

Town of Richmond, New Hampshire  
Cable Television Franchise Agreement  
Motions, Resolutions and Notices

**FILED**  
MAY 21 1990  
NEW HAMPSHIRE  
SECRETARY OF STATE

WHEREAS, this franchise agreement complies with the Cable Communications Policy Act of 1984 (hereby known as the Act,) and

WHEREAS, this franchise shall be nonexclusive and

WHEREAS, Paragon Communications and Town of Richmond have negotiated a franchise agreement, agreeable to both parties, and which complies with the Act, and otherwise fulfills the needs of the Town of Richmond with respect to Cable Television

WHEREAS, Paragon communications will provide information and entertainment through its cable television facilities to residents of the Town of Richmond

WHEREAS, the Town of Richmond desires to allow its residents access to cable television facilities in the public interest of its residents, now therefore be it.

RESOLVED, that the Richmond Selectmen do hereby enact "AN ORDINANCE GRANTING A FRANCHISE TO PARAGON COMMUNICATIONS TO OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN TOWN OF RICHMOND; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF FRANCHISE."

BE IT ORDAINED BY THE SELECTMEN OF THE TOWN OF RICHMOND, AS FOLLOWS:

SECTION 1 - SHORT TITLE: This Ordinance shall be known and may be cited as the TOWN OF RICHMOND CABLE TELEVISION FRANCHISE.

SECTION 2 - DEFINITIONS: For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number and words in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

a. "Cable Television System" or "CATV System" or "System" means a system of antennas, cables, wires, lines, towers, wave guides or other conductors, converters, equipment or facilities, designed and constructed for the purpose of producing, receiving, transmitting, amplifying, distributing and selling audio, video and other forms of electronic or electrical signals. Said definition shall not include any such facility that serves or will serve only subscribers in one or more multiple-unit dwellings under common ownership, control or management, which does not use or cross under, through or over the City rights-of-ways.

b. "Cable Television Service or Cable Service" means any service delivered or provided through the Company's cable television system.

c. "Town" means the Town of Richmond, the Board of Selectmen as its legislative body.

d. "Company" means Paragon Communications, the grantee of rights under this franchise, and shall also mean any receiver, transferee, equitable owner, mortgagee, trustee or any other Successor in Interest in any manner whatsoever.

e. "FCC" means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

f. "Federal Cable Act" means the Cable Communications Policy Act of 1984, 47 U.S.C. SS 521-560.

g. "Gross Annual Receipts" means all amounts paid by the subscribers to the Company for installation and use of the System, including charges for monthly services and charges for installation and relocation of outlets.

h. "Hearing Board" means the body that determines any violation by the Company of the terms and conditions of this franchise.

i. "Person" means any person, firm, partnership, association, corporation, company or organization of any kind.

SECTION 3 - GRANT OF AUTHORITY: There is hereby granted by the Town to the Company the right and privilege to use, construct, erect, operate and maintain in, upon, along, across, above, over and under the streets, highways, public ways, bridges and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the Town such poles, wires, cables, bridges, underground circuits, manholes and other conductors and fixtures necessary for the maintenance and operation in the Town of a Cable Television System. Nothing herein contained, however, shall be deemed to grant the Company an easement of right-of-way over private property except as may be authorized by contract or law.

3.1 - NON-EXCLUSIVE GRANT: The right to use and occupy said streets, highways, alleys, bridges, public ways and public places shall not be exclusive, and the Town reserves the right to grant the use of said streets, highways, alleys, bridges and public places to any person during the period of the franchise.

3.2 - ADMINISTRATION OF FRANCHISE: The Board of Selectman of the Town of Richmond shall be responsible for the continuing administration of this franchise, except that the Hearing Board shall be responsible for determining violations hereof.

SECTION 4 - EFFECTIVE DATE AND DURATION OF FRANCHISE: The franchise date and duration will commence upon the signing date of this Agreement by the Company and the Town and will continue in force and effect for a term of 15 years.

SECTION 5 - FRANCHISE FEE: The Company shall not be required to pay a franchise fee or any other monetary amount to the town for the rights granted under this franchise agreement.

SECTION 6 - LIABILITY INSURANCE:

6.1 - PROOF OF INSURANCE: Upon acceptance by Company of the franchise, Company shall furnish the Town with proper evidence of liability insurance coverage with an approved insurance company, insuring the Company against all claims, demands or losses resulting from injury to person or damage to property resulting from or connected with the construction, operation or maintenance of the Company's cable television system.

6.2 - INSURANCE LIMITS: Such insurance shall have limitation in amounts not less than five hundred thousand dollars (\$500,000.00) for injury or damages accruing to one person in one occurrence; not less than one million dollars (\$1,000,000.00) for injury or damages accruing to more than one person in the same occurrence; and not less than one hundred thousand dollars (\$100,000.00) for damage to property in one occurrence.

6.3 - NOTICE TO TOWN: The insurance coverage required by this Section shall be maintained by the Company for the duration of the franchise and shall provide that thirty (30) days written notice of intention not to renew, to cancel or of any other material changes in the insurance policy shall be given to the Town by the insurer.

SECTION 7 - COMPANY TO DEFEND SUITS:

7.1 - DEFENSE AT COMPANY'S EXPENSE: Company shall at its own expense defend all suits that may be brought against the Town as a result of the construction or operation of Company's Cable Television System or based on infringement of copyrights, patents or similar violations.

7.2 - TOWN HELD HARMLESS: Company shall hold harmless the Town from any and all damages, judgments, cost and expenses arising out of or connected with the installation or operation of such Cable Television System. Notwithstanding the foregoing, the Company shall not be required to indemnify the Town and save the Town harmless for any claims, damages, losses, expenses and the like arising out of any willful misconduct or negligence on the part of the Town or related to the operation or claims of right to construct or operate cable systems by third parties. The term "Town" as used in this section shall include its employees, agents, personnel and others authorized to work or perform services for the Town.

SECTION 8 - COMMUNITY ~~PROVIDED CHANNEL~~ <sup>PROGRAMMING</sup> The Company shall provide a channel for use for community based programming and bulletin board information.

SECTION 9 - CONSTRUCTION OF CABLE TELEVISION SYSTEM:

SECTION 9-1 - CONSTRUCTION POLICY: The Company shall construct, install, operate and maintain its Cable System in a manner consistence with all laws, ordinances, construction standards, governmental requirements and FCC technical standards.

SECTION 9-2 - USE OF STREETS AND POLES:

(a) Use of Streets. All transmission and distribution structures, lines and equipment erected by the Company within the Town shall be so located as to cause minimum interferences with the proper use of streets, alleys and other public ways and places, and to cause minimum interferences with the rights or reasonable convenience of property owners who adjoin any of the said streets, alleys or other public ways and places.

(b) Restoration. In case of any disturbance of pavement, sidewalk, driveway or other surfacing, the Company shall, at its own cost and expense and in a manner approved by the Town, replace and restore all paving, sidewalk, driveway or surface of any street or alley disturbed, in as good condition as before said work was commenced.

(c) Relocation. In event that at any time during the period of this franchise the Town shall lawfully elect to alter, or change the grade of any street, alley or other public way, or any of its utility poles, the Company, upon reasonable notice by the Town, shall remove, re-install, and relocate its poles, wires, cables, underground conduits, manholes and other television fixtures at the expense of the Company. If said request is for the benefit of a third party, said third party shall bear the cost of the Company's relocation.

(d) Use of Town Poles. The Town grants to the Company the right and privilege to construct, erect, operate and maintain its distribution system, consisting of its wires, cables, television conductors, fixtures and appliances on and upon any and all utility poles owned by the Town. The Company shall install its system upon utility poles owned by the Town in such manner as to comply with the standards of the National Electric Safety Code, as amended from time to time. Any changes required to be made in the utility lines, wires, cables and fixtures of the Town in order to comply with the standards shall be made at the expense of the Company, and if such changes are made by the Town, the Company shall pay the Town the actual cost thereof. In the event certain utility poles erected and owned by the Town are not adequate to carry and support the system of the Company or to allow installation thereon of the system of the Company, the Company, with the

prior consent of the Town, and at its expense, may either (a) relocate an existing pole of the Town or substitute therefore a pole with increased capacity, or (b) erect a new and additional pole for the purpose of supporting only the system of the Company. The Company shall comply with all Ordinances of the Town relative to the erection and maintenance of utility poles.

(e) Use of Poles Not Owned by Town. The Company will secure appropriate permission from any telephone or electric power company owning poles which the Company proposes to use, and the Company will furnish to the Town a copy of its current agreement with such company or companies.

(f) Placement of Fixtures. The Company shall construct and erect its system and fixtures, and any additions thereto, so as to cause as little inconvenience as practicable to the general public and the Town. The system and fixtures to the Company will be constructed in such manner as not to interfere permanently with usual travel on public streets, alleys and public ways. Any temporary obstruction in public thoroughfares caused by the Company in the course of construction or operation of its system shall be guarded and protected at all times by the placement of adequate barriers, fencing or boarding and warning signs or lights.

(g) Temporary Removal of Wire for Building Moving. The Company shall, on the request of any Person holding a building permit issued by the Town temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the Person requesting the same, and the Company shall have the authority to require such payment in advance. The Company may require that it be given not less than forty-eight (48) hours advance notice to arrange for such

temporary wire changes.

(h) Tree Trimming. The company shall have the authority to trim trees upon and overhanging street, alleys, sidewalks and public places of the Town so as to prevent the branches of such trees from damaging or interfering with the wires and cables of the Company, all trimming to be done under the supervision and direction of the Town and at that expense of the Company.

SECTION 10 - SERVICE STANDARDS:

SECTION 10-1 - BUSINESS OFFICE: The Company shall maintain a business office in the Keene area which shall maintain normal business hours in which subscribers may telephone or visit.

SECTION 10-2 - LOG OF COMPLAINTS AND REPAIR CALLS: The Company shall maintain a true and accurate log of all complaints and repair calls occurring within the Cable Television System operated by the Company within the franchise area of the Town, keeping record therein of the time and date of the notice, and the time and date and nature of response. A copy of the Company's standard service call form shall fulfill the requirement of said service log, provided the service call form provides the information herein before required.

SECTION 10-3 - SERVICE COMPLAINTS INVESTIGATION/RESOLUTION: The Company shall undertake investigative action on complaints within a twenty-four (24) hour period, but in no case later than the following business day. The Company shall accomplish normal repairs, or otherwise provide future resolution of such service complaints within three (3) business days.



SECTION 10-4 - SERVICE INTERRUPTIONS: Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company will do so at such time as will cause the least amount of inconvenience to the subscribers and will so notify subscribers through public notification procedures.

SECTION 10-5 - SYSTEM MAINTENANCE STANDARDS:

(a) Maintenance of System Generally. The Company shall erect and maintain all parts of the Cable Television System in good condition throughout the entire term of the franchise.

(b) Interference with Reception. The Company shall not allow its cable or other operations to interfere with television reception of persons not served by the Company.

SECTION 10-6 - COMPANY RULES: The Company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable the Company to exercise its rights and perform its obligations under this franchise, and to assure an uninterrupted service to each and all of its customers. Provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions hereof the laws of the State of New Hampshire.

SECTION 10-7 - PARENTAL CONTROL DEVICES: The Company shall furnish parental control devices upon reasonable notice for the purpose of controlling premium television on individual subscriber television sets. The Company shall have the right to charge reasonable fees for the use of such devices.

SECTION 11 - TRANSFER OF OWNERSHIP OR CONTROL: The Company shall not transfer any rights under this franchise to another without the written approval of the Town. Such consent shall not be unreasonably withheld. No consent need be obtained in order for the Company to grant a mortgage, deed of trust, security interest, collateral assignment or similar encumbrance given to secure the loan or loans obtained by the Company. \*see below

*DMK*  
*[Signature]*

SECTION 12 - RECORDS AND REPORTS: Records and reports will be kept on Town subscribers at the companies business office.

SECTION 13 - REMOVAL OF CABLE SYSTEM: Notwithstanding anything to the contrary, upon termination of the franchise, the Company or its successors and assigns shall retain ownership of the Cable Television <sup>System</sup> and shall be entitled at its option and expense to remove its property, including by way of

*DMK*  
*[Signature]*

\*SECTION 11 - TRANSFER OF OWNERSHIP OR CONTROL: The Company shall not transfer this franchise to any other person, firm, company, corporation, or entity without the prior approval of the Municipality. Notwithstanding the above, this section shall not be applicable if the Company shall transfer the franchise to the principal partners of the Company, to any parent, subsidiary, or affiliate corporation of either the principal partners of the Company, or to any other firm or entity owned by the Company. No consent need be obtained in order for the Company to grant a mortgage, deed of trust, security interest, collateral assignment or similar encumbrance given to secure the loan or loans obtained by the Company.

*DMK*  
*[Signature]*

illustration and not limitation, its wires, cable and television conductors, fixtures and appliances, all of which shall be deemed to retain the character of personal property, and the same shall be removed without substantial damage to the Town's property and/or any individual citizens' property upon which these items are located.

SECTION 14 - REGULATIONS PROMULGATED BY CITY: The right is hereby reserved to the Town to adopt, in addition to the provisions herein contained and existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power, provided that such regulations, by ordinance or otherwise, shall be reasonable, and not in conflict with the rights herein granted and shall not be in conflict with the laws of the State of New Hampshire.

SECTION 15 - SUPERVISION AND INSPECTION: The Town shall have the right to supervise, at its expense, all construction or installation of work performed subject to the provisions of this franchise, and to make such inspections as it shall find necessary to insure compliance with governing ordinances.

SECTION 16 - PENALTIES: The Town, through its designated official, may institute an action or proceeding to have the Company enjoined from any violations of this franchise.

SECTION 17 - SERVICE AREA AND LINE EXTENSION: The Company will initially provide cable service to the first mile of Route 32, south of the Swanzev line. The Company will move further into the Town when the necessary homes per mile contiguous to the Company's existing cable plant, reaches appropriate levels, as determined by the company.

SECTION 18 - PREFERENTIAL OR DISCRIMINATORY EMPLOYMENT PRACTICES

PROHIBITED: The Company shall strictly adhere to the equal employment opportunity requirements of applicable federal, state and local laws and regulations, as amended from time to time.

SECTION 19 - SUBSCRIBER PRIVACY: Company shall notify each subscriber with whom it has an agreement to provide cable service of the nature of the identifiable subscriber information the Company collects and the nature, frequency and purpose of any disclosure of that information and to whom it will be made. Identifiable subscriber information shall not be kept any longer than necessary for business purposes. A subscriber's individual record shall be made available to that subscriber for review, and correction, if necessary, during normal business hours. Unless necessary to render or conduct a legitimate business activity, Company shall not disclose its subscribers' names and addresses without providing the subscriber with the opportunity to prohibit or limit such disclosure.

SECTION 20 - RENEWAL OF FRANCHISE: The Company may seek renewal of this franchise in accordance with applicable law.

SECTION 21 - UNAUTHORIZED CONNECTIONS OR MODIFICATIONS:

SECTION 21-1 - UNAUTHORIZED CONNECTIONS PROHIBITED: It shall be unlawful for any person without the expressed consent of the Company to make any connection, extension or division whether physically, acoustically, inductively, electronically or otherwise with or to any segment of the Cable Television System for any purpose whatsoever.

SECTION 21-2 - REMOVAL OR DESTRUCTION PROHIBITED: It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct or damage any part, segment or content of a franchised Cable Television System for any purpose whatsoever.

SECTION 21-3 - PENALTY: Any violation of any provision of this Section 21 shall be punishable to the full extent of the New Hampshire law. Each day of an unauthorized connection under Section 21-1 shall be deemed a separate violation. The fine set forth above may be collected through appropriate civil proceedings. Imposition of such penalties are in addition to, and not in lieu of, any other civil or criminal liability arising from such violations.

SECTION 22 - MISCELLANEOUS PROVISIONS:

SECTION 22-1 - SEPARABILITY: If any section, subsection, sentence, clause, phrase or word of this franchise is for any reason held invalid by the FCC or the State of New Hampshire, or unconstitutional by any court of competent jurisdiction, such section, subsection, sentence, clause, phrase or word shall be deemed a separate, distinct and independent provision and such holding shall not affect validity of the remaining portions thereof or of this franchise. Company shall not be bound by the provisions of any ordinances which are inconsistent with the terms of this franchise.

SECTION 22-2 - BINDING EFFECT: This franchise shall be binding upon the Company, its successors and assigns. This franchise shall also be binding upon the Town and its successors and assigns, and specifically, in the event of a sale by the Town of any of its utility poles or any part of its electric power transmission system, the provisions of this franchise shall be binding upon the purchaser thereof, and in such event the Company shall retain its rights under this franchise with respect to such poles or transmission system.

The foregoing resolution was duly presented by David Kochman and seconded by Kathryn McWhirk and duly put to a vote which resulted as follows:



SELECTMAN <u>David Kochman</u>	VOTING <u>Yes</u>
SELECTMAN <u>Kathryn McWhirk</u>	VOTING <u>yes</u>
SELECTMAN <u>Norma Theodore</u>	VOTING <u>yes</u>

The resolution was thereupon declared duly adopted,

ATTEST:

Wendy Robbins  
TOWN CLERK

TOWN CLERK  
RICHMOND, N. H. 03470

AGREED TO David <sup>1990</sup> ~~1989~~   
TOWN OF RICHMOND  
BY Norma Theodore  
David Kochman  
Kathryn McWhirk, SELECTMAN 

PARAGON CABLE

BY Joshua L. Jamison  
Joshua L. Jamison  
GENERAL MANAGER

Bob Merrilees  
Bob Merrilees  
President