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## MODEL CABLE TV FRANCHISES

FROM: John W. Pestle

RE: Model Cable TV Franchises

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We have assisted over 200 municipalities on the specialized subject of cable television franchise renewals and related matters. To assist municipal attorneys we have prepared two model cable television franchises -- a longer version and a shorter version. While these documents do not replace having an attorney experienced in cable law present during the negotiations, they provide a solid base from which to start and guidance for the renewal process.

Challenge of Renewals: Cable franchise renewals provide new opportunities for a municipality to improve service to its residents, and to provide other benefits, such as:

- Franchise fees effectively in the 5.590 range
- State of the art equipment for a local government channel, and funding from the cable company for it
- Enhanced customer service provisions, and remedies for violating them
- Significant protections for use of the public rights of way
- Broad insurance and indemnity provisions to protect the municipality against claims

But municipal attorneys (who often do such renewals only every 10 or 15 years) often find that cable law can be a morass of regulations and FCC orders which appear to limit a municipality's options. Among the challenges are the complicated Federal cable renewal procedures which municipalities must use to impose needed conditions in a renewal, if the cable company will not agree to them.

By contrast, cable company attorneys, because of their day-to-day involvement with cable law matters, are very familiar with the Federal Cable Act and FCC Rules, giving them an advantage during renewal negotiations.

Because Varnum has assisted over 200 municipalities on cable renewals and related matters, we have achieved on behalf of municipalities the level of knowledge of cable law usually enjoyed by cable company attorneys. We have applied this knowledge in creating the model franchises.

Model Franchises: The model franchises are drafted from a municipal perspective to help "level the playing field" for municipalities. The longer version covers the following topics, among others (see table of contents, attached). The shorter version covers many of these topics in less detail (go to [www.varnumlaw.com/cable](http://www.varnumlaw.com/cable) for table of contents). We provide both franchises on disk and in hard copy.

- Cable franchise fees, computation and audit
- Cable services to be provided
- Cable system description
- Where cable services will be provided (universal service, homes per mile)
- Anti-discrimination/redlining
- Customer service standards
- Free service to municipal buildings
- Defaults/remedies
- Public, education, government (PEG) channels
- Institutional network and VLAN
- Right of way management
- Emergency alert system
- Transfer of cable franchise
- Signal quality standards
- Indemnity/insurance

Two Versions: The shorter version of the franchise is aimed more at medium to smaller sized municipalities. It covers the essential points but is less detailed than the longer version.

The longer version is more detailed and is typically used for medium or larger municipalities, especially those which either have extensive PEG requirements or work extensively on cable and franchising matters. It has more extensive provisions on rights of way, customer service, insurance and indemnity, PEG, defaults and remedies.

We suggest that municipal attorneys obtain both versions and compare them section by section. They may wish to “mix and match” sections from each as is appropriate to their needs.

Cost/What You Get: The cost is \$250 for the shorter version and \$350 for the longer version or \$450 for both. What you get is a package including:

- The franchise, both in hard copy and on computer disk
- A memo with comments on specific sections of the franchise and a list of specific sections to be “customized” by each municipality
- A general memo on how to use the cable franchises
- A memo on cable television renewal procedures which includes both some comments from our experience and a copy of the renewal section of the 1984 Cable Act
- A form of contract which municipalities should use with each entity programming a PEG Channel
- A list of consultants who have told us they assist municipalities on cable television refranchising.

Caution: The franchises, memos, and PEG contract do not constitute legal advice. Your request for them and our provision of them does not create an attorney-client relationship. Municipalities should consult their attorney to ensure compliance with applicable law and that the documents meet their needs.



Cable/Telecommunications Practice: Varnum LLP represents municipalities nationwide on Federal aspects of cable and television matters. The firm also has a municipal practice and is municipal attorney for several cities, counties, and townships. See the firm's web page at [www.varnumlaw.com](http://www.varnumlaw.com).

John W. Pestle is Co-Chair of the firm's Cable/Telecommunications Practice Group. He received the 1996 "Member of the Year" award from the National Association of Telecommunications Officers and Advisors for his work representing municipalities on the passage and implementation of the Federal Telecommunications Act of 1996. He is a former Chair of the Municipal Lawyers Section of the State Bar of Michigan and is a graduate of Harvard College, Yale Graduate School, and the University of Michigan Law School. He can be contacted at [jwpestle@varnumlaw.com](mailto:jwpestle@varnumlaw.com).

How to Respond: To order the franchises or obtain additional information, mail or fax the attached form to us. Most logistical or ordering questions can be answered by Barb Allen at 616-336-6743. Substantive questions can be addressed to John Pestle at 616-336-6725 (fax 616-336-7000).



## Model Cable Franchise Order Form

- Please send me:  Model Cable Franchise, Long Version (\$350)  
 Model Cable Franchise, Short Version (\$250)  
 Both versions (\$450)  
 \* **NOTE:** Licensed for one use only

- Email documents  
 Send by overnight delivery (add \$10 to total)  
 Mail documents -- Orders will be shipped 2-3 working days after request is received

- Our check is enclosed for \$ \_\_\_\_\_ -or-  Please invoice us for the total of \$ \_\_\_\_\_

- Indicate format for disk:  MS Office Word 2003/07  WordPerfect 9  Other (if available) \_\_\_\_\_  
 Please add me to your mailing list

Orders will be shipped 2-3 working days after request is received.

Municipality/Firm: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 Phone: \_\_\_\_\_ Fax: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

**Please email, mail, or fax this form to the attention of Barb Allen at:**

**Varnum**LLP  
 333 Bridge Street, NW  
 P.O. Box 352  
 Grand Rapids, MI 49501-0352  
 Phone: 616-336-6743; Fax: 616-336-7000  
 baallen@varnumlaw.com

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## Sample Table of Contents-Longer Version

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- 1.7 Cable Ordinance
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