

CHAPTER 161

Telecommunication, including Multichannel Video Systems and Providers Franchise Required Encouragement of Competition in Multichannel Video Service

WHEREAS, it is in the public interest to ensure that cable systems and other telecommunication and multichannel video systems are encouraged to serve the public in an effective and organized manner so as to foster such use and make suitable provisions of same available to the public, and

WHEREAS, it is in the public interest to ensure that cable systems and other multichannel video that such systems do not discriminate in whom they serve based on race, ethnic status, income or other inappropriate basis, such as by not serving certain areas of the town, or failing to serve certain areas on a timely basis, and

WHEREAS, such systems use the streets and highways, which are public property, for the lines through which they provide service, and public property may not be used in a discriminatory manner, and

WHEREAS, in order to meet community needs, such systems need to be constructed with lines in appropriate places both to obtain public, educational and government access channels and to provide service to schools and government buildings, and

WHEREAS, requiring providers to obtain a franchise prior to constructing, maintaining and operating such systems, while requiring the town to act expeditiously on any franchise request, allows the town to ensure that the preceding objectives and others which are in the public interest are met, while allowing the prompt provision of service.

WHEREAS, it is in the public interest for the town to ensure that construction of any cable system is completed in a timely manner, both to meet public needs and to prevent discrimination in service against any portion or section of the town, and

WHEREAS, the town finds that it is in the public interest and meets the cable-related needs of the community for all cable providers to make provision for public, educational, and governmental access channels

("PEG") for the community and institutional network ("I-Net") services for the town, and

WHEREAS, for PEG and I-Net services to be effectively provided at the lowest cost they need to be planned before construction of the cable system begins,

NOW THEREFORE, the Town of Hull ordains:

1. No Person may Construct, maintain or operate a cable systems or other telecommunication or multichannel video Multichannel Video System in the town to provide Multichannel Video Service, provide such services in the town without first obtaining from the town a franchise authorizing the construction, maintenance or operation of such a system. The Board of Selectmen acting on behalf of the town shall be the franchise granting authority.
2. No cable systems or other telecommunication or Multichannel Video Provider may provide Multichannel Video such as service to any person in the town unless a franchise from the town authorizing same is in full force and effect at all times while such service is being provided. Nothing contained herein shall otherwise excuse a person from having to obtain and maintain any and all other federal, state and local approvals and permits and to otherwise be in compliance with any and all other federal, state and local laws, rules and regulations.
3. To provide persons in the town with competition and a choice in Multichannel Video Service, Multichannel Video Providers (other than "cable operators" and "open video system operators" as defined in Section 4.2 below) providing service in the town shall make up to two-thirds of the channels on their system available for the carriage of programming from other video programming providers in accordance with the principles and procedures established by the Federal Communications Commission for the carriage of such programming by open video system operators. The town shall act expeditiously on any request for a franchise so as to allow the prompt provision of service while ensuring that the public interest is met and that residents are not discriminated against based on race, ethnic status, income or other inappropriate basis.

434. Definitions

434.1 "Construct" includes

434.1.1 The installation of lines, fibers or facilities that are in or cross any of the streets, highways or public rights of way within town for use as part of a cable systems or other telecommunication or Multichannel Video System, or

434.1.2 The connection of other facilities directly or indirectly to previously existing lines, fibers or facilities that are in or cross any of the streets, highways or public rights of way within town for use as part of a cable systems or other telecommunication or Multichannel Video System.

434.2 "Cable Systems or other telecommunication or Multichannel Video Provider" (or "Provider") means a person who meets one or more of the following tests:

434.2.1 The person is a "cable operator," as such term is defined in Title VI of the Federal Communications Act of 1934, 47 U.S.C. Sections 521 and following, or is otherwise required to obtain a "franchise" as such term is defined in such Act.

434.2.2 The person is an "open video system operator", as such term is defined in Title VI of the Federal Communications Act of 1934 and implementing regulations.

434.2.3. The person provides Multichannel Video Service, where such service is transmitted in whole or in part via wires or lines that are in or cross any of the streets, highways or public rights of way within the town. The preceding sentence shall apply whether the provider owns, leases or otherwise obtains the right to use such wires or lines including wires or lines of a

telecommunications provider used pursuant to tariff or otherwise for such purpose.

434.2.4 The person provides Multichannel Video Service and is otherwise required to obtain a franchise or similar approval under town charter, state law or federal law.

4.2.5 The person provides telecommunications facilities, wireless or wired.

434.3 "Multichannel Video Service" means multiple channels of video programming where some or all of the video programming is generally considered comparable to programming provided by a television broadcast station. Multichannel Cable Video Service specifically includes, but is not limited to, "cable service" as such term is defined in Title VI of the Federal Communications Act of 1934.

434.4 "Cable Systems or other Telecommunication or Multichannel Video System" includes all of the following:

434.4.1 A "cable system", as such term is defined in Title VI of the Federal Communications Act of 1934,

434.4.2 An "open video system", as such term is defined in Title VI of the Federal Communications Act of 1934 and implementing regulations,

434.4.3 A system which provides Multichannel Video Service, where such service is transmitted in whole or in part via wires or lines that are in or cross any streets, highways or public rights of way within the town. The preceding sentence shall apply whether the provider owns, leases or otherwise obtains the right to use such wires or lines, including wires or lines of a telecommunications provider used pursuant to tariff or otherwise for such purpose, and

434.4.4 A system involving wired, fiber optic or wireless communications or telecommunications for other than the

personal use of the owner of the property where such system is located.

434.4.5 A system involving the providing of data communications, telecommunications services and video transmission and other similar technological services and capabilities., Any other system providing Multichannel Video Service within the town where under applicable law a franchise or similar permission or approval from the town is required.

434.4.6 Any other system providing Multichannel Video Service within the Town where under applicable law a franchise or similar permission or approval from the town is required.

434.5 "Person" means individuals, corporations, partnerships, limited liability corporations, limited liability partnerships and any other form of legal entity.

