

LL 1994-001

ENACT RATES CHARGED BY CABLE TV
OPERATORS FOR BASIC SERVICE

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NYS DEPARTMENT OF STATE
BUREAU OF STATE RECORDS
162 Washington Avenue
Albany, NY 12231-0001

DATE: 3/11/94

MUNICIPALITY Town of Amity		
LOCAL LAW(S) NO. 1	YEAR 1994	FILING DATE 3/11/94

Local Law Acknowledgment

ANNETTE M. HARDING
CEMETERY HILL ROAD
BELMONT NY 14813

The above-referenced material was received
and filed by this office as indicated.

Additional local law filing forms will be
forwarded upon request.

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County _____
City of Amity _____
Town _____
Village _____

Local Law No. 1 of the year 94
concerning the regulations of rates charged by cable television operators for the basic service tier and related equipment, and for the cable programming service tier and related equipment.

Be it enacted by the Town Board of the

(Name of Legislative Body)

County _____
City of Amity _____ as follows:
Town _____
Village _____

Section 1. The Franchising Authority has the legal authority to administer and shall enforce against any non-municipally owned cable television system operators, as permitted therein, the provisions of Part 76, Subpart N of the Rules and Regulations of the Federal Communications Commission, concerning Cable Rate Regulation, 47 C.F.R. ss 76.900 *et seq.*; as they currently read and hereafter may be amended, which are herewith incorporated by reference.

Section 2. Any rate regulation proceedings conducted under Section 1 hereto shall provide a reasonable opportunity for consideration of the views of any interested party, including but not limited to, the Franchising Authority or its designee, the Cable Operators, subscribers, and residents of the franchise area. In addition to all other provisions required by the laws of the State of New York and this Town for such proceedings, and in view of any interested party, the Franchising Authority shall take the following actions:

- a. Franchising Authority shall publish in a local newspaper; post in a conspicuous place in the Town/Village Hall, and mail, by certified mail, to the Cable Operator a Public Notice of the intent to conduct a public proceeding on basic service tier rates and/or charges for equipment to receive such basic service tier, as defined by the FCC.
- b. Said Public Notice shall state, among other things, that cable television rates are subject to municipal review and explain the nature of the rate review in questions; that any interested party has a right to participate in the proceeding; that public views may be submitted in the proceeding, explaining how they are to be submitted and the deadline for submitting any such television rates in question will be governed by the Rules and Regulations of the Federal Communications

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Commission ("FCC"); and that the decision of the Franchising Authority is subject to review by the FCC.

c. The Franchising Authority shall conduct a public proceeding to determine whether or not the rates or proposed rate increase are reasonable. The Franchising Authority may delegate the responsibility to conduct the proceeding to any duly qualified and eligible individual(s) or entity. If the Franchising Authority or its designee cannot determine the reasonableness of a proposed rate increase within the time period permitted by the FCC Rules and Regulations, it may toll the effective date of the proposed rates for an additional period of time as permitted by the FCC Rules and Regulations, and issue any other necessary or appropriate order and give Public Notice accordingly.

d. In the course of the rate regulation proceeding, the Franchising Authority may request additional information from the Cable Operator that is reasonably necessary to determine the reasonableness of the basic service tier rates and equipment charges. Any such additional information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of Affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry. The Franchising Authority may request proprietary information, provided that the Franchising Authority shall consider a timely request from the Cable Operator that said proprietary information shall not be made available for public information, consistent with the procedures set forth in Section 0.459 of the FCC Rules and Regulations. Furthermore, said proprietary information may be used only for the purpose of determining the reasonableness of the rates and charges or the appropriate rate level based on a cost-of-service showing submitted by the cable operator. The Franchising Authority may exercise all powers under the laws of the State of New York and of the Town of Amity to discover any information relevant to the rate regulation proceeding, including, but not limited to, subpoena, interrogatories, production of documents, and deposition.

e. Upon termination of the rate regulation proceeding, the Franchising Authority shall adopt and release a written decision as to whether or not the rates or proposed rate increase are reasonable or unreasonable, and if unreasonable, its remedy, including prospective rate reduction, rate prescription, and refunds.

f. The Franchising Authority may not impose any fines, penalties, forfeitures or other sanctions, other than permitted by the FCC Rules and Regulations, for charging an unreasonable rate or proposing an unreasonable rate increase. However, the Franchising Authority may impose fines or monetary forfeitures on a Cable Operator that does not comply with a rate decision or refund order of the Franchising Authority, directed specifically at the Cable Operator, pursuant to the laws of the State of New York and the Codes, Rules and Regulations of the Town of Amity.

g. Consistent with FCC Rules and Regulations, the Franchising Authority's decision may be reviewed only by the FCC.

h. The Franchising Authority shall be authorized, at any time, whether or not in the course of a rate regulation proceeding, to gather information as necessary to exercise its jurisdiction as authorized by the laws of the State of New York, the Communications Act of 1934, as amended, and the FCC Rules and Regulations. Any information submitted to the Franchising Authority shall be verified by an appropriate official of the cable television system supervising the preparation of the response on behalf of the entity, and submitted by way of Affidavit or under penalty of perjury, stating that the response is true and accurate to the best of that person's knowledge, information and belief formed after reasonable inquiry.

Section 3. The Franchising Authority shall file with the FCC the required Certification form (FCC Form 328) on September 1, 1993, or as soon thereafter as appropriate. Thirty days after, or as soon thereafter as appropriate, the Franchising Authority shall notify the cable operators that the Franchising Authority has been certified by the FCC and that it has adopted all necessary regulations so as to begin regulating basic service tier cable television rates and equipment charges.

Section 4. With regard to the cable programming service tier, as defined by the Communications Act of 1934, as amended, and the FCC Rules and Regulations, and over which the Franchising Authority is not empowered to exercise rate regulation, the Cable Operator shall give notice to the Franchising Authority of any change in rates for the cable programming service tier or tiers, any change in the charge for the equipment required to receive the tier or tiers, and any changes in the nature of the services provided, including the program service including in the tier or tiers. Said notice shall be provided within five (5) business days after the change becomes effective.

Section 5. The Franchising Authority may delegate its powers to enforce this Law (per the applicable portions of federal Communications Act, State Law and Municipal Law) to municipal employees or officers ("cable official"). The cable official will have the authority to:

- (1) administer oaths and affirmations;
- (2) issue subpoenas;
- (3) examine witnesses;
- (4) rule upon questions of evidence;
- (5) take or cause depositions to be taken;
- (6) conduct proceedings in accordance with this Law;
- (7) exclude from the proceeding any person engaging in contemptuous conduct or otherwise disrupting the proceedings;
- (8) hold conferences for the settlement or simplification of the issues by consent of the parties; and
- (9) take actions and make decisions or recommend decisions in conformity with this law.

Section 6. Insofar as the provisions of this local law are inconsistent with the provisions of any other local law or act, the provisions of this local law shall be controlling.

Section 7. This local law shall take effect immediately upon filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 94 of the ~~(County)(Town)(Village)~~ of Amity was duly passed by the Town Board of Amity on February 1, 1994, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 94 of the (County)(City)(Town)(Village) of Amity was duly passed by the Town Board of Amity on February 1, 1994, and was (approved)(not approved)(repassed after disapproval) by the Town Board of Amity and was deemed duly adopted on February 1, 1994, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 94 of the (County)(City)(Town)(Village) of Amity was duly passed by the Town Board of Amity on February 1, 1994, and was (approved)(not approved)(repassed after disapproval) by the Town Board of Amity on February 1, 1994. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on February 1, 1994, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 19 94 of the (County)(City)(Town)(Village) of Amity was duly passed by the Town Board of Amity on February 1, 1994, and was (approved)(not approved)(repassed after disapproval) by the Town Board of Amity on February 1, 1994. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of February 1, 1994, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer)*

* **Elective Chief Executive Officer** means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

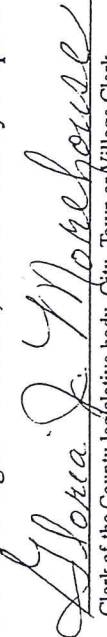
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____, above.


Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal) Date: February 22, 1994

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF _____

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature _____

Title _____

County _____
City of _____
Town _____
Village _____

Date: _____