



**Town of Whitefield**  
**Cable Television Ordinance**  
**March 6, 2018**

**Section I Purpose**

The purpose of this ordinance is to provide for Town regulation and use of the cable television system, including its construction, operation and maintenance in, along, upon, across, over and under the streets, alleys, public ways and all extensions thereof and additions thereto in the Town of Whitefield, to establish conditions that meet the needs and interests of the Town through the grant of franchise, and to provide for the Town regulation of the operation of any system established under any such grant.

**Section II Definitions**

“Cable Television” 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, 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 dwellings under common ownership, control or management.

“Cable Television Company” shall be any person, firm or corporation owning, controlling, operating, managing, or leasing a cable television system within the Town of Whitefield, hereinafter referred to as “the company.”

“Town” shall mean the Town of Whitefield, organized and existing under the laws of the State of Maine, and the area within its territorial limits.

Grantor is the town of Whitefield. Grantee is any cable television company or other entity that enters into a valid franchise agreement under the terms of this ordinance.

### **Section III 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 cable television system unless a franchise authorizing the use of said public ways or areas has first been obtained pursuant to the provisions of this ordinance and unless said franchise is in full force and effect.

### **Section IV Franchise Contract**

A. The Select Board of the Town of Whitefield may contract on such terms, conditions and fees as they deem in the best interests of the Town and its residents with one or more companies for the operation of a cable television system within the Town, including the granting of a franchise or franchises for the operation thereof for a period not to exceed fifteen (15) years, with provision for renewal by mutual agreement for a term not to exceed an additional 15 years. Any such contract must be in full accordance with all existing state and federal regulations governing the establishment and operation of such systems and such cable franchise contracts.

B. Applicants for a franchise shall pay a non-refundable filing fee to the Town of \$500.00. The application should 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 including a list of streets or areas of Town to be served or not to be served, a schedule of proposed charges, a statement detailing its previous two fiscal years, an estimated fifteen (15) year financial projection of its proposed annual Town franchise fee, if any, 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 operation.

C. Any franchise contract may be revoked by the Select Board, Town of Whitefield, for good and sufficient cause, after due notice to the company and a public hearing thereon, with the right to appeal to the Superior Court under Rule 80B of the Maine Rules of Civil Procedure.

### **Section V Applicant's Qualifications and Public Notice**

Before concluding any franchise contract, the Select Board, Town of Whitefield, 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. Appropriate public notice of the intent to conclude shall also be provided.

## **Section VI Performance Bond & Insurance**

Upon the execution of any such franchise contract, the town may, at its sole discretion, require the company to file such surety performance bond and evidence of such public liability insurance coverage as the Select Board of Whitefield, may require. Said performance bond may be reduced upon the completion of the installation of any such system as per said contract as allowed by the Select Board, Town of Whitefield.

## **Section VII Regulation**

In the administration of this ordinance and in the regulation of the operation of any cable television system established under the ordinance, the Select Board of the Town of Whitefield, shall have the authorization to adopt such rules and regulations as they deem necessary for monitoring and regulating and to hold any public hearings and issue such appropriate orders as they may deem necessary to correct any deficiencies in the operation of said system, which decisions, and findings shall be final and binding upon all parties including the company, except such a decision or finding may be appealed to Superior Court under Rule 80B.

## **Section VIII Enforcement**

Any violation of the ordinance by any company is a civil violation subject to a civil penalty of \$100.00 per day for each day that said violation continues. The Code Enforcement Officer, Town of Whitefield, is authorized to prosecute said violations in the Maine District Court pursuant to law.

## **Section IX Content**

Any franchise contract concluded under the terms of this ordinance shall include the following;

- A) Duration shall be for 15 years, with provision for extension by mutual agreement. Contract shall be non-exclusionary.
- B) Any system established under this ordinance must be operated in full conformity with all relevant federal and state laws and regulations.
- C) In addition to the filing fee, any grantee shall pay all reasonable attorney fees, Consultants fees, costs and expenses incurred by Town in the course of monitoring, prosecuting, enforcing or negotiating any provisions of such Franchise agreement.
- D) Any grantee shall agree to maintain, operate, and render efficient service on any cable system it may already operate in the Town at the time of adoption or extension of an agreement. Should the grantee wish to reduce the scope of any existing system it

will inform the Town at least six months in advance of the reasons, with any reduction to be accomplished through mutual agreement.

E) Any grantee's cable system will be extended to serve additional areas where the average dwelling density of the extension is at least ten (10) dwelling units per mile or five (5) dwelling units per half mile. Once a particular area is identified as meeting the ten units per mile or five units per half mile density test, the Grantee shall install cable and have full cable service available to those residents in that area within one year.

F) Any agreement shall include provisions governing cases where residents on an extension with a density of less than five units per half mile wish to be served by the grantee's system, with the cost of any such extension to be shared mutually between the residents and the grantee.

G) Grantee shall incorporate new technical developments into its cable system. New Services and technological changes available to other municipalities within Grantee's service area shall also be made available on an equivalent basis to subscribers in the Town of Whitefield.

H) Any grantee shall make available to the Town, for inspection and copying by the Town, on request and reasonable notice, maps, plans, drawings, blueprints and other papers and documents which show the location and technical characteristics of the physical elements comprising the cable system.

I) Any agreement shall include a requirement that the grantee maintain an effective 24-hour system for reporting and prompt correction of subscriber problems and provisions for rebates for any loss of service of more than 24 hours.

J) The town may require grantees to provide reasonable facility support for any public, educational, or governmental access channels it establishes in the town, either independently or as part of a broader network.

K) Any grantee shall provide, without charge, along its routes, a single outlet to each public educational institution, police and fire station, town hall, and library passed by cable and located within the Town upon request of the Grantor. Upon the request of the Grantor in writing, Grantee shall provide additional outlets in the public buildings designated above, but may charge for the cost of labor, materials, and overhead for installation of these outlets. Monthly service for all such public connections shall be free. Any existing outlets installed in schools or municipal buildings prior to the signing of this contract, will remain in place with no monthly charge.

**Section IX Fee**

The town may, at its sole discretion, require any Grantee to pay to the Town an annual Franchise fee up to a maximum of five percent of the Grantee's gross revenues from basic subscriber rates charged to its subscribers. Payment of the Franchise fee shall be due and payable no later than sixty (60) days from December 31 of each year.


**Section IX Adoption**


This ordinance is effective upon its adoption, in conformity with existing State regulations governing such ordinances, by the Select Board, Town of Whitefield.

Approved March 6, 2018

Town of Whitefield by its Select Board:

  
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Anthony F. Marple

  
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Lester E. Sheaffer Jr.

  
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Franklin A. Ober

  
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Charlene Donahue

  
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William C. McKeen