

# Town of Lyman

Select Board  
Notice of Public Hearing

11 South Waterboro Rd  
Lyman, ME 04002

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## PUBLIC NOTICE

The Select Board will hold a public hearing on **Monday March 18, 2024 at 6:00pm** located at the Lyman Town Hall for the purpose of presenting information and allowing public comment regarding Ordinance Amendment of the “Cable Television Ordinance”

A full draft of this ordinance is attached with this notice.

Copies of this ordinance and information are posted and available at the Town Hall and on the Town’s website at [www.lyman-me.gov](http://www.lyman-me.gov)

*The Select Board’s regular meeting will follow after the public hearing.*

# Cable Television Ordinance Town of Lyman

**Adopted October 16<sup>th</sup>, 2023**

**Amended:**

The Town of Lyman, acting through its municipal officers pursuant to 30-A M.R.S.A. §3008(2), hereby enacts the following Cable Television Ordinance:

## **Section 1 – PURPOSE**

The purpose for the 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 public places now laid out or dedicated, and all extensions thereof and additions thereof in the Town of Lyman, including poles, wires, cables, underground conduits, manholes, conductors and fixtures necessary for the maintenance and operation in the Town of Lyman, of the cable television systems and to provide conditions accompanying the grant of franchise; and providing for the Town regulation of cable television operation.

## **Section 2 – DEFINITIONS**

“Cable Television System” shall have the same meaning as defined in 30-A M.R.S.A. §3008 as the same may be amended.

“Cable Television Company” shall mean any Video Service Provider, person, firm, or corporation owning, controlling, operating, managing, or leasing a cable television system within the Town of Lyman, sometimes hereinafter referred to as “the company.”

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

"Video service provider" means any person that directly or through one or more affiliates sells in the State access to video, audio or computer-generated or computer-augmented entertainment and ~~directly or through one or more affiliates~~ owns or operates facilities located in whole or in part in a municipality's public rights-of-way that are used to provide those services, irrespective of the technology used to deliver such services. "Video service provider" includes, but is not limited to, a cable system operator and a common carrier that operates a cable television system. "Video service provider" does not include:

(1) A commercial mobile service provider, as defined in 47 United States Code, Section 332(d)(1); or

(2) A provider of an Internet access service, as defined in 47 United States Code, Section 231(e)(4), with respect to the provision of the Internet service by the provider.

### **Section 3 – 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 provision of this Ordinance and unless said franchise is in full force and effect.

### **Section 4 – FRANCHISE CONTRACT**

The municipal officers of the Town 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 Cable Television Companies for the operation of a cable television system within the Town, including the granting of a non-exclusive franchise for the operation thereof for a period not to exceed fifteen (15) years.

Applicants for a franchise or franchise renewal shall pay a non-refundable filing fee of \$500 to the Town to defray the cost of public notice and advertising expenses relating to such application. The applicants may also be assessed the cost of attorney fees incurred by the Town of Lyman in connection with the cable franchise application and agreement. 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 charges, a statement detailing its previous two fiscal years, an estimated ten year financial projection of its proposed system, its annual Town franchise fee as required by the Town, and the basis for same, and a statement detailing the prior operational experience of the applicant in both the cable television and microwave service including that of its officers, management and staff to be associated with the proposed operations.

Any franchise contract may be revoked by the municipal officers for good and sufficient cause as provided in the franchise contract, 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 5 – PUBLIC HEARING**

Before issuance of a request for proposals, or during the franchise contract renewal process, the Town shall hold a public hearing with at least seven (7) days advance notice for the purpose of determining any special local needs or interest regarding cable television.

Applications for a franchise to operate a CATV system in the Town and related documents are public records to be filed with and maintained by the Town pursuant to the State Freedom of Access Law, 1 M.R.S.A. § 401 et seq., as amended from time to time.

Before authorizing the issuance of any such franchise contract, including an assignment or a renewal of a franchise contract, 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 television system within the Town, and shall conduct a public hearing thereon with at least seven (7) days advertised notice prior to said public hearing.

## **Section 6 – PERFORMANCE BOND AND INSURANCE COVERAGE**

The Cable Television Company shall provide sufficient insurance to indemnify and hold harmless the Town of Lyman, its agents and its employees from and against all claims, damages, losses, and expenses, including attorney's fees, arising out of or resulting from the performance of the work, maintenance of the system and damages caused by components or portions thereof, provided that any such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom, and is caused in whole or in part by any negligent or willful act or omission of the Cable Television Company and anyone directly or indirectly employed by it or anyone for whose acts any of them may be liable. Upon the execution of any such franchise contract, the cable television company shall file a surety company performance bond in an amount to be determined by the Board of Selectmen conditioned upon the faithful performance of said contract and full compliance with any laws, ordinances, or regulations governing said franchise. Said performance bond shall remain in effect until the Cable Television Company has completed any construction or reconstruction of the system as set forth in the franchise contract.

The Cable Television Company shall also, upon execution of any such franchise contract, provide evidence of insurance coverage as the Municipal Officers may require.

## **Section 7 – COMPLIANCE WITH ALL LAWS**

Cable Television Companies shall at all times comply with all applicable federal, State and local laws, statutes, rules, regulations, ordinances, codes and orders. All applicable requirements of public and consumer protection laws affecting the provision of cable television

services, including without limitation 30-A M.R.S.A. §3008 and§3010, as the same may be amended, are incorporated by reference.

**Section 8 -- SEVERABILITY**

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

This ordinance with amendments is effective upon its adoption by the Selectboard, Town of Lyman.

Approved this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**Town of Lyman by its Selectboard**

\_\_\_\_\_ **Ralph Blackington**

\_\_\_\_\_ **Thomas Hatch**

\_\_\_\_\_ **Jessica Picard**

\_\_\_\_\_ **Amber Swett**

\_\_\_\_\_ **Victoria Gavel**