

TOWN OF FREEPORT

Memo

To: Town Council

From: Christine Wolfe

Date: 10/12/2023

Re: Cable TV Ordinance

CHAPTER 6 COMMUNITY ANTENNA TELEVISION ORDINANCE, Section IV Regulatory Board outlines the membership of the Cable TV Regulatory Board to be 7 members serving three year terms.

CHAPTER 2 ADMINISTRATIVE CODE, Section 611.1 (Cable TV Regulatory Board) Establishment states that the Regulatory Board consist of 5 members serving three year terms.

To rectify this discrepancy and to facilitate the need for the Cable Regulatory Board to be able to meet and conduct business with a quorum of members, it is the advice of town staff to lower the required number of members to 5 in Chapter 6, Community Antenna TV Ordinance in order to be consistent.

**CHAPTER 6
COMMUNITY ANTENNA TELEVISION ORDINANCE
OF FREEPORT, MAINE**

REFERRED TO AS: CATV ORDINANCE OF FREEPORT, MAINE

SECTION I PURPOSE

The purposes of this Ordinance are to provide for Town regulation and use of community antenna television systems including all aspects of their construction, installation, maintenance, and operation, and any additions or extensions thereto in the Town of Freeport; and to provide rules, regulations, and conditions for the granting of franchises or any part thereof for the construction, installation, maintenance, and operation of community antenna television systems in the Town of Freeport, in the best interests of the Town of Freeport and its citizens.

SECTION II DEFINITIONS

- A. Board - shall mean the CATV Regulatory Board of the Town of Freeport as established by this Ordinance.

- B. Community Antenna Television System (referred to in this Ordinance as "CATV System" - shall mean any facility which receives television or radio signals or originates its own signal or signals and transmits them to subscribers paying a fee for such service, but shall not include any such facility serving only the residents of one or more apartment dwellings under common ownership, control, or management.

- C. Company - shall mean any person, persons, firm, partnership, or corporation granted a CATV System Franchise by the Town of Freeport.

- D. Franchise - shall mean the written agreement between the Company and the Town which defines the rights, duties, and liabilities of the parties regarding the construction, installation, maintenance, and operation of a CATV System within the Town, as set forth by the Town.

- E. Municipal Officers - shall mean those persons duly elected as the governing body of the Town of Freeport.

F. Subscriber - shall mean any person or group electing to have CATV System services on their premises.

G. Town - shall mean the Town of Freeport, organized and existing under the laws of the State of Maine, and the area within its territorial boundaries.

SECTION III FRANCHISE REQUIRED

No person, persons, firm, partnership, corporation, or other entity shall construct, install, maintain, operate, or own a CATV System or any part thereof within the Town unless it has obtained a franchise from the Town pursuant to the terms and provisions of this Ordinance.

SECTION IV REGULATORY BOARD

A. Upon adoption of this Ordinance, the Municipal Officers shall appoint ~~seven (7)~~ five (5) residents of the Town to form a CATV Regulatory Board. The term of office of a member shall be three years ~~except for initial appointments which shall be three (3) members for three years, two (2) members for two years, and two (2) members for one year.~~ Board members will serve staggered three (3) year terms.

B. The Board shall have the following responsibilities and duties:

1. Create, revise, and update the application form for CATV Systems;
2. Recommend regulations to the Municipal Officers concerning CATV Systems;
3. Review and recommend to the Municipal Officers all applications and any renewals or extensions for CATV Systems within the Town;
4. Review the performance of the Company and its compliance with the franchise agreement at least once a year;
5. Review the rates, fees, and deposits for CATV System services at least once a year;

6. Review all applications for rate increases and make recommendations to the Municipal Officers;
7. Review and recommend to the Municipal Officers local programming and services, if applicable;
8. Review and settle disputes and grievances concerning CATV Systems;
9. Assume other CATV related duties as designated by the Municipal Officers or this Ordinance.

C. Grievance Procedure

1. This section shall regulate the Grievance Procedure concerning CATV Systems.
2. All complaints and disputes concerning the Company regarding any aspect of the CATV System shall be submitted in writing to the Board.
3. The Board shall investigate the complaint, hear all parties, and shall file a written report stating its findings of facts, and either dismiss the complaint or direct the Company to remedy the complaint, which remedy may include the ordering of a refund or rebate to any subscriber. The Board shall give reasonable notice to all parties of the time and place of the hearing.
4. The decision of the Board shall be binding unless appealed to the Municipal Officers within ten (10) days after the decision of the Board is announced. Said appeal shall be in writing and filed with the Town Clerk.

SECTION V PROCEDURES FOR OBTAINING A FRANCHISE

- A. Any person, firm, partnership, or corporation desiring to obtain a franchise to establish or operate a CATV System must apply only in response to a Request for Applications issued by the Town.
- B. An applicant must first complete an application form furnished by the Town and in addition to this form, the applicant shall furnish any information requested by the Town or the Board.

- C. Upon receipt of all applications pursuant to its Request for Applications, the Municipal Officers shall hold a public hearing to review the Applications. The public hearing shall be advertised and conducted in accordance with the Freeport Town Charter.

SECTION VI FRANCHISE CONTRACT TERMS

- A. The terms of the franchise shall be set forth in the franchise agreement. The Company shall abide by the terms of this Ordinance and the franchise agreement, including but not limited to programming and expansion of CATV System services.

- B. The Municipal Officers may grant an exclusive or non-exclusive contract for a period not to exceed ten (10) years, on such terms and conditions as are in the best interests of the Town and its citizens.

- C. The company shall report all information requested by the Board or the Municipal Officers concerning the construction, installation, maintenance, or operation of the CATV System. Further, the Company shall submit any information requested by the Board or the Municipal Officers necessary for reviewing rates, determining rate increases, settling disputes or grievances, or evaluating the general performance of the company.

- D. All fees, rates, deposits, or charges to subscribers shall be fair and reasonable, and shall be filed with and approved by the Municipal Officers prior to becoming effective. The Company may apply to the Municipal Officers for changes in rates, fees, deposits, or charges. The Board shall review the application for such request and make recommendations to the Municipal Officers. A public hearing shall be held upon each such application after notice as described in Section V, Subsection D of this Ordinance. The burden is on the Company to prove that the current rates are not adequate to provide for a fair return. The Municipal Officers may approve, increase, or decrease the rates, fees, deposits, or charges requested by the Company and shall set forth the reasons for its actions.

- E. The Municipal Officers shall have the right, in addition to any

other remedy contained herein or in the franchise agreement, to revoke a franchise for cause after notice to the Company and a public hearing thereon. The Company may appeal such action to the Cumberland County Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

SECTION VII PERFORMANCE BOND

Upon the signing of the franchise agreement, the Company shall file and maintain a surety company performance bond in an amount which the Municipal Officers deem fair and appropriate, conditioned on its performance of the franchise contract and its compliance with any rule, regulation, ordinance, or law concerning the franchise and CATV Systems. The amount of this bond may be reduced at the discretion of the Municipal Officers as construction of the CATV System is completed.

SECTION VIII INSURANCE

The Company awarded a franchise shall carry public liability insurance covering its activities in constructing, installing, maintaining, and operating a CATV System in the Town, in an amount and on such terms as set forth in the franchise agreement.

SECTION IX ENFORCEMENT

Any person, persons, partnership, firm, or corporation violating any provision of this Ordinance shall be punished by a fine not to exceed Two-Hundred Dollars (\$200.00) for each such violation. In addition, this Ordinance and any franchise agreement awarded hereunder may be enforced by injunctive relief or any other legal means of enforcement.

SECTION X SEPARABILITY

In the event a Court declares any provision of this Ordinance invalid, illegal, or unconstitutional, such provision shall be deemed to stand alone and all other provisions shall remain in full force and effect.

SECTION 611 - CABLE T.V. REGULATORY BOARD

611.1 Establishment

1. The Cable T.V. Regulatory is hereby created and established for the general purpose of regulating, evaluating and enforcing the Town of Freeport's Cable T.V. Franchise Agreement. The Board shall consist of five (5) members, each appointed by the Town Council for staggered three (3) year terms. The School Department shall have a designated seat on the Board. The Board shall annually elect a Chairman, Vice Chairman and Secretary from its own members.
2. The Chairman shall call meetings of the Board as required and shall call at least one regular meeting of the Board every month. A quorum of the Board necessary to conduct business shall consist of at least four (4) members.

611.2 Duties of the Cable T.V. Regulatory Board

1. Create, revise, and update the application form for CATV Systems;
2. Recommend regulations to the Municipal Officers concerning CATV Systems;
3. Review and recommend to the Municipal Officers all applications and any renewals or extensions for CATV Systems within the Town;
4. Review the performance of the Company and its compliance with the franchise agreement at least once a year;
5. Review the rates, fees, and deposits for CATV System services at least once a year;
6. Review all applications for rate increases and make recommendations to the Municipal Officers;
7. Review and recommend to the Municipal Officers and Town Manager topics for local programming and services;
8. Review and settle disputes and grievances concerning CATV Systems;
9. Assume other CATV related duties as designated by the Municipal Officers of this Ordinance.
10. Review and recommend an annual Five Year Capital Plan in conjunction with the Cable T.V. Director
11. Promote and facilitate FCTV programming and production.
12. Advise the Cable T.V. Director on CATV program scheduling.

611.3 Employment of Cable TV Staff

1. The Town Manager shall appoint a Cable TV Director who will staff the Cable TV Regulatory Board.
2. The Cable TV Director shall carry out all cable TV functions as assigned by the Town Manager.