

§3008. Ordinances relating to cable television systems

1. State policy. It is the policy of this State, with respect to cable television systems:

A. To affirm the importance of municipal control of franchising and regulation in order to ensure that the needs and interests of local citizens are adequately met; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. That each municipality, when acting to displace competition with regulation of cable television systems, shall proceed according to the judgment of the municipal officers as to the type and degree of regulatory activity considered to be in the best interests of its citizens; [PL 2007, c. 548, §1 (AMD).]

C. To provide adequate statutory authority to municipalities to make franchising and regulatory decisions to implement this policy and to avoid the costs and uncertainty of lawsuits challenging that authority; and [PL 2007, c. 548, §1 (AMD).]

D. To ensure that all cable television operators receive the same treatment with respect to franchising and regulatory processes and to encourage new providers to provide competitive pressure on the pricing of such services. [PL 2007, c. 548, §1 (NEW).]

[PL 2007, c. 548, §1 (AMD).]

1-A. Definitions. For purposes of this section, unless the context otherwise indicates, the following terms have the following meanings:

A. "Cable system operator" has the same meaning as "cable operator," as that term is defined in 47 United States Code, Section 522(5), as in effect on January 1, 2008; [PL 2007, c. 548, §1 (NEW).]

B. "Cable television service" has the same meaning as "cable service," as that term is defined in 47 United States Code, Section 522(6), as in effect on January 1, 2008; and [PL 2007, c. 548, §1 (NEW).]

C. "Cable television system" has the same meaning as "cable system," as that term is defined in 47 United States Code, Section 522(7), as in effect on January 1, 2008. [PL 2007, c. 548, §1 (NEW).]
[PL 2007, c. 548, §1 (NEW).]

2. Ordinances. A municipality may enact any ordinances, not contrary to this chapter, governing franchising and regulation of cable television systems using public ways. Systems located in accordance with those ordinances, franchises and regulations are not defects in public ways.

The municipal officers of municipalities have the exclusive power to enact all ordinances authorized by this section. They shall give 7 days' notice of the meeting at which those ordinances are to be proposed in the manner provided for town meetings. Those ordinances take effect immediately. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. General requirements. The following requirements apply generally to cable television systems governed by this section.

A. Any cable television system must be constructed and operated in accordance with Federal Communications Commission regulations. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Notwithstanding any provision in a franchise, a cable system operator may not abandon service or a portion of that service without having given 6 months' prior written notice to the franchising municipality, if any, and to the municipalities affected by that abandonment. When abandonment

of any service is prohibited by a municipal franchise, a cable system operator may not abandon that service without written consent of the municipal officers. Any cable system operator that violates this paragraph commits a civil violation for which a fine of \$50 a day for each day that the violation continues may be adjudged. [PL 2007, c. 548, §1 (AMD).]

C. Neither the cable system operator whose facilities are used to transmit a program produced by a person other than that operator, under Federal Communications Commission regulations or municipal ordinance, nor the officers, directors or employees of any such cable system operator are liable for damages arising from any obscene or defamatory statements or actions or invasion of privacy occurring during any program when that cable system operator does not originate or produce the program. [PL 2007, c. 548, §1 (AMD).]

D. [PL 2007, c. 548, §1 (RP).]

E. A municipality is entitled to injunctive relief in addition to any other remedies available by law to protect any rights conferred upon the municipality by this section or any ordinances enacted under this section or section 3010. [PL 2007, c. 548, §1 (AMD).]

F. Notwithstanding any provision in a franchise, a cable system operator shall offer subscribers the option of purchasing access to cable channels, or programs on cable channels, individually. [PL 2019, c. 308, §1 (NEW).]
[PL 2019, c. 308, §1 (AMD).]

4. Franchise procedures. Pursuant to subsection 2, a municipality may enact ordinances governing the procedures for granting franchises to cable system operators. These ordinances must be enacted before granting any such franchise or franchises and must be designed to ensure that the terms and conditions of a franchise will adequately protect the needs and interests of the municipality. The ordinances must include, but are not limited to, provisions for the following:

A. A mechanism for determining special local needs or interests before issuing a request for proposals, whether by actively seeking to determine those needs or interests or by allowing a period for public comment on a proposed request for proposals; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. The filing of franchise applications and related documents as public records, with reasonable notice to the public that the records are open to inspection during reasonable hours; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. A reasonable opportunity for public input before granting franchises; and [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. The assessment of reasonable fees to defray the costs of public notice, advertising and other expenses incurred by the municipality in acting upon applications. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[PL 2007, c. 548, §1 (AMD).]

5. Franchise agreements or contracts. The State specifically authorizes municipal officers pursuant to ordinances to contract on such terms and conditions and impose such fees as are in the best interests of the municipality, including the grant of exclusive or nonexclusive franchises for a period not to exceed 15 years, for the placing and maintenance of cable television systems and appurtenances, or parts thereof, along public ways and including contracts with cable system operators that receive the services of television signal transmission offered by any public utilities using public ways for such

transmission. A public utility may not be required to contract with the municipal officers under this subsection. Each franchise must contain the following provisions:

A. The area or areas to be served; [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. A line extension policy, which must specify a minimum density requirement of no more than 15 residences per linear strand mile of aerial cable for areas in which the cable system operator will make cable television service available to every residence; [PL 2019, c. 245, §1 (AMD).]

C. A provision for renewal, the term of which may not exceed 15 years. A provision for automatic renewal or other provision for extending the initial term is prohibited. Franchise renewal is governed by section 3010, subsection 5-C; [PL 2019, c. 245, §1 (AMD).]

D. Procedures for the investigation and resolution of complaints by the cable system operator; [PL 2019, c. 245, §2 (AMD).]

D-1. A provision for the use and support of public, educational and governmental access channels, which must be carried in the same manner and numerical location sequence as are the local broadcast channels originating from the State and carried on the cable television system pursuant to section 3010, subsection 5-A; and [PL 2019, c. 245, §3 (NEW).]

E. Any other terms and conditions that are in the best interests of the municipality. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 2019, c. 245, §§1-3 (AMD).]

6. Current ordinances and agreements.

[PL 2007, c. 548, §1 (RP).]

7. Model franchise agreement. The Department of Administrative and Financial Services, Office of Information Technology, or a successor state agency, referred to in this subsection as "the office," shall develop and may update and amend a model franchise agreement for use by any municipality and any cable system operator that mutually choose to adopt the model franchise agreement or any of its provisions. A cable system operator may not modify or amend the model franchise agreement without the consent of the municipality. The office shall make the model franchise agreement available on its publicly accessible website. In the development of the model franchise agreement, the office shall, at a minimum, consider the following issues:

A. Franchise fees; [PL 2007, c. 548, §1 (NEW).]

B. Build-out requirements; [PL 2007, c. 548, §1 (NEW).]

C. Public, educational and governmental access channels and reasonable facility support for such channels; [PL 2007, c. 548, §1 (NEW).]

D. Customer service standards; [PL 2007, c. 548, §1 (NEW).]

E. The disparate needs of the diverse municipalities in this State; and [PL 2007, c. 548, §1 (NEW).]

F. The policy goal of promoting competition in the delivery of cable television service. [PL 2007, c. 548, §1 (NEW).]

This subsection does not allow the office to establish prices for any cable television service or to regulate the content of cable television service.

[PL 2019, c. 245, §4 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD). PL 2007, c. 548, §1 (AMD). PL 2019, c. 245, §§1-4 (AMD). PL 2019, c. 308, §1 (AMD).

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