

Chapter 9.5

CABLE COMMUNICATIONS

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ARTICLE I. IN GENERAL

Secs. 9.5-1--9.5-50. Reserved.

ARTICLE II. RATES*

***Editor's note**--An Ordinance adopted February 1, 1994, did not specifically amend the Code; hence, codification of §§ 1(G.) and 2--5 as §§ 9.5-51--9.5-55 was at the discretion of the editor.

Sec. 9.5-51. Purpose.

This article will govern the procedures to be undertaken by the Town for the regulation of the grantees' cable television rates pursuant to the 1992 Cable Act and the regulations of the FCC (Federal Communications Commission).
(Ord. of 2-1-94, § 1(G.))

Sec. 9.5-52. Full regulatory power reserved.

(a) All rates and charges for basic cable service and any other cable programming services, as defined by the 1992 Cable Act and applicable FCC regulations, shall, to the extent permissible, be subject to regulation by the Town in a manner provided by this article. This article shall apply to all cable television system operators in the Town. The grantees and/or any other operator of a cable television system operating in the Town shall be subject to the rate regulation provisions provided for herein, and those of the FCC at 47 CFR, Part 76.900, Subpart N.

(b) The Town reserves the right to amend this article from time to time consistent with the requirements of the FCC and state and federal law.
(Ord. of 2-1-94, § 2)

Sec. 9.5-53. Procedures for implementing regulation of basic cable service.

(a) The Town hereby adopts, and shall follow, the rules relating to cable rate regulation promulgated by the FCC at 47 CFR, Part 76.900, Subpart N.

(b) Upon adoption of this article, a Town representative will send to the grantees and each operator of a cable television system in the Town, via certified mail, return receipt requested, a written notice which shall include a copy of the ordinance from which this article derives and the completed FCC Form 328.

(c) Within 30 days after receipt of the notice referenced in subsection (b), the grantees and any other cable television operator shall have 30 days to respond with rate and benchmark information utilizing FCC Form 393, Determination of Maximum Initial Permitted Rates for

Regulated Cable Services and Actual Cost of Equipment.

- (1) If the initial rates and/or any subsequent rate increases are within the FCC standards, the rates will be effective 30 days after submission.
- (2) If the Town is unable to determine whether the rate in issue is within the FCC's standards, based on the material before it, or if the grantees or any other cable operator has submitted a cost-of-service showing, seeking to justify a rate above the FCC's reasonable rate level, the Town may take an additional period of time to make a final determination and toll the effective date of the proposed rates for a commensurate period.
 - a. The Town may take an additional 90 days if it needs more time to ensure that a rate is within the FCC's rate standards.
 - b. The Town may take an additional 150 days to evaluate a cost-of-service showing seeking to justify a rate above the reasonable rate level.
 - c. The Town must issue a brief written decision regarding its invocation of the additional time period.
- (3) If no action is taken within the above-referenced time periods, the proposed rates will go into effect, subject to subsequent refund orders if the Town later issues a decision disapproving any portion of the proposed rates.
- (4) In all cases, the Town will issue a written decision to approve the rate schedule, disapprove the rate schedule, or continue for review.
- (5) If rates are in excess of the FCC's standards, the rates may be reduced by the Town pursuant to applicable FCC regulations.

(d) After the initial rate schedule procedures are followed as described in this section, the grantees and/or any other cable operator shall, in conjunction with each change in the rates and charges applicable to basic cable service, conform to the standards of the FCC. Before any rate change is effective, the grantees and/or any other cable operator shall notify the Town of its requested rate change by giving the Town 30 days' advance written notice before the change is effective and by providing the Town with its rates and applicable information pursuant to FCC regulations.

(e) To the extent specifically permitted by federal law and applicable FCC rules, the grantees and/or any other cable operator shall be permitted to appeal to the FCC for a review of the decision of the Town.

(Ord. of 2-1-94, § 3)

Sec. 9.5-54. Rate consultant.

The Town may utilize a rate consultant to advise it on proposed rate changes and to assist it in the procedures and standards for review adopted by the FCC. A rate consultant may

be any person who has sufficient background and experience, in the sole opinion of the Town, to properly evaluate and analyze rates and charges.
(Ord. of 2-1-94, § 4)

Sec. 9.5-55. Applicability of article.

The requirements described in this article are applicable to the grantees and all operators of cable television systems within the Town subject to rate regulation according to the 1992 Cable Act and applicable FCC rules.
(Ord. of 2-1-94, § 5)