

TOWN OF RAYMOND, MAINE  
CABLE TELEVISION ORDINANCE  
Adopted 11/06/2000

Be it ordained by the Town of Raymond, acting by and through its Board of Selectmen acting as its Municipal Officers, that the following Cable Television Ordinance be adopted pursuant to the requirements of 30-A M.R.S.A. §3008.

**SECTION 1 - ESTABLISHMENT AND PURPOSE**

1.1 An ordinance providing for Town regulation and use of the Cable System including its construction, operation and maintenance in, along, upon, across, 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 Raymond, including, poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for a Cable System and to provide conditions accompanying the grant of a franchise and providing for the Town's regulation of Cable System operation.

**SECTION 2 - DEFINITIONS**

2.1 "Cable System" means any 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. The term does not include any such facility that serves fewer than 50 subscribers or that serves only the residents of one or more apartment dwellings under common ownership, control or management, and commercial establishments located on the premises of the apartment dwellings.

2.2 "Cable Television Operators" or "Cable Operators" means any person, firm or corporation owning, controlling, operating, managing or leasing, a Cable System within the Town of Raymond.

2.3 "Town" shall mean the Town of Raymond organized and existing under the laws of the State of Maine and the area within its territorial limits.

**SECTION 3 - FRANCHISE REQUIRED**

3.1 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 Cable System unless a franchise agreement authorizing the use of said public streets or areas has first been obtained pursuant to the provisions of this Ordinance and unless said franchise agreement is in full force and effect.

## **SECTION 4 - FRANCHISE CONTRACT**

4.1 The Municipal Officers of the Town may contract on such terms, conditions and fees as are in the best interest of the municipality and its residents with one or more Cable Operators for the operation of a Cable System within the Town, including the granting of non-exclusive franchise agreements for the operation thereof for a period not to exceed fifteen (15) years.

4.2 Applicants for a franchise agreement, including applicants for renewal of a franchise agreement, shall pay a reasonable fee to the Town to defray the cost of public notices, advertising and other expenses (including reasonable attorneys fees or consultant fees) relating to, or incurred by the Town in acting upon, such applications. The amount of said fee is to be determined by the Municipal Officers.

4.3 The application 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 changes, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed Cable 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 cable television and microwave service including that of its officers, management and staff to be associated with the proposed operation.

4.4 Prior to issuing a request for proposals to any Cable Operators for franchise agreements or renewals, 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.

4.5 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.

4.6 A franchise agreement may be revoked by the Municipal Officers for good and sufficient cause after due notice 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.

4.7 A Cable Operator operating a Cable System in the Town pursuant to a Franchise Agreement with the Town may not enter into any transaction, including but not limited to any transfer, sale, assignment or disposal in any manner, concerning the ownership or control of the franchise or the Cable System in Raymond, or resulting in a change in control of the Cable Operator, without the Town's prior written approval; provided, however, that Grantor's approval shall not be required for a pledge, mortgage or other routine assignment for security as part of a financing or refinancing in the normal course of business. The Cable Operator shall reimburse the Town for all costs (including reasonable consultants or attorneys fees) incurred by the Town in reviewing

an application for approval of a sale, transfer or assignment of the Franchise or the Cable System.

### **SECTION 5 - PUBLIC HEARING**

5.1 Before authorizing the issuance of any such franchise agreement, including renewals, and approvals of any transfers of ownership, property or rights under franchise agreements, the Municipal Officers shall review the applicant's character, financial and technical qualifications and the adequacy and feasibility of its qualifications to operate a Cable System within the Town, and shall conduct a public hearing thereon with at least seven days advertised notice prior to said public hearing. Such public hearing shall provide a reasonable opportunity for public input on the proposed franchise agreement, renewal or transfer.

### **SECTION 6 - PERFORMANCE BOND & INSURANCE COVERAGE**

6.1 Upon the execution of any such franchise agreement the Cable Television Cable Operators shall file a surety Company performance bond or irrevocable letter of credit in the amount and in such form as is acceptable to the Town. The Town in making this determination may rely upon the advice of the Municipal Officers, Town Manager, Town Attorney and/or other appropriate Town Officials. The amount of said bond or letter of credit shall not be less than the estimated cost of performing any work specified in the Franchise Agreement and shall include the cost of dismantling the Cable System. Said bond or letter of credit shall be conditioned upon the faithful performance of said Franchise Agreement and full compliance with any laws, ordinances or regulations governing said Franchise Agreements.

6.2 Operators shall also, upon execution of any Franchise Agreement, provide evidence of such public liability, copyright infringement and other insurance coverage as the Municipal Officers may require.

### **SECTION 7 - FRANCHISE AGREEMENT CONTENTS**

7.1 Each Franchise Agreement between the Town and any Cable Operator shall contain but is not limited to, the following provisions:

- a) A statement of the area or areas to be served by the Cable Operator;
- b) A line extension policy;
- c) A provision for renewal, the term of which may not exceed fifteen (15) years;
- d) Procedures for the investigation and resolution of subscriber complaints by the Cable Operator;
- e) An agreement to comply with the requirements of 30-A M.R.S.A. §3010 regarding consumer rights and protection and any amendments thereto;

- f) Any other terms and conditions that are in the best interest of the Town; and
- g) A provision for access to, and facilities to make use of, one or more local public, educational and governmental access channels.

## **SECTION 8 - RULES, REGULATIONS AND PROCEDURES**

8.1 The Municipal Officers of the Town of Raymond shall, either directly or through their designees:

- a) Adopt such ordinance rules and regulations as they may deem necessary for regulating the operation of a Cable System;
- b) Make recommendations to the Cable Operator concerning educational and local interest programming;
- c) Resolve complaints, disputes, or disagreements between subscribers and the Cable Operators;
- d) Conduct public hearings and issue such appropriate orders as it may deem necessary to enforce the provisions of this Ordinance and any regulations, rules and orders and Franchise Agreements, including the revocation of Franchise Agreements and the assessment of penalties for violations, as well as to correct any deficiencies in the operation of the Cable Systems. The Municipal Officers' decisions and findings shall be final and binding upon all parties including the Cable Operators, except such decision or finding may be appealed to the Cumberland County Superior Court pursuant to Rule 80B, M.R.Civ.P.;
- e) All such ordinances, regulations, rules 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 Cable Systems, except that unless expressly preempted, such ordinances, regulations, rules and orders may be more detailed, more strict or more restrictive than applicable FCC regulations; and
- f) As part of their enforcement authority, the Municipal Officers have the authority to bring legal action for damages, penalties and for injunctive relief. The Town shall be entitled to recover its costs, including reasonable attorneys fees, incurred in the enforcement of this Ordinance, the provisions of a Franchise Agreement, or any local rules or regulations adopted pursuant to this Ordinance.

## **SECTION 9 - COMPLIANCE WITH ALL LAWS**

9.1 Cable Operators shall at all times comply with all applicable federal, State and local laws, statutes, rules, regulations, ordinances, codes and orders.

## **SECTION 10 – SUBSCRIBER PRIVACY**

10.1 Privacy. Cable Operators shall maintain due vigilance with regard to possible abuses of the right of privacy of any subscriber, programmer or resident resulting from any device or signal associated with the Cable System, and shall take all reasonable steps necessary to prevent and terminate any such abuses should they occur. Cable Operators shall comply with all applicable Federal, State and local laws and regulations respecting subscriber privacy and shall adhere to applicable industry codes of conduct which promote or enhance subscriber privacy.

10.2 Installation of Equipment. No cable, line, wire, amplifier, converter or other piece of equipment owned or controlled by a Cable Operator shall be installed on private property by a Cable Operator without first securing the permission of the owner or tenant in possession of such property or, if required by law, the written permission of the holder of any easement for utility lines or similar purposes.

10.3 Monitoring. No Cable Operator nor any of its officers, employees or agents shall, or permit any other person to, tap, monitor or arrange for the tapping or monitoring of any subscriber drop, outlet or receiver for any purpose whatsoever other than legitimate technical testing, monitoring for theft of service or monitoring of subscriber service status, without the prior written consent of all affected parties. A Cable Operator shall report to the affected parties and all appropriate authorities any instances of monitoring or tapping of the cable television system, or any part thereof, of which it has knowledge, whether or not the Cable Operator has authorized such activity. A Cable Operator shall not record or retain any information transmitted between any subscriber or commercial user and any third party, except as required for lawful business purposes. Cable Operators shall destroy all subscriber information of a personal nature after a reasonable period of time except as authorized not to do so by the affected subscriber.

10.4 Subscriber Lists or Information. Cable Operators shall not sell, disclose, or otherwise make available, or permit the use of, lists of the names or addresses of its subscribers, or any list or other information which identifies by name or address, subscribers or subscriber viewing habits, to any person or agency for any purpose whatsoever without the prior written consent of the subscriber; provided, that Cable Operators may make such lists available to persons performing services for Cable Operators in connection with its operations hereunder (e.g. a billing service) where the availability of such lists is necessary to the performance of such services; on condition, in either case, that the persons receiving such lists will not permit them to be made available to any other party. Said consent may be withdrawn at any time by the subscriber or commercial user by providing written notice to the Cable Operator. Cable Operators shall provide annual notice to each subscriber or commercial user who has given the aforesaid authorization of each subscriber's or commercial user's right to withdraw the authorization. In no event shall such authorization be obtained as a condition of service or continuation thereof, except as necessary to adequately provide particular services.

10.5 Protection of Privacy. Cable Operators shall not permit the transmission of any signal, aural, visual or digital, including “polling” the channel selection, from any subscriber’s premises without first obtaining the written consent of the subscriber. This provision is not intended to prohibit the use of transmission signals useful only for the control or measurement of signal performance. Cable Operators shall not permit the installation of any special terminal equipment in any subscriber’s premises of two-way services utilizing any type of signal without first obtaining written permission from the subscriber. No poll or other upstream response of a subscriber or commercial user shall be conducted or obtained unless the program of which the upstream response is a part shall contain an explicit disclosure of the nature, purpose and prospective use of the results of the poll or upstream response. Cable Operators or thier agents shall release the results of upstream responses only in the aggregate and without individual references.

## **SECTION 11 – REPAIR SERVICES**

11.1 Repair. Each Cable Operator shall maintain a repair department comprising qualified technicians, service vehicles and equipment to provide prompt and efficient repair service within the parameters set forth below.

11.2 Notice. Except in an emergency, a Cable Operator shall give subscribers at least 24 hours’ notice of any interruption of service for purposes of maintenance or repair. In an emergency, a Cable Operator shall give such notice as is reasonable in the circumstances. Notice given on the alphanumeric channels on basic service shall be considered sufficient.

11.3 Repair Procedure. Each Cable Operator shall have a toll free, local listed telephone so operated that requests for repairs or adjustments can be received at any time, 24 hours per day, seven days per week. Cable Operators responses to such requests shall occur on the same day for requests received before 12:00 noon, but in no event shall such responses occur later than 24 hours after Cable Operator’s receipt of such a request; provided, the response time for service complaints other than complaints of no or unusable service shall be computed excluding Sundays and legal holidays.

11.4 Area Outages. Cable Operators shall respond within four hours to any area outage which occurs between the hours of 7:00 a.m. and 10:00 p.m. of any day, and by not later than the following 11:00 a.m. to any area outage which occurs between 10:00 p.m. and 7:00 a.m.

14.1 Service Complaints. If a Cable Operator responds to a service complaint as herein required and the subscriber is not satisfied that the problem giving rise to the original complaint has been resolved, the subscriber shall notify the Cable Operator thereof within 48 hours of the repair visit by Cable Operator’s personnel, and Cable Operator shall have an additional period of 24 hours within which to correct the problem. If such second complaint is made to the Town instead of the Cable Operator, the Cable Operator shall have a period of 24 hours after receipt of oral or written notice from the Town within which to make the correction.

a. In the event that a subscriber complaint remains unresolved, the subscriber may file a complaint with the Town or its designee. If the complaint remains unresolved for more than ten (10) days, then within thirty (30) days of the date of the filing of the complaint with the Town, the subscriber shall have the opportunity to meet jointly with the Town or its designee and a representative of the Cable Operator to discuss and resolve the matter.

b. Cable Operators shall notify each new subscriber, at the time of initial subscription and at least annually thereafter, of the procedures for reporting and resolving complaints.

c. When there have been numerous similar complaints made or when there exists other evidence which in the judgment of the Town or its designee casts reasonable doubt upon the reliability or quality of the Cable Service, the Town shall have the right and authority to compel the Cable Operator upon written request to test, analyze and report on the performance of the system as provided herein.

d. Such report shall be delivered to the Town no later than fourteen (14) days after the Town formally notifies the Cable Operator and shall include the following information: the nature of the complaints which precipitated the special tests; what system component was tested; the equipment used; the procedures employed in said testing; the results of such tests; and the method in which said complaints were resolved.

e. In the event that the Town finds that testing and analysis by the Cable Operator has not produced a solution to the problem, upon written request of the Town, the Cable Operator shall conduct additional testing and analysis under the direction and supervision of a professional engineer with training and experience in cable communications and not on the permanent staff of the Cable Operator and otherwise acceptable to the Town. The aforesaid engineer shall sign all records of the special tests and forward to the Town such records with a report interpreting the results of the tests and recommending actions to be taken by the Town.

f. All costs of such tests, analyses, and reports, and the supervision thereof required under this section shall be borne by the Cable Operator.

11.6 Subscriber-Owned Equipment Excluded. The requirements for maintenance and repair shall not apply to subscriber television or radio receivers or other subscriber-owned equipment.

## **SECTION 12 – BILLING AND DISCONNECTION**

12.1 Billing Practices. Each Cable Operator shall set forth, in writing its billing and collection practices and policies, and procedures for ordering changes in or termination of services and refund policies, and shall furnish a copy thereof to each new subscriber and to the Town, and thereafter to the Town and all subscribers at such time as there is a change in such policies.

12.2 Pro-Rated Service. In the event a subscriber's service is terminated, monthly charges for service shall be pro-rated on a daily basis and, where advance payment has been made by a

subscriber, the appropriate refund shall be made by the Cable Operator to the subscriber within thirty days of such termination.

12.3 Rebate For Service Loss. Rebates due subscribers as a result of loss of service shall be made to the affected subscribers by the Cable Operator either by direct payment or by appropriate credit entry on the next subsequent billing.

12.4 Disconnection For Non-Payment. A Cable Operator shall have the right to disconnect a subscriber for failure to pay an overdue account; provided, that:

- a. The Cable Operator's billing practices and policy statement set forth the conditions under which an account will be considered overdue;
- b. At least fifteen days prior to the proposed disconnection, the Cable Operator mails to the subscriber written notice of intent to disconnect for delinquency in payment;
- c. The subscriber's account is at least forty five days delinquent at the time said notice is mailed, and
- d. The disconnection occurs at least 15 days, and not more than 60 days, after the mailing of the above written notice.

In the event of a billing dispute, and at the request of the Town, the Cable Operator shall meet with Grantor or its designee to attempt to negotiate in good faith a resolution to the billing dispute.

12.5 Notice of Rates and Programming. All rates and charges associated with the provision of Cable Service and the lease of channel space shall be published. A written schedule of all such rates currently in effect, including special and promotional rates, shall be available and obtainable in person or by mail upon request during business hours at the Cable Operator's business office and at the Town Clerk's office. At least once each year, the Cable Operator shall provide to each subscriber and the Town a complete schedule of all services, rates and charges for cable service provided by the Cable Operators for that year and of the programming offered and channel alignment. Such information shall also be provided to all new or prospective subscribers prior to installation or commencement of service. Such information shall be written in plain English and shall include, but shall not be limited to, the following: all services, tiers and rates, deposits, if applicable, installation costs, additional television set installation charges, service upgrade or downgrade charges, stolen or lost converter charges, charges for lockout devices and for connecting video cassette recorders to the Cable System.

12.6 General Customer Service. Cable Operators shall comply with any and all customer service standards provided under Maine law, Federal law, FCC regulations, including those regulations found at 47 C.F.R. §76.309, as well as with the provisions of this Ordinance.. To the extent of any difference or conflict in the requirements of this Ordinance and State and federal law or FCC regulations, the strictest of such standards shall govern.

### **SECTION 13 – SUBSCRIBER COMPLAINTS**

13.1 Complaint Policy. Each Cable Operator shall maintain a written policy statement setting forth the procedure for reporting and resolving subscriber complaints and shall furnish a copy thereof to each new subscriber and to the Town, and thereafter annually to the Town and all subscribers. Such notice shall comply in all respects with the Cable Act, FCC Regulations, Maine law and this Ordinance.

13.2 Cable Operators Response. Each Cable Operator shall receive all subscriber complaints at its business office serving the Town and shall handle all such complaints promptly but in no event later than as set forth below.

13.3 Billing Complaints. In the case of a billing complaint, Cable Operators shall respond to the complainant by no later than five business days following receipt of the complaint.

13.4 Service Complaints. In the case of a service complaint not requesting repair or adjustment, Cable Operators shall respond to the complainant within five business days following receipt of the complaint.

### **SECTION 14 – ENFORCEMENT**

14.1 In the event a Cable Operator violates any provision of this Ordinance, the Town, acting through its Municipal Officers, after notice to the Cable Operator and opportunity to appear before the Municipal Officers to respond to the alleged violation, may assess a penalty of not less than \$100 nor more than \$2,000 for each violation. Each day that a violation continues shall constitute a separate violation.

14.2 The Town may bring an action in the Cumberland County Superior Court to enforce any provision of this Ordinance and to collect any penalty assessed pursuant to this Ordinance.

### **SECTION 15 - SEVERABILITY**

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

### **SECTION 16 – EFFECTIVE DATE**

16.1 This Ordinance shall be effective on the date of its adoption by the Municipal Officers of the Town of Raymond.

Raymond/S/Ordinances