communications Policy Act of 1984, Public Law 98-549.

Section 13. RULES, REGULATIONS AND PROCEDURES

The Municipal Officers of the Town of Scarborough shall:

- (a) Adopt such rules and regulations as it any deem necessary for monitoring and regulating the operation of a CATV system.
- (b) Make recommendations to the Cable Television Company concerning educational and local interest programming.
- (c) Resolve complaints, disputes or disagreements between subscribers and the Company.
- (d) Have the authority to conduct public hearings and issue such appropriate orders as it may deem necessary to correct any deficiencies in the operation of the system. The Municipal Officers' decisions and findings shall be final and binding upon all parties including the Company, except such decision or finding may be appealed to the Cumberland County Superior Court under Rule 80-B.
- (e) All such rules, regulations and orders of the Municipal Officers shall not be in conflict with those that have been or may be adopted by the Federal Communications Commission for the operation of such systems.

Section 14. 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 15. 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.