

CHAPTER 33 – TELECOMMUNICATIONS

[Adopted 6-5-01 as Ordinance No. 2001-4; Amended 2-6-02 as Ordinance No. 2002-3.]

ARTICLE I – ESTABLISHMENT

33.1.01 Purpose. (33.14)

To authorize the Borough to regulate the sale and furnishing of cable television service consistent with federal and state law.

33.1.02 Definitions. (33.2)

Basic Broadcast Service - That service tier which shall include at least the retransmission of local broadcast television signals and public, educational and governmental ("PEG") access channels.

Broadcast - Over-the-air transmission by a radio or television station.

Cable Act - Cable Communications Policy Act of 1984, Public Law No. 98-549, 98 Stat. 2779 (1984), 47 U.S.C. 521 et. seq., amending the Communications Act of 1934, as further amended by the 1992 Cable Consumer Protection and Competition Act, Public Law No. 102-385 and the Telecommunications Act of 1996, Public Law No. 104- 104, §, 110 Stat. (1996).

Cable Communications System or Cable System - A facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of Title II of this Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c) to the extent such facility is used for the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems. In addition, a cable communications system or cable system means a fully addressable system providing telecommunications services, which include, but which are not limited to, retransmitting radio and broadcast television signals, distributing video programming, transposing voice, video or digital electronic signals through TOWN to other locations, telephony services, internet access or use, process control, and other technologies to or from Subscribers or other cable system users, and/or producing, receiving, amplifying, storing, processing or distributing audio, video, digital or other forms of electronic, light or other similar types of signals to or from Subscribers.

Cable Programming Services - Any video programming provided over a cable system; regardless of service tier, including installation or rental of equipment used for the receipt of such video programming, other than 1) radio and broadcast television video programming carried on the Basic Broadcast Service tier; 2) programming on any PEG channel; 3) video programming offered on a pay-per-channel or pay-per-program basis including interactive services; or 4) a combination of multiple channels of pay-per-channel or pay-per-program video programming offered on a multiplexed or time-shifted basis so long as the combined service: (i) consists of commonly-identified video programming, and (ii) is not bundled with any regulated tier of service.

Cable Service - The one-way or two-way transmission to or from Subscribers of video programming or other Cable Communications System Services (including music), and Subscriber interaction, if any, which is

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required for the selection of such video programming or other programming service, and the installation and rental of equipment necessary for the receipt to transmission thereof.

Community Programming - Programming produced locally or otherwise for distribution on any Public, Education or Government Access Channel.

Competing Distributors - Cable System Operators or other telecommunications service providers whose actual or proposed service areas overlap.

Drop - The coaxial or fiber-optic or other cable that connects a home or building to the Subscriber network.

FCC - Federal Communications Commission.

Franchising Authority - The Borough of Northumberland, PA.

Franchisee - A corporation which enters into a nonexclusive franchise to provide cable programming services and operate a cable communications system within the Borough of Northumberland.

Franchise Fee - The charge paid by the Franchisee to the Borough for the right to occupy the public rights-of-way.

Reserved

Outlet - An interior receptacle that connects a television set to the Cable Communications System.

Open Video System - Channel capacity available for hire for a fee.

Programming - Any video, audio, text or data coded signal carried over the Cable Communications System

Franchise - The right to occupy the Public Rights-of-Way within the corporate limits of the Borough of Northumberland.

Standard Service Package - A combination of cable service tiers, consisting of the Basic Broadcast tier and Cable Programming Service tiers, as provided by the Franchise as of the Effective Date and including any individual broadcast channels or cable networks added to these tiers as a result of the reconstruction of the Cable Communications System.

Subscriber - A person or entity who contracts with the Franchise for, and lawfully receives, the video audio, text, and cable services distributed by the Cable Communications System.

Subscriber Network - The Trunk and feeder signal distribution network over which video, audio, text, digital and data signals are transmitted to or from Subscriber.

Subsidiary Corporation Or Affiliated Corporation - Any corporations, other than Franchisee, in an unbroken horizontal or vertical chain of corporations connected to Franchisee, if, at the time of the execution of the franchise agreement, each of the corporations other than the last corporation in the unbroken chain or any parent or subsidiary corporation or affiliated corporation owns stock comprising fifty percent (50%) or more of the total combined voting power of all classes of stock in one of the other corporations in such chain.

Total Local Gross Revenues - All cash, credits, property of any kind or nature, or other consideration whatsoever in any form arising from or attributable to the sale or exchange of cable communications services or in any way derived from the operation of the cable communications system in the municipality, whether received by franchisee or any subsidiary or affiliated corporation.

User - A person or entity who contracts with the Franchisee for and lawfully distributes or receives video signals and cable communications system services distributed by the Franchisee

33.1.03 Franchise. (33.3)

Consistent with all applicable Federal and State Laws, the Borough of Northumberland may grant a non-exclusive franchise to the operator of a cable communications system to provide cable programming services

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within the Borough of Northumberland. The annual franchise fee shall be **set by resolution or separate ordinance of counsel after public discussion**. The Borough Council or its representative may negotiate the amount of the fee and the term of the franchise agreement. [Amended 2-6-02 by Ordinance 2002-3.]

33.1.04 Effective Date. (33.4)

This Ordinance shall be effective June 5, 2001.