

Chapter 84

CABLE TELEVISION

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[HISTORY: Adopted by the Borough Council of the Borough of Camp Hill 6-8-1994 by Ord. No. 937, approved 6-8-1994. Amendments noted where applicable.]

§ 84-1. Title; purpose; statutory authority; interpretation; conflicts.

- A. Short title. This chapter shall be known and may be cited as the "Camp Hill Cable Television Ordinance of 1994."
- B. Purpose. The purpose of this chapter is to regulate cable television in the exercise of the power of the governing body to regulate telephone, telegraph and electric power poles and other obstructions erected upon or in the streets and roads of the municipality and to provide for the maintenance of peace, good government, safety and welfare of the municipality and its trade, commerce and manufactures.
- C. Federal law. This chapter is enacted under the Federal Cable Television Consumer Protection and Competition Act of 1992, which permits local franchising authorities to regulate cable television, subject to certain substantive and procedural limitations.
- D. Interpretation. In interpreting and applying the provisions of this chapter, these provisions shall be construed broadly as required for the maintenance of peace, good government, safety and welfare of the municipality and its trade, commerce and manufactures.
- E. Conflict with federal law. It is the intent of the governing body that this chapter conform to the federal law. If a court of competent jurisdiction declares any provision of this chapter to be in conflict with the federal law, the federal law will control, and this chapter, to the extent that any provision is declared to be in conflict with the federal law, shall not apply.

§ 84-2. Definitions.

As used in this chapter, the following words, phrases and terms shall have the following meanings:

ASSOCIATED EQUIPMENT — All equipment in a cable subscriber's home that is used to receive the basic service, regardless of whether such equipment is additionally used to receive

other tiers of regulated programming service and/or unregulated service. Such equipment shall include but not be limited to converter boxes, remote control units, connections for additional television receivers and other cable home wiring.

BASIC SERVICE — At a minimum, all signals of domestic television broadcast stations provided to any subscriber (except a signal secondarily transmitted by satellite carrier beyond the local service area of such station, regardless of how such signal is ultimately received by the cable system); any public, educational and governmental programming required by the franchise to be carried on the basic tier; and any additional video programming signals as a service added to the basic tier by the cable operator (example: Sammons' "Lifeline").

BASIC SERVICE RATE — The rate charged by a cable operator for basic service and associated equipment costs.

CABLE OPERATOR — Any person or group of persons who or which provides cable service over a cable system and, directly or through one or more affiliates, owns a significant interest in such cable system, or who otherwise owns, controls or is responsible for, through any arrangement, the management and operation of a cable system.

CABLE SERVICE —

- A. The one-way transmission to subscribers of video programming or other programming service.
- B. Two-way subscriber interaction, if any, which is required for the selection of such video programming or other programming service.

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 does not include:

- A. A facility that serves only to retransmit the television signals of one or more television broadcast states.
- B. A facility that serves only subscribers in one or more multiple-unit dwellings under common ownership, control or management, unless such facility uses any public right-of-way.
- C. A facility of a common carrier, except to the extent that such facility is used in the transmission of video programming directly to subscribers.
- D. Any facilities of any electric utility used solely for operating its electric utility systems.

COMPLIANCE OFFICER — An individual or an organization, such as a council of governments, designated by the governing body to administer this chapter.

FCC — The Federal Communications Commission.

FEDERAL LAW — The Federal Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992, and all regulations

promulgated by the FCC thereunder, as any of the foregoing may be amended from time to time.

GOVERNING BODY — The Borough Council of the municipality.

MUNICIPALITY — The Borough of Camp Hill, a municipality situated in Cumberland County, Pennsylvania.

§ 84-3. Appointment, powers and duties of Compliance Officer; filing fees.

A. Appointment and powers of Compliance Officer.

- (1) For the administration of this chapter, a Compliance Officer, who shall not hold any elective office in the municipality, shall be appointed by the governing body by resolution.
- (2) The Compliance Officer shall meet the qualifications established by the governing body and shall be able to demonstrate, to the satisfaction of the governing body, a working knowledge of cable regulation under the federal law and this chapter.
- (3) The Compliance Officer shall administer this chapter in accordance with its literal terms.

B. Duties of Compliance Officer. The Compliance Officer shall be responsible for:

- (1) Taking such action on behalf of the municipality as may from time to time be required to obtain or maintain the municipality's certification to regulate basic service rates.
- (2) Notifying all cable operators serving the municipality when the municipality has been certified by the FCC to regulate basic service rates.
- (3) Notifying all cable operators serving the municipality that the municipality intends to enforce the minimum customer service standards established by the federal law.
- (4) Making all filings required or permitted to be made to the FCC by the municipality pursuant to the federal law, subject to oversight and control of the governing body.
- (5) Receiving, filing in the public records of the municipality, reviewing for completeness and placing on the governing body's agenda for consideration all submissions, petitions and other filings required or permitted to be made to the municipality pursuant to the federal law. All submissions, petitions and other filings made to the municipality pursuant to the federal law shall be made via first-class mail, postage prepaid, to the following address: Borough of Camp Hill, 2201 Market Street, Camp Hill, Pennsylvania 17011, Attn: Cable Television Compliance Officer, or such other address as shall from time to time be noticed to the appropriate correspondents.
- (6) Receiving and transmitting to the proper officer of the municipality any filing fees paid pursuant to this chapter. The filing fees shall be as follows:

- (a) Compliance report: \$100.
- (b) Rate income application: \$300.
- (7) Enforcing the provisions of this chapter and all decisions of the governing body made hereunder to the fullest extent permitted by the federal law, subject to the oversight and control of the governing body.
- (8) Taking such other actions as may be necessary from time to time, subject to the oversight and control of the governing body, to protect the right of the municipality to regulate cable television to the fullest extent permitted by the federal law.

§ 84-4. Regulation of basic service rates.

The governing body shall regulate basic service rates in accordance with the substantive and procedural provisions of the federal law and any applicable state law or regulations or local ordinances.

A. Duties of cable operators.

- (1) Within 30 days of receiving written notification from the municipality that the municipality has been certified by the FCC to regulate rates for the basic service, a cable operator shall file its schedule of rates for the basic service and associated equipment with the municipality, together with the fee specified by § 84-3B(6).
- (2) At least 30 days prior to increasing its rates for the basic service, a cable operator shall notify each subscriber of the proposed rate increase and shall file a notice of its proposed rate increase with the municipality, together with the fee specified by § 84-3B(6).
- (3) At the time of filing a schedule of rates or a proposed rate increase with the municipality, a cable operator shall publish a summary of the rates or rate increase in a local newspaper for at least three consecutive days and cablecast a summary of the rates or rate increase on its public information channel at least twice daily, at such times as are reasonably expected to reach the largest audience, over a three-day period, in each case notifying interested parties that they must submit written comments by a date certain (within 15 days of the cable operator's filing with the municipality) at the appropriate address.
- (4) A cable operator shall comply with all orders of the municipality, except that a cable operator shall not be required to comply with an order if the cable operator demonstrates that complying with the order would require the cable operator to disclose proprietary information.

B. Duties of municipality.

- (1) Upon receipt of a cable operator's schedule of rates or a proposed rate increase, the municipality shall cablecast a summary of the rates or rate increase on the channel(s) allocated to the municipality, at least twice daily, at such times as are

reasonably expected to reach the largest audience, over a three-day period, along with a notice that interested parties shall submit written comments to the municipality by a date certain (within 15 days of the cable operator's filing with the municipality) at the appropriate address.

- (2) The municipality shall make any decision on the reasonableness of current basic service rates and proposed rate increases pursuant to the procedural and substantive provisions of the federal law.
- (3) In making a decision on the reasonableness of current basic service rates or proposed rate increases, the municipality shall have the authority to compel the production of proprietary information from the cable operators, and in such circumstances the municipality shall be subject to the confidentiality provisions set forth elsewhere in this chapter.

§ 84-5. Delegation of ministerial and administrative duties.

The governing body hereby delegates its ministerial and administrative duties under this chapter to the Compliance Officer.

§ 84-6. Enforcement.

In rendering its decisions, the governing body shall have the full authority granted to its pursuant to the federal law to order a cable operator to take any and all actions as the federal law permits, including, without limitation:

- A. Ordering a cable operator to implement a reduction in basic service tier or associated equipment rates where necessary to bring rates into compliance with the standards set forth in the federal law.
- B. Prescribing a reasonable rate for the basic service tier or associated equipment after it determines that a proposed rate is unreasonable.
- C. Ordering a cable operator to refund to subscribers that portion of previously paid rates determined to be in excess of the permitted tier charge or above the actual cost of equipment, unless the operator has submitted a cost-of-service showing which justified the rate charged as reasonable. Before ordering such a refund, however, the municipality shall give the operator notice and shall give the operator 15 days from the date such notice is given to submit written comments to the municipality. Any such refund order shall be further subject to the limitations contained in the federal law.

§ 84-7. Fines for noncompliance.

In the event that a cable operator does not comply with a decision made pursuant to this chapter and directed specifically toward the cable operator, the municipality may assess a fine against the cable operator of not less than \$100 nor more than \$600 for each day of noncompliance.

§ 84-8. Abrogation of franchise agreements.

All other ordinances of the Borough of Camp Hill are repealed to the extent inconsistent herewith. All franchise agreements between the municipality and cable operators are abrogated to the extent and only to the extent inconsistent herewith, except to the extent that abrogation is not required by the Federal Cable Television Consumer Protection and Competition Act of 1992 or the regulations promulgated thereunder.