

TOWN OF NORWAY
CABLE TELEVISION ORDINANCE

The Town of Norway, acting by and through its municipal officers, hereby ordains the following cable television ordinance:

I. PURPOSE

The Town of Norway finds that the development of one or more Cable Television Systems has the potential of providing great benefit to the people of Norway. The Town further finds that the public convenience, safety and general welfare can best be served by establishing regulatory powers over any Cable Television System operating in the Towns which powers shall be vested in the Town or such persons as the Town shall designate.

It is the intent of this Ordinance and subsequent amendments to assure that any Cable Television System developed hereunder is responsive to the needs and interests of the Town and Subscribers. The purposes of this Ordinance include:

- To make available Cable Television System services for the maximum number of Town residents at reasonable rates.
- To promote the development of Cable Television Systems capable of accommodating both the present and reasonably foreseeable Subscriber needs.
- To promote the development of Cable Television Systems responsive to the needs and interests of Subscribers.

II. DEFINITIONS

For the purposes of this Ordinance, the following words shall have the meanings specified:

"Access Channel" shall mean a channel dedicated for public, educational and governmental use.

"Cable Operator" shall have the meanings set forth in the Federal Cable Act and related Rules and Regulations.

"Cable Television System" shall mean "cable system" as that phrase is defined in the Federal Cable Act, and related Rules and Regulations.

"Federal Cable Act" shall mean the Cable Communications Policy Act of 1984 and amendments thereto (codified at 47 U.S.C. § 521 et seq.) and the Cable Television Consumer Protection and Competition Act of 1992 and amendments thereto (codified at 47 U.S.C. § 521 et seq.).

"Federal Cable Regulations" shall mean the regulations issued under the Federal Cable Act, including the regulations issued by the Federal Communications Commission and published at 47 C.F.R. Part 76 Subparts N and H, as such regulations may subsequently be amended.

"Franchise" shall have the meanings set forth in the Federal Cable Act and related Rules and Regulations.

"Franchise Fee" shall have the meanings set forth in the Federal Cable Act and related Rules and Regulations.

"State Cable Act" shall mean 30-A M.R.S.A. §§ 3008, 3010, related provisions, and successor provisions.

"Subscriber" shall mean a person, firm, company, municipality, corporation or association receiving Cable Television System service in the Towns.

"Town" shall mean the Town of Norway, its municipal officers, agents and employees. "Town" shall also mean the area within the territorial limits of the Town of Norway, including all subsequent additions thereto.

"Towns" shall mean the Towns of Norway and Paris, their municipal officers, agents and employees. "Towns" shall also mean the area within the territorial limits of the Towns of Norway and Paris, including all subsequent additions thereto.

III. FRANCHISE REQUIRED

No person, firm or corporation shall install, maintain or operate within the Town any equipment or facilities for the operation of a Cable Television System unless a Franchise authorizing such a Cable Television System has first been obtained from the Town pursuant to the provisions of this Ordinance and unless that Franchise is in full force and effect.

IV. AWARD OF INITIAL FRANCHISE

A. Authority. The municipal officers of the Town may award one or more non-exclusive Franchises on such terms, conditions and fees as they deem in the best interest of the Town and its residents for the operation of a Cable Television System

within the Town. The maximum period of any Franchise, including all automatic renewal periods provided in that Franchise, shall not exceed ten (10) years. The Town shall not award an exclusive Franchise under any circumstances.

B. Application. Any person seeking an initial Franchise shall file an application with the Town Clerk. The form and content of the application shall be as specified by the Town or the Joint Cable Committee.

C. Application Fee. Unless the fee is waived in writing by the Town, all applicants shall pay a non-refundable application fee to the Town of \$1,000. In addition, the applicant shall pay all incidental expenses incurred by the Town relating to such application, including payment of attorney fees, expert and consultant fees, and costs.

D. Local Needs or Interests. Before awarding a Franchise, the Town shall undertake to determine special local needs or interests in accordance with 30-A M.R.S.A. § 3008(4)(A) and successor provisions as amended.

E. Public Documents. Any application shall be filed in triplicate with the Town Clerk. The Application shall be deemed a public record. The Town shall give public notice of the Application and shall make the Application available for public inspection for a period of not less than seven (7) days prior to any hearing thereon and prior to the Town's taking any formal action thereon.

F. Public Notice. Before awarding any initial Franchise, the Municipal Officers shall conduct a public hearing thereon with at least seven (7) days public notice prior to the hearing.

G. Revocation. The Joint Cable Committee may revoke, terminate or otherwise limit a Franchise in accordance with the terms of that Franchise. Absent such provisions in a Franchise, the Joint Cable Committee may revoke such Franchise for good and sufficient cause, after due notice to the Cable Operator and a public hearing thereon. Any party may appeal the Joint Cable Committee's decision to the Town.

V. RENEWAL OF FRANCHISE

A. Authorization. The municipal officers of the Town may renew an existing Franchise on such terms, conditions and fees as they deem in the best interest of the Town. The maximum period of any Franchise renewal, including all renewal periods provided in that Franchise, shall not exceed ten (10) years. The Town shall not award an exclusive Franchise under any circumstances.

B. Request for Renewal and Renewal Application. If the Cable Operator wishes to renew its Franchise, the Cable Operator shall file a request for renewal with the Town Clerk not less than 30 (thirty) months but not more than 36 (thirty-six) months before the expiration of the existing Franchise. The form and content of any materials subsequently filed, including any renewal application, shall be as specified by the Town or the Joint Cable Committee.

C. Renewal Application Fee. Unless the fee is waived in writing by the Town, applicants for a Franchise renewal shall pay a non-refundable application fee to the Town of \$1,000. In addition the applicant shall pay all incidental expenses incurred by the Town relating to such application, including payment of attorney fees, expert and consultant fees, and costs.

D. Local Needs or Interests. Before awarding a Franchise renewal, the Town shall undertake to determine special local needs or interests in accordance with 30-A M.R.S.A. § 3008(4) (A) and successor provisions as amended.

E. Public Documents. Any Application for renewal shall be filed in triplicate with the Town Clerk. The Application shall be deemed a public record. The Town shall give public notice of the Application and shall make the Application available for public inspection for a period of not less than ten days prior to the Town's taking any formal action thereon.

F. Public Notice. Before Awarding any Franchise renewal, the Municipal Officers shall conduct a public hearing thereon with at least seven days public notice prior to the hearing.

G. Revocation. The Joint Cable Committee may revoke, terminate or otherwise limit a renewed Franchise in accordance with the terms of that Franchise. Absent such provisions in a renewed Franchise, the Joint Cable Committee may revoke such Franchise for good and sufficient cause, after due notice to the Cable Operator and a public hearing thereon. Any party may appeal the Joint Cable Committee's decision to the Town.

VI. JOINT CABLE COMMITTEE

A. Joint Cable Committee Established. The Towns shall appoint a Joint Cable Committee of six (6) persons, three (3) to be appointed by each Town. Each person appointed by the Town shall serve a staggered three (3) year term, so that the term of one person appointed by the Town will expire January 1 of each year. The Town shall designate which of the initial appointees shall serve initial terms of 1, 2, and 3 years. Should any appointment be made for any reason after the January 1 beginning of a term, the appointment shall be for the remainder of that

term, and thereafter that person may be re-appointed in accordance with the provisions of this paragraph. No person may serve more than two (2) consecutive 3 year terms, except that any person whose initial term lasts less than eighteen months may be appointed for two full successive terms of 3 years each. Persons appointed by the Town need not be residents of the Town. Joint Cable Committee members shall serve until their successors are duly appointed and qualified.

B. Joint Cable Committee Authority. The Joint Cable Committee shall generally oversee the operation of all Cable Television Systems in either of the Towns. The Joint Cable Committee authority includes, but is not limited to:

1. Negotiating (but not approving) Franchises and Franchise renewals on behalf of the Towns;
2. Designating the form and content of Franchise applications and renewal applications;
3. Investigating the Cable Operators and Applicants;
4. Hearing and deciding possible violations by the Cable Operator of federal, state or local law, and/or the applicable Franchise;
5. Acting as a public advocate relating to service complaints;
6. Receiving and disbursing application fees, Franchise Fees and other funds as necessary to further the purposes of the Joint Cable Committee and/or the Access Manager;
7. Selecting and removing the Access Manager, and if necessary, Access Channel Committee members; and
8. Making recommendations to the Towns and the Towns' municipal officers concerning the number and use of the Access Channel(s).

VII. ACCESS CHANNEL

A. Access Channel Management. The Joint Cable Committee shall select an Access Channel Manager to manage the Access Channel. The Access Channel Manager shall be either (1) an Access Channel Committee (as further described herein) or (2) a consultant (the "Access Channel Consultant") retained for the purpose of managing the Access Channel. If the Joint Cable Committee elects to select an Access Channel Committee, that Committee shall be composed of five persons who shall serve at

the pleasure of the Joint Cable Committee until their successors are duly selected and qualified. If the Joint Cable Committee chooses to select an Access Channel Consultant, that Consultant shall serve at the pleasure of the Joint Cable Committee.

B. Access Channel Management Authority. The Access Manager (whether it be the Access Channel Committee or an Access Channel Consultant) is authorized to manage and regulate the use of the Access Channel(s). The Access Manager's authority includes, but is not limited to, making recommendations to the Joint Cable Committee concerning:

1. Hiring, releasing and otherwise managing Access Channel personnel;
2. Establishing fees, and collecting and disbursing funds; and
3. Regulating or otherwise determining programming for the Access Channel(s).

C. Balanced Programming. The Access Manager and the Joint Cable Committee shall make reasonable efforts to ensure that the Access Channel(s) carry balanced programming and that a wide range of views are permitted an opportunity for exposure, consistent with the First Amendment of the United States Constitution.

VIII. RATE REGULATION

A. Authority. To the extent that federal or state law now or in the future permits the Town to regulate Cable Television System rates, the Town shall have the authority to exercise such rate regulation. The authority to exercise such rate regulation powers is hereby invested in the Joint Cable Committee.

B. Regulations Adopted. The Town hereby adopts and incorporates by reference the rate regulation provisions of the Federal Cable Act and the Federal Cable Regulations, as either may subsequently be amended.

C. Public Comment. In connection with rate regulation, the Town and/or Joint Cable Committee shall permit a reasonable opportunity for public comment.

IX. CONSUMER PROTECTION

A. Regulations Adopted. In accordance with the Federal Cable Act and the Federal Cable Regulations (including 47 C.F.R. Part 76, Subpart H), the Town hereby adopts and incorporates by

reference the customer service regulations issued by the Federal Communications Commission (including 47 C.F.R. Section 76.309) as the minimum customer service standards for any Cable Operator. Nothing herein shall preclude or prohibit the enforcement of additional customer service and/or consumer protection provisions in any Franchise, regulation, ordinance, statute or other law.

B. Enforcement. Violations of the customer service and/or consumer protection requirements of this Ordinance may be enforced as provided in sections XIV and XV below. Such enforcement shall not be the exclusive remedy and nothing herein shall waive or modify any other right or remedy which any person or the Town may have.

X. ANNUAL REPORTS

The Cable Operator shall make the following filings with the Town:

- A. The Cable Operator shall annually file:
1. Information sufficient to verify calculation of any Franchise Fee required under the Franchise.
- B. The Cable Operator shall also provide the Town such other information and documents as the Town or Joint Cable Committee requests from time to time, including financial information useful or necessary to rate regulation. The form and content of the information provided by the Cable Operator shall be as specified by the Town or Joint Cable Committee.

XI. LIABILITY AND INDEMNIFICATION

By acceptance of any Franchise, the Cable Operator agrees that it shall save the Town and its agents and employees harmless from and against all claims, damages, losses and expenses, including attorney fees sustained by the Town on account of any suit, judgment, execution, claim or demand whatsoever arising out of the installation, operation and/or management of a Cable Television System.

XII. INSURANCE, PERFORMANCE BONDS, ETC.

The Cable Operator shall at all times carry or hold appropriate: (a) performance bonds, (b) public liability insurance, (c) copyright infringement insurance and (d) other insurance coverage. The amount and conditions of such insurance shall be specified in the Cable Operator's Franchise.

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XIII. COMPLIANCE WITH ALL LAWS

The Cable Operator shall at all times comply with all applicable federal, state and local laws, ordinances and regulations.

XIV. INVESTIGATIONS

Upon request or upon its own motion, the Town or Joint Cable Committee may investigate possible violations by the Cable Operator of federal, state or local laws, and/or the applicable Franchise.

XV. ENFORCEMENT OF LAWS AND FRANCHISE

A. Controlling Provisions. The Joint Cable Committee may perform on behalf of the Town any actions which any Franchise requires or permits the Town to perform, including management, oversight and enforcement of that Franchise. Absent provisions in a Franchise concerning enforcement by the Town, the following provisions shall control and provide the mechanisms and procedures for enforcement of the Franchise:

1. Enforcement Proceedings. Upon a finding of probable cause that the Cable Operator has violated any federal state or local law, and/or the applicable Franchise, the Town or the Joint Cable Committee may initiate public hearings and receive evidence to determine whether the Cable Operator has committed any violations.

2. Fines. After a hearing and upon a finding that, by a preponderance of the evidence, the Cable Operator has violated any federal, state or local law, and/or the applicable Franchise, the Town or the Joint Cable Committee may impose fines upon the Cable Operator of up to \$1,000 per violation. If the violation is a persisting condition, each day the condition persists shall constitute a separate violation.

3. Appeals. Any person or entity may appeal decisions of the Joint Cable Committee to the Towns.

XVI. SEVERABILITY

If any part of this Ordinance is held unconstitutional or otherwise invalid, such portion is hereby repealed and the balance of the Ordinance shall remain effective.

The Town of Norway enacts the foregoing Cable Television Ordinance in compliance with 30-A M.R.S.A. § 3008.

Date: January 6, 1994

SELECTMEN OF NORWAY

Dorothy Easton

Wm. J. Palmer

Dennis W. Yates

Ronald Snow

Beverly A. Butters

I hereby certify that the foregoing is a true copy of the Ordinance enacted by the municipal officers this date.

Carol Mullett

Town Clerk of Norway