

TOWNSHIP OF PENN
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 738

**AN ORDINANCE OF THE TOWNSHIP OF PENN,
COMMONWEALTH OF PENNSYLVANIA,
ESTABLISHING RULES AND REGULATIONS FOR THE
GRANT OF A FRANCHISE TO OPERATE AND
MAINTAIN A CABLE TELEVISION SYSTEM IN THE
TOWNSHIP OF PENN; SETTING FORTH CONDITIONS
ACCOMPANYING THE GRANT OF SAID FRANCHISE;
PROVIDING FOR TOWNSHIP REGULATION AND USE
OF THE SYSTEM; AND PROVIDING FOR PAYMENT OF
A FRANCHISE FEE TO THE TOWNSHIP FOR THE
COMPANY'S OPERATION OF THE SYSTEM AND
PROVIDING FOR FINES, PENALTIES AND REMEDIES
FOR VIOLATIONS.**

WHEREAS, Penn Township ("Township") may receive requests from a cable television system provider ("Company") for authorization to maintain, construct, operate, and upgrade a cable television system over, under and along Township rights-of-way for use by Township residents; and

WHEREAS, the aforesaid rights-of-way to be used by the Company are valuable public property acquired and maintained by Township at significant expense to Township's taxpayers and the right to use said rights-of-way is a valuable property right without which Company would be required to invest substantial capital and property acquisition costs; and

WHEREAS, the Township desires to protect the aforesaid public rights-of-way, maintain a technologically current cable system, receive a franchise fee as is allowed by law on their use by Company, obtain cable service for public and educational buildings and provide for the current and future telecommunications needs of its residents;

NOW, THEREFORE, the Township hereby enacts the following Ordinance:

Be it ordained by the Commissioners of the Township of Penn, Pennsylvania, and it is hereby ordained by the authority of the same, as follows:

SECTION 1. SHORT TITLE.

The Ordinance shall be known and may be cited as the "Cable Television Franchise Ordinance."

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 shall include the future; words in the plural number include the singular number; and words in the singular number include the plural number. “May” will be interpreted as permissive and “shall” will be interpreted as mandatory. Other terms not specifically defined will have the meanings generally accorded to them in the cable television industry.

“ADDITIONAL SERVICES”. Shall mean any video programming whether broadcast in digital or analog including Expanded Basic, Pay Channels, Pay-Per-View events for additional charges above the charge to Subscriber for Basic Services and provided to Subscribers over the Cable Television System but not including Basic Services

“BASIC SERVICE”. Shall mean any service tier which includes the retransmission of local broadcast signals.

“CABLE TELEVISION SYSTEM”. Shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable services which includes video programming to multiple subscribers within the Township, excluding however, those facilities excluded from such definition of cable system in Section 602 of the Cable Act.

“CABLE ACT”. Shall mean the Cable Communications Policy Act of 1984, as amended by the Cable Television Consumer Protection and Competition Act of 1992 and as further amended by the Telecommunications Competition and Deregulation Act of 1996 and as it may be further amended.

“CABLE SERVICE”. Shall mean the one-way or two way transmission to or from subscribers of video programming, or other cable system services (including music) and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming or service which constitute cable services under the Cable Act.

“COMMISSIONERS”. Shall mean the Board of Commissioners of the Township of Penn.

“COMPANY”. Shall mean any Person granted a Franchise by Penn Township to provide Cable Services in Penn Township.

“DIGITAL BASIC”. Shall mean video services other than Expanded Basic, premium or pay-per-view services that are offered as a tier in addition to Basic Service that are transmitted by digital technology.

“EXPANDED BASIC”. Shall mean the tier of video programming including Basic Service and additional satellite delivered programming.

“FEDERAL COMMUNICATIONS COMMISSION” or **“FCC”**. Shall mean the present Federal agency of that name as constituted by the Communications Act of 1934, or any successor agency created by the United States Congress.

“FRANCHISE”. Shall mean the non-exclusive right, privilege and authority granted by this Ordinance to construct, maintain and operate a Cable Television System in the Township, and shall permit in addition to the privilege to operate within the Township, the Company to construct, maintain and operate such Cable Television System with whatever wires or components as are necessary, over, under or within all Township Streets and Rights-of-Way.

“FRANCHISE FEE”. Shall mean any tax, fee or assessment required to be made to the Township by the Company for the right to operate in the Township and which are allowed by Section 622(g) of the Cable Act and its regulations.

“GROSS REVENUE”. Shall mean any and all revenue including, without limitation, cash and credits, arising from or attributable to the operation of the cable system to provide Cable Services within the Township, calculated in accordance with generally accepted accounting principles (GAAP). Except as otherwise set forth herein, Gross Revenue shall include but not be limited to, the following: Basic Service fees; Additional Services fees charged to subscribers for any kind of Cable Service other than Basic Service; Franchise Fees, fees charged to subscribers for any optional, per channel, or per program services; installation, relocation, disconnection, reconnection, and change in service fees; fees for leased access channels; rental or sales of any and all subscriber equipment including addressable and non-addressable converters and remote control devices, the portion of revenues attributable to the Township as provided in this Ordinance from any and all locally derived advertising revenue (excluding agency commissions), revenue derived from national, regional and local advertising received by the area system; locally derived commissions received from home shopping channels’ sales generated in the Township; fees for any and all music services; fees for video-on-demand, sales of program guides, and purchases late payment fees, and NSF check charges. Gross Revenue shall not include revenue from refundable deposits, bad debts, state sales taxes or any taxes on services furnished by Company and directly imposed upon any subscriber or user by the Township, state, federal or any other government user or any revenues upon which the Township is not permitted by regulation or statute to levy a Franchise Fee.

“PEG”. Shall mean the acronym for Public, Educational and Governmental, used in conjunction with access channels, support and facilities.

“PERSON”. Shall mean any person, firm, corporation, association, trust, organization or other business entity.

“PUBLIC BUILDING”. Shall mean all Township owned buildings staffed at least during normal business hours, all firehouses, all Township community resource centers and public and non-profit private school buildings and libraries within the Township.

“STATE”. Shall mean the Commonwealth of Pennsylvania.

“STREETS AND RIGHTS-OF-WAY”. Shall mean the surface of, as well as, the space above and below all streets, roadways, highways, freeways, avenues, lanes, alleys, courts, places, squares, curbs, sidewalks, easements, rights-of-way or other public ways in the Township which have been or may hereafter be dedicated and opened to public use, or such other public property so designated by law which shall within their proper use and meaning entitle Township and Company to access thereon for the purpose of installing cable transmission lines over poles, wires, cables,

conductors, ducts, conduits, vaults, , amplifiers, appliances, attachments as may be necessary and pertinent to the Cable Television System in the Township.

“SUBSCRIBER”. Shall mean a person or entity that contracts with Company for, and lawfully receives, Cable Services distributed by the Cable System.

“TOWNSHIP”. Shall mean the Township of Penn, York County, Pennsylvania.

SECTION 3. GRANT OF AUTHORITY.

A. GRANT OF FRANCHISE.

1. Subject to the terms and conditions stated herein, the Township shall have the authority to grant to any Company, by resolution, a non-exclusive and revocable Franchise to construct, erect, repair, replace, operate and maintain for a period of up to ten (10) years, a Cable Television System for the reception, origination, amplification, distribution and sale of audio, video, digital and other forms of electronic signals in, upon, along, across, above, over or under the Streets and Rights-of-Way in the Township, consisting of all poles, wires, cable, underground conduits and other conduits and fixtures necessary for the maintenance and operation in the Township of a Cable Television System with all of the necessary and desirable appliances and appurtenances pertaining thereto. The rights herein granted for the purposes herein set forth shall not be exclusive, and the Township reserves the right to grant a similar use of said Streets and Rights-of-Way to any Person at any time during the period of this Franchise.

2. Notwithstanding this authority, Company shall obtain all necessary government permits, including but not limited to Township subdivision and land development, zoning and building permits, where applicable for any disturbance of public places and rights-of-way under the jurisdiction of the Township, including property over which the Township has a sufficient easement or right of way, to construct, erect, repair, replace, operate and maintain any facility for the purpose of reception, transmission, amplification, origination, distribution or redistribution of video, audio, digital, and other electronic signals and impulses.

B. RESERVATION OF AUTHORITY. Nothing in this Ordinance shall (a) abrogate the rights of the Township to perform any public works or public improvements of any description; (b) be construed as or waiver of any codes or ordinances of general applicability promulgated by the Township; or (c) be construed as a waiver or release of the rights of the Township in and to the Streets and Rights-of-Way.

C. EXERCISE OF POLICE POWERS. All rights and privileges granted hereby are subject to the police powers of Township to adopt and enforce local laws and ordinances, rules and regulations necessary to the health, safety and general welfare of the public. Township shall not use its legislative powers to alter or amend the provisions of this Ordinance subsequent to its effective date in such a manner as to have a material adverse effect on the rights of Company herein or to pass ordinances that are only applicable to Company.

SECTION 4. FRANCHISE FEE.

A. FRANCHISE FEE.

1. Company shall pay to the Township an amount equal to five percent (5%) of the Gross Revenue received from the operation of its Cable Television System in the Township. If the maximum Franchise Fee allowed by the FCC is increased or reduced, then the amount of said fee shall conform to the federal law or regulations, so that the Township shall receive an annual Franchise Fee at the highest rate allowed by Federal law or regulation.

2. Notwithstanding any other provisions of this ordinance, it is the intention of Company and Township that Township shall receive an annual Franchise Fee at the highest rate and levied upon all sources of revenue from all services upon which the Township is allowed by law to levy a Franchise Fee. If during the term of this Ordinance, federal law is amended or a determination is made by the FCC or a court of competent jurisdiction, which decision is a final order not subject to further appeal, to permit local franchising authorities to collect Franchise Fees or revenues derived from services not currently subject to Franchise Fees or included in the definition of Gross Revenues, the Township may notify the Company in writing that it wishes to collect Franchise Fees or revenues attributable to such services sixty (60) days after the Township gives notice, such revenues shall be considered part of Gross Revenue and Franchise Fees shall be collected and remitted on such revenues. The Company shall notify the Township at the time of such change in the federal law, provided, however, that the failure to notify shall not be a material default under this Ordinance and the Township's remedy shall be to collect Franchise Fees back to the date of the change in the law, but in no event for more than one year.

B. ALLOCATION OF REVENUE. Township's annual Franchise Fee shall be determined by adding the sums obtained in subparagraph 1 and 2 below:

1. The Franchise Fee percentage from Paragraph 4A above times the Gross Revenue received by Company from subscribers derived from the operation of the Cable Television System within the Township.

2. The Franchise Fee percentage from Paragraph 4A above times any non-subscriber revenue received by Company that is not directly allocable to the Township, Company shall calculate said revenue as follows:

(a) The percentage set forth above times the non-Subscriber revenues attributable to the Township where revenues received by the Company are not directly related to the number of Subscribers using a service of the cable system within the Township (i.e., revenues from advertising, home shopping channels or similar revenue based programs). For purposes of this subparagraph (a), non-Subscriber revenues attributable to the Township shall be determined by (i) dividing the number of Township Subscribers by the total of Township plus non-Township Subscribers in the Cable Television System and (ii) multiplying the quotient obtained in (i) by the total revenues received by the Company which were not directly related to the number of Subscribers using a service of the cable system in the Township.

(b) The percentage set forth above times non-Subscriber revenues which are attributable to the Township where the revenues received by the Company are directly

attributable to the number of customers receiving a particular service. For purposes of this subparagraph b, non-Subscriber revenues attributable to the Township shall be determined by (i) dividing the number of Township customers and non-Township customers receiving the service and (ii) multiplying the quotient obtained in (i) by the total revenues received by Company which were attributable to providing said service.

C. PAYMENT OF FRANCHISE FEES. Payment of the aforesaid Franchise Fee shall be made on a quarterly basis within thirty (30) days after the end of March, June, September and within sixty (60) days after the last day of December of each year of service. Failure to pay after ten (10) days notice of default shall result in the addition of a eight (8%) percent penalty charge.

D. QUARTERLY FRANCHISE FEE REPORT. Company shall provide with each quarterly Franchise Fee payment a written report containing an accurate statement of the Gross Revenues received for the quarter in connection with the operation of Company's Cable System in the Township and a brief report showing the basis for computation of fees. The report will contain a line item for every source of revenue received for which a Franchise Fee is due and the amount of revenue from each source. The report shall be certified by a financial representative of Company.

E. CERTIFICATION.

1. Within ninety (90) days after the close of each calendar year, Company shall provide to Township a certification by a financial officer of the Company to the correctness and accuracy of the Franchise Fee payments made during the year. Upon reasonable prior written notice during normal business hours at Company's principal office in York County, Pennsylvania, the Township shall have the right to inspect and audit the Company's financial records used to calculate the Township's Franchise Fee, provided, however, that any such inspection shall take place within two (2) years from the date the Township receives such payment, after which period any such payment shall be considered to be final.

2. Upon the completion of any such audit by the Township, the Township shall provide to the Company a final report setting forth the Township's findings in detail, including any and all substantiating documentation. In the event of an alleged underpayment, the Company shall have thirty (30) days from the receipt of the report to provide the Township with a written response agreeing to or refuting the results of the audit, including any substantiating documentation. Based on these reports and responses, the parties shall agree upon a "Finally Settled Amount." For purposes of this Section, the term "Finally Settled Amount(s)" shall mean the agreed upon underpayment, if any, to the Township by the Company as a result of any such audit. If the parties cannot agree on a "Final Settlement Amount," the parties shall submit the dispute to a mutually agreed upon mediator within sixty (60) days of reaching an impasse. In the event an agreement is not reached at mediation, either party may bring an action to have the disputed amount determined by a court of law.

3. Any "Finally Settled Amount(s)" due to the Township as a result of such audit shall be paid to the Township by the Company within thirty (30) days from the date the parties agree upon the "Finally Settled Amount." Company shall pay interest on the amount of the underpayment at the prime rate until paid if the underpayment was less than 3% of the amount owed

or interest at the rate of prime plus 7.5% until paid if the underpayment is greater than 3% of the amount owed. If the audit discloses any underpayment to the Township, the Company shall contribute up to a maximum of Three Thousand Dollars (\$3,000) to the cost of such audit. Payment shall be paid within thirty (30) days after such audit and recomputation. Once payment is made the Township shall have no further rights to audit or challenge the payment for that period.

SECTION 5 – CONSTRUCTION AND MAINTENANCE OF CABLE TELEVISION SYSTEM.

A. CABLE TELEVISION SYSTEM.

1. Company shall operate, maintain, construct and extend the Cable Television System to provide high quality signals and reliable service throughout all parts of the Township. The Cable Television System, and all construction and maintenance thereof, shall meet or exceed any and all technical performance standards of the FCC, the National Electrical Safety Code, the National Electric Code, and any other generally applicable federal laws and the laws, ordinances and construction standards of the Commonwealth of Pennsylvania and the Township.

2. The Cable Television System shall have minimum operating capability of 750 Mhz, with two-way capability. The system shall be a hybrid fiber/coax distribution, utility fiber optic trunk and coaxial cable for feeder lines and house drops with accompanying optical transmitters, receivers and amplifiers. The Cable Television System shall be capable of continuous twenty-four (24) hour daily operation, without severe material degradation of signal, except during extremely inclement weather or immediately following extraordinary storms that adversely affect utility services or damage major system components.

B. STATE OF THE ART.

1. The technology of Cable Systems is an evolving field. The Company's Cable System in the Township shall be capable of offering Cable Services that are comparable to other Cable Systems served by the same hub site, pursuant to the terms of this section. The Township may send a written notice to the Company, not to exceed one request every three (3) years, requesting information on Cable Services offered by such Comparable Systems – i.e., a neighboring municipality where service is provided by a Cable System owned and managed by the Company or its Affiliated Entities in the County of York in the Commonwealth of Pennsylvania where Cable Service is provided from the same Hub Site that services both the Township and the neighboring municipality.

2. If the identified Cable Services are being offered by the Company and/or its Affiliated Entities to at least forty percent (40%) of the total Subscribers in the other municipalities served from the same hub site, then the Township may request that the Company make such Cable Services available in the Township. Upon receipt of said request, Comcast shall enter into good faith discussions with the Township concerning deployment of such Cable Services, excluding experimental and pilot projects. The discussions shall take into consideration the benefits from the provision of such Cable Services, the cost of implementing them in the Township, the technical and economic feasibility of implementing such improvements, and the impact, if any, on Subscriber rates. If three (3) years or less are remaining

in the Franchise term, then an extension of the Franchise term may be required as a condition to adding any such Cable Services to the Cable System in order to provide the Company with an ample opportunity to recoup its investment in any necessary improvements.

C. AREA TO BE SERVED.

1. In areas where aerial construction is permitted, the Company shall construct all sections which are contiguous to the existing system and which shall have at least twenty-five (25) homes per mile, but densely populated areas shall be addressed so that population centers are served. In areas where underground construction is required, the Company shall construct all sections, which are contiguous to the existing system and have at least thirty (30) homes per mile.

2. Installation costs shall conform to the Cable Act and regulations there under. Any dwelling unit within one hundred fifty feet (150 ft.) aerial or one hundred fifty feet (150 ft.) underground of the cable plant shall be entitled to a standard installation rate. For any dwelling unit in excess of one hundred fifty feet (150 ft.) aerial or underground, Company shall extend cable service at a rate not to exceed Company's actual cost of installation from its main distribution system.

3. At the time of Cable Television System construction, if all of the transmission and distribution facilities of all of the respective public or municipal utilities in any area of the Township are underground, the Company shall place its Cable Television System transmission and distribution facilities underground, provided that such underground locations are actually capable of accommodating the Company's cable and other equipment without technical degradation of the Cable Television System's signal quality. In any region(s) of the Township where the transmission or distribution facilities of the respective public or municipal utilities are both aerial and underground, the Company shall have the discretion to construct, operate, and maintain all of its transmission and distribution facilities, or any part thereof, aerially or underground. Nothing in this Ordinance shall be construed to require the Company to construct, operate, or maintain underground any ground-mounted appurtenances such as customer taps, line extenders, system passive devices, amplifiers, power suppliers, pedestals, or other related equipment.

D. MAINTENANCE AND REPAIR.

1. The distribution facilities of Company shall be at all times maintained in good and safe condition and shall be constructed and maintained so as not to interfere with television reception by inhabitants of the Township not using Company's services.

2. In the maintenance and operation of its cable television transmission and distribution system in the Township and in the course of construction or addition to its facilities, the Company shall proceed so as to cause the least possible inconvenience to the general public and any opening or obstruction in the streets or other public places made by the Company in the course of its operations shall be guarded and protected at all times by the placement of adequate barriers, fencing or boardings, the bounds of which during the periods of dusk and darkness shall be designated by warning lights of approved types.

3. Whenever the Company shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley, highway or other public place, the same shall be replaced and the surface restored at the Company's expense in as good condition as before entry as soon as practicable without unnecessary delay. The Company shall comply with any and all Township regulations concerning the disturbance or cutting of sidewalks, streets or similar improvements.

4. The location of any poles, anchors, wires, cables, conduit, vaults, laterals and other fixtures, or the erection, laying or removal of same, shall not interfere unreasonably with ordinary travel and/or the use of the streets, alleys, bridges, public ways or electrical installations of the Township.

5. Upon written notice from the Township, Company shall remedy a safety deficiency within forty-eight (48) hours of receipt of written notice and shall notify the Township when the deficiency has been corrected.

E. PERMITS. Company shall apply to the Township for all required permits and shall not undertake any construction without receipt of such permits, issuance of which shall not be unreasonably withheld or delayed by the Township. Company shall pay any and all required permit fees. This section is not intended to require permits for normal repair and maintenance of the Cable Television System that does not involve disturbance of paved surfaces or excavation in the public rights-of-way. This section does not amend or supersede the Subdivision and Land Development Ordinance, the Zoning Ordinance, the Building Permit Ordinance, the Uniform Construction Code and the enabling ordinance adopting it, or the Property Maintenance Code and the ordinance adopting it, and such ordinances shall apply to Company in accordance with their terms and in accordance with state laws and regulations.

F. RELOCATION OF CABLE TELEVISION SYSTEM.

1. The rights and privileges granted herein to Company shall not be in hindrance to the right of the Township or other governmental agency having jurisdiction, to perform or carry on any public works or public improvement. Should the Company's Cable Television System interfere with any construction or repair by the Township of public works or improvements, the Company shall, at its own expense, protect or relocate its Cable Television System or part thereof, as directed by Township. If funds are available from sources other than the Township to compensate Company for such relocation then the Company shall not be required to relocate its Cable Television System or part thereof at its own expense.

2. The Company shall, at the expense of any Person other than the Township requesting said temporary relocation, temporarily raise, lower or remove its wires to permit the improvement of property. In such event, the Company shall be given not less than fourteen (14) days advance written notice to arrange for the temporary wire changes.

G. CLEAR ACCESS WAYS. The Company may trim trees or other vegetation within the Streets and Rights-of-Way of the Township to prevent their branches or leaves from touching or otherwise interfering with its wires, cables or other structures. The Company shall obtain permission of the owner of any private land, tree or other vegetation before it trims or prunes the same, unless otherwise permitted by the right-of-way agreement.

H. EMERGENCY POWER. The Cable Television System shall incorporate equipment capable of providing standby power to the headend and the Cable Television System for a minimum of two hours upon failure of the power furnished by the power company. The headend shall be the location where the Company has located its signal reception and retransmission capabilities.

I. EMERGENCY OVERRIDE. The Cable Television System shall incorporate emergency audio override capabilities in compliance with the applicable FCC rules, for use in the event of an emergency or vital public information situation. The PEG access channel will be available for transmission by an alphanumeric character generator.

J. POLE ATTACHMENTS.

1. The poles and posts used for the Company's Cable Television System lines shall be those erected by the Company or by such other Persons, firms or corporations.

2. The Township shall have the right, where aerial construction exists, during the life of this Franchise, free of charge (but at its expense for construction), of maintaining upon the poles of the Company, if any, within the Township limits such wire and pole fixtures as are necessary for a police and fire alarm system, such wires and fixtures to be erected and maintained to the satisfaction of the Company. The Township, in its use and maintenance of such wires and fixtures, shall at all times comply with the rules and regulations of the Company so that there may be a minimum danger of contact or conflict between the wires and fixtures of the Company and the wires and fixtures used by the Township.

SECTION 6 - LEVEL OF SERVICE

A. GENERAL SERVICE OBLIGATIONS. Company shall provide within the Township a Cable Television System which will be capable of carrying Cable Services. The Company shall make Cable Service available to every residential dwelling passed by the Cable Television System.

B. NO UNFAIR DISCRIMINATION. Neither the Company nor any of its employees, agents, representatives, contractors, subcontractors, or consultants, nor any other person, shall discriminate or permit discrimination between or among any persons in the availability of cable services provided in connection with the Cable Television System in the Township. It shall be the right of all persons to receive all available services provided on the Cable Television System so long as such person's financial or other obligations to the Company are satisfied. Nothing contained herein shall prohibit the Company from offering bulk discounts, promotional discounts, package discounts, or other such pricing strategies as part of its business practice.

C. CABLE TELEVISION SYSTEM REPAIRS. Subject to the force majeure provisions of Section 15 of this Ordinance and routine maintenance, Company shall use its best efforts to ensure that all subscribers receive continuous, uninterrupted service regardless of the circumstances. For the purpose of construction, routine repairing or testing of the Cable System, Company shall use its best efforts to interrupt service only during periods of minimum use. When

necessary service interruptions of more than twenty-four (24) hours can be anticipated, Company shall notify subscribers in advance of such service interruption. Whenever it is necessary to shut off or interrupt service for the purpose of making repairs, adjustments or installations, the Company shall do so at such time as it will cause the least amount of inconvenience to its subscribers unless such interruption is unforeseen and immediately necessary.

D. REPAIR SERVICE. Company's repair and maintenance personnel shall be required to maintain the Cable Television System in compliance with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. §76.601 et seq. Company shall maintain a toll-free and/or locally listed telephone number available to subscribers twenty-four hours per day, seven days per week. Trained company representatives shall be available to respond to service requests during the hours of 7:00 a.m. to 10:00 p.m., after which the line may be answered by an answering service or an automated response system. Company shall respond to requests for service within forty-eight (48) hours of receipt of such requests, notwithstanding an additional day (i.e., 24 hours) to respond for each intervening Saturday, Sunday and/or holiday.

E. PROHIBITION AGAINST RESELLING SERVICE. No person shall resell, without the express prior written consent of the Company, any Cable Television Service, program or signal transmitted over the Cable Television System by the Company.

F. INSTALLATION AND SERVICE CALLS.

1. Standard installations shall be performed within seven (7) business days after an order has been placed, weather permitting. Standard installations are those that are located within one hundred fifty (150) feet from the existing distribution system.

2. Upon scheduling of appointments with the customer for installations, service calls, or other activities, Company shall provide subscriber with either a specific time or an "appointment window" of not more than four (4) hours during normal business hours. Company may schedule service calls and installation activities outside normal business hours for the express convenience of the subscriber. If the Company schedules an appointment with a subscriber and the Company fails to arrive at the subscriber's premises within the scheduled window of time for reasons not caused by the subscriber, the Company shall not charge the subscriber the standard installation or service charge.

SECTION 7 - CUSTOMER SERVICE STANDARDS.

A. CUSTOMER SERVICE STANDARDS. The Township hereby adopts the customer service standards set forth in Part 76, §76.309 of the FCC's rules and regulations, as amended. The Company shall comply in all respects with the customer service requirements established by the FCC.

B. CUSTOMER BILLS. Customer bills shall be designed in such a way as to present the information contained therein clearly and comprehensibly to customers, and in a way that (i) is not misleading; and (ii) does not omit material information. Notwithstanding anything to the contrary in Section 7.1 above, the Company may, in its sole discretion, consolidate costs

on customer bills as may otherwise be permitted by Section 622(c) of the Cable Act [47 U.S.C. §542(c)]. The bills shall not contain the Township's address or telephone number.

C. CREDIT FOR SERVICE OUTAGES. In the event that there is a cable service interruption to any subscriber for six (6) or more consecutive hours, upon receipt of a written or credible oral request, Company shall grant such subscriber a pro rata credit or rebate, on a daily basis of that portion of the service charge during the next consecutive billing cycle, or, at its option, apply such credit to any outstanding balance that is currently due.

D. NOTICES.

1. Company shall provide written notice to each subscriber upon initial subscription, at intervals not more than one (1) year thereafter to each subscriber and the Township, and at any time upon request, on each of the following areas:

- (a) Products and services offered;
- (b) Prices and options for programming services and conditions of subscription to programming and other services;
- (c) Installation and service maintenance policies;
- (d) Channel positions and programming carried on the Cable System;
- (e) Billing and customer complaint procedures;
- (f) Policy and procedures for disconnecting or terminating a subscriber's service;
- (g) Company's address, telephone number and office hours; and
- (h) A notice of subscriber privacy rights as required by federal law.

2. Company shall notify subscribers in writing of any changes in rates, programming services or channel positions a minimum of thirty (30) days in advance of such changes. Company shall not be required to provide prior notice to subscribers of any rate change that is the result of a regulatory fee, Franchise Fee or any other fee, tax, assessment or charge of any kind imposed by any federal agency, the Commonwealth of Pennsylvania or the Township on the transaction between Company and the subscriber.

3. Company shall maintain a file available to the public containing all written notices provided to subscribers pursuant to the requirements contained in 47 C.F.R. §76.305 as set forth on the effective date of this Ordinance.

E. CUSTOMER COMPLAINT PROCEDURES. Company shall establish clear written procedures for resolving all customer complaints, which shall include at least the following:

1. Company shall provide the customer a written response to a written complaint within ten (10) days of its receipt and shall communicate a final resolution of the complaint in writing within thirty (30) days of receipt of the complaint. Such response shall include the results of its inquiry into the subject matter of the complaint, its conclusions based on the inquiry, and its decision in response to the complaint.

2. If the Township is contacted directly about a customer complaint, it shall notify Company in writing. When Company receives such notification, the time period for Company to respond as required above shall commence.

3. Any subscriber who, in good faith, disputes all or part of any bill sent by Company has the option of withholding the disputed amount, without finance charges, the initiation of collection procedures or disconnection until Company has investigated the dispute in good faith and has made a determination that the amount is owed provided that:

(a) The subscriber provides a written complaint to Company in a timely fashion and includes identifying information;

(b) The subscriber pays all undisputed charges; and

(c) The subscriber cooperates in determining the appropriateness of the charges in dispute.

(d) Any complaint received in an email message, or through the Company website shall be a “written complaint” for purposes of this section. Any person shall be given instructions on how to file a written complaint by letter, email and on the Company website.

4. Company shall maintain a record of customer written complaints, which shall contain the date each such complaint is received, the name and address of the affected subscriber, a description of the complaint, the date of resolution, and a description of the resolution. Subject to the privacy protections of Section 7.7 herein, Company shall provide such information (not including names of subscribers) to the Township upon specific written request. The Company shall be obligated to retain such complaint information for a period of two (2) years.

5. Company shall submit to the Township upon request, a report showing the number of complaints that have generated a work order and/or necessitated a response (“trouble calls”) received during a specified reporting period, and the general nature of the complaints generating the calls.

F. DISCONNECTION. Company may disconnect or terminate a subscriber’s service for cause:

1. If at least thirty (30) days have elapsed from the due date of the bill in which subscriber has failed to pay; and

2. If Company has provided at least ten (10) days written notice to the affected subscriber prior to disconnection, specifying the effective date after which cable services are subject to disconnection; and

3. If there is no pending written dispute regarding the bill to which Company has not issued a final decision in writing; or

4. If at any time and without notice Company determines in good faith that subscriber has tampered with or abused Company's equipment or is engaged in theft of cable service.

G. PRIVACY.

1. Company shall protect and abide by the rights of privacy of every subscriber and shall not violate such rights through the use of any device or signal associated with the Cable System. Company shall at all times comply with the privacy provisions of Section 631 of the Cable Act and all other applicable federal, state and generally applicable local privacy laws and regulations.

2. Company shall be responsible for carrying out and enforcing such privacy policy, and shall at all times maintain adequate physical, technical and administrative security safeguards to ensure that personal subscriber information is handled and protected strictly in accordance with this policy and all applicable laws and regulations.

3. Company shall notify all third parties who offer cable services in conjunction with Company, or independently over the Cable Television System, of the subscriber privacy requirements contained herein.

4. Neither Company nor its designee shall tap, monitor, arrange for the tapping or monitoring, or permit any person to tap or monitor, any cable, line, signal, input device, or subscriber outlet or receiver for any purpose, without the prior written authorization of the affected subscriber or user, provided, however, that Company may conduct system-wide or individually addressed "sweeps" solely for the purpose of verifying system integrity, checking for illegal taps, controlling return-path transmission, billing for pay services or monitoring channel usage in a manner not inconsistent with the federal law. Company shall report to the affected parties any instances of monitoring or tapping of the Cable System or any part thereof, of which it has knowledge, whether or not such activity has been authorized by Company. Company shall not record or retain any information transmitted between a subscriber or user and any third party, except as required for lawful business purposes.

5. Except as permitted by Section 631 of the Cable Act as amended, neither Company nor its designee nor its employees shall make available to any third party, including the Township, information concerning the viewing habits or subscription package decisions of any individual Subscriber. If a court authorizes or orders such disclosure, Company shall notify the subscriber not less than twenty (20) calendar days prior to disclosure, unless such notification is otherwise shortened or prohibited by applicable law or the court in which case the maximum notification shall be given.

6. Upon a request by a subscriber, Company shall make available for inspection at a reasonable time and at its local principal place of business all personal subscriber information that Company maintains regarding said Subscriber. Company shall ensure that all information related to billing and service requests is accurate and up to date and shall promptly correct any errors upon discovery.

7. Company shall not make its subscriber list or lists, or any portion thereof, available to any person or entity, with or without remuneration, except where expressly permitted by applicable law.

SECTION 8 – REGULATION BY THE TOWNSHIP

A. RIGHT TO REGULATE RATES. As a franchising authority certified by the FCC, the Township has the right to regulate cable rates and service to the full extent authorized by applicable federal, state, and local laws.

B. RIGHT TO INSPECT.

1. The Township shall have the right, upon ten (10) business days written notice and during normal business hours, to inspect all documents, records and other pertinent information maintained by Company which relate, directly or indirectly, to the providing of Cable Services in the Township or the Company's compliance with the terms of this Ordinance. Such inspection shall occur at the Company's principal office in York County, Pennsylvania.

2. In addition, Company shall maintain for inspection by the public and the Township all records required by the FCC and as specified in 47 C.F.R. §76.305, in the manner specified therein.

3. Notwithstanding anything to the contrary set forth herein, all information specifically marked by Company as proprietary or confidential in nature and furnished to the Township or its designated representatives shall be treated as confidential in conformity with Pennsylvania law. Confidential information shall include but not be limited to any financial records or subscriber records provided by the Company. Information and documentation marked by Company as proprietary or confidential shall include a brief written explanation as to its proprietary nature or confidentiality. The Township, and its officially designated representatives shall treat any such information or records which Company reasonably deems would provide an unfair advantage for Company's competitors (e.g., system design maps, engineering plans, and programming contracts, etc.) as confidential and disclose it only to Township employees, agents, or representatives that have a need to know or in order to enforce the provisions of the Ordinance. In the event a request is made by an individual or entity, not an employee, agent or representative of the Township acting in their official capacity, for information related to the Franchise and marked by Company as confidential and/or proprietary, the Township shall immediately notify Company of such request and permit Company to take whatever action Company deems necessary to protect its interests before providing documents or access to documents to the requestor. Company shall not be required to provide subscriber information in violation of Section 631 of the Cable Act [47 U.S.C. §551], or information which is not relevant to regulation of the Franchise (e.g., employee files, tax returns, etc.).

C. RIGHT TO CONDUCT COMPLIANCE REVIEW. The Township or its representatives may conduct a full compliance review and hold public hearings with respect to whether Company has complied with any material terms of this Ordinance so long as it provides Company with thirty (30) days written notice in advance of the commencement of such reviews and public hearings.

D. GOVERNMENT REPORTS. Upon written request, Company shall provide to the Township, copies of any and all communications reports, documents, pleadings and notifications of any kind which Company or any of its affiliated entities have submitted to any federal, state or local regulatory agencies, courts or other governmental bodies if such documents relate exclusively to Company's Cable System within the Township. Company shall provide copies of such documents no later than thirty (30) days after their filing, mailing or completion. Company shall not claim confidential, privileged or proprietary rights to such documents unless such documents have been determined to be confidential, privileged or proprietary by a court of competent jurisdiction or a federal or state agency.

E. TECHNICAL STANDARDS. The Company shall comply with all applicable technical standards of the FCC as published in subpart K of 47 C.F.R. §76.601 et seq. To the extent those standards are altered, modified, or amended during the term of this Ordinance, the Company shall comply with such altered, modified or amended standards within a reasonable period after such standards become effective. The Township shall have the right upon written request to obtain a copy of the results of tests and records required to be performed by the FCC's rules and regulations.

F. RESERVED AUTHORITY. The Township reserves the regulatory authority arising from the Cable Act, any amendments thereto and any other relevant federal, state or local laws or regulations.

SECTION 9 INSURANCE AND INDEMNIFICATION

A. COMPANY INSURANCE. Company shall maintain during the term of the Franchise such insurance as will protect it and the Township from any claims which may arise from Company's ownership, construction, repair, maintenance or operation of the Company's Cable Television System in the Township, such insurance policies to have the following overages and limits:

1. Workers' Compensation coverage as required by statute.
2. Property insurance on all insurable Company assets.
3. General Liability insurance with combined single limit for bodily injury, personal injury, death and property damage in an amount of at least \$3,000,000 per occurrence (which may be supplied by a combination of primary and excess policy limits) and Company's liability insurance shall include contractual liability, including so much of the indemnity specified herein as is reasonably insurable.

B. ADDITIONAL INSURED. The liability insurance policy shall name Township as an additional insured and the Township shall be provided thirty (30) days notice prior to cancellation of any coverage.

C. EVIDENCE OF INSURANCE. Not later than thirty (30) days after the effective date of a grant of a franchise under this Ordinance, Company shall furnish to Township current certificates of insurance demonstrating compliance with the insurance coverage requirements of this Section.

D. AUTHORIZED CARRIER. All insurance coverage shall be with a company authorized to do business in the Commonwealth of Pennsylvania.

E. INDEMNIFICATION. Company shall indemnify and hold the Township harmless with respect to the Company's construction; maintenance or operation of the Cable Television System from and against any and all expenses, losses and claims, demands, payments, suits, actions, and judgments, other than as a result of Township's negligence or intentional acts, including reasonable attorney's fees. In the event of the commencement of any action against Township, Township will give notice thereof to Company within ten (10) days after Township is formally served in any such action, and Company shall have the right to select counsel for the defense of such action at no cost to the Township. Township's failure to give timely notice shall relieve the Company of its obligation under this Section if such failure to give notice causes prejudice to Company's ability to defend any such claim. Settlement of any action or claim shall be made by Company or its counsel without the approval of Township unless the Township has an affirmative obligation as part of the settlement. Further, Township's approval is not required when Company's defense is provided under the terms of an insurance policy that does not allow for the insured's approval of settlements. The Township will cooperate with Company as reasonably required for the defense of any such action.

SECTION 10 - COMMUNITY SERVICES.

A. PEG CHANNELS.

1. Use of channel capacity for public, educational and governmental ("PEG") access shall be provided in accordance with federal law, 47 U.S.C. § 531, and as further set forth below. Company does not relinquish its ownership of or ultimate right of control over a channel by designating it for PEG use. A PEG access user – whether an individual, educational or governmental user – acquires no property or other interest by virtue of the use of a channel so designated, and may not rely on the continued use of a particular channel number, no matter how long the same channel may have been designated for such use. Company shall not exercise editorial control over any public, educational, or governmental use of channel capacity, except Company may refuse to transmit any public access program or portion of a public access program that contains obscenity, indecency, or nudity pursuant to Section 611 of the Cable Act. The Township shall be responsible for developing, implementing, interpreting and enforcing rules for PEG Access Channel use which shall insure that PEG Access Channel(s) and PEG Access equipment will be available on a first-come non-discriminatory basis.

2. Company shall designate capacity on one (1) channel for a Public Access Channel to be used for public access video programming provided by the Township or its designee, such as a public access organization. A Public Access Channel may not be used to cablecast programs for profit, political or commercial fundraising in any fashion. Unused capacity may be utilized by Franchisee subject to the provisions set forth in subsection (e) below.

3. Company shall designate capacity on one (1) channel for an Educational Access Channel to be used for educational access video programming provided by the Township or designated educational institution. A Educational Access Channel may not be used to cablecast programs for profit, political or commercial fundraising in any fashion. Unused capacity may be utilized by Franchisee subject to the provisions set forth in subsection (e) below.

4. Company shall designate capacity on one (1) channel for a Governmental Access Channel to be used for government video programming provided by the Township. A Government Access Channel may not be used to cablecast programs for profit, political or commercial fundraising in any fashion. Unused capacity may be utilized by Company subject to the provisions set forth in subsection (e) below.

5. In the event the Township or other PEG access user elects not to fully program its Channel(s), Company may reclaim any unused time on those channels.

6. The Township and/or its access user designees shall indemnify Company for any liability, loss, or damage it may suffer due to violation of the intellectual property rights of third parties or arising out of the content of programming shown on the access channel and from claims arising out of the Township's access channel rules or administration.

7. Other than the access support specifically agreed to in this Ordinance, Company shall not be required to provide technical or production staff, or obtain equipment or studio facilities for Educational and Governmental access channel programming.

B. SERVICE TO COMMUNITY FACILITIES. Company shall provide one feeder cable to the Administration Building and one cable connection to each Public Building so that the Administration Building and each Public Building can receive basic and expanded basic services. No charge shall be made for installation or service except that Company may charge for installation and service for more than one drop in each building or any such connection beyond a "standard installation" in accordance with installation of service as defined in Section 5.3(b) hereof.

SECTION 11 – PROGRAMMING.

A. CHANNEL CAPACITY. Company shall meet or exceed programming and channel capacity requirements set forth in the Cable Act consistent with the requirements of federal regulation and law.

B. BROADCAST CHANNELS. Company shall make available to all residential subscribers a Basic Service tier including, but not limited to: 1) all signals of domestic television broadcast stations entitled to "must carry" status under FCC rules and (2) any initial analog

public, education and governmental programming channels now in existence or required by this Ordinance.

SECTION 12 - TRANSFER OF CONTROL.

Neither the Company nor any other Person may transfer the Cable System or the Franchise without prior written notice to the Township and compliance with the requirements of the Cable Act including submission to the Township of FCC Form 394. No prior notice shall be required, however, for: (i.) a transfer in trust, by mortgage, hypothecation, or by assignment of any rights, title, or interest of the Company in the Franchise or in the Cable System in order to secure indebtedness, (ii.) a transfer to an entity directly or indirectly owned or controlled by Comcast Corporation, or (iii) the sale, conveyance, transfer, exchange or release of less than fifty percent (50%) of its equitable ownership unless the sale, conveyance, transfer, exchange or release shall when aggregated with prior transfers exceed fifty percent (50%). Within thirty (30) days of receiving a notice of transfer, the Township may, in accordance with FCC rules and regulations, notify the Grantee in writing of the additional information, if any, it requires regarding the legal, financial, and technical qualifications of the transferee or new controlling party.

The consent of the Township to any transfer or assignment as described above shall not be effective until the proposed transferee or assignee shall have executed a legally binding document stating that it shall be bound by all of the terms and conditions contained in this Ordinance.

SECTION 13 - COMPANY'S RULES.

Company shall have the right to prescribe service rules and regulations for the conduct of its business not inconsistent with the provisions of this Ordinance or any ordinances of the Township.

SECTION 14 - ENFORCEMENT AND REVOCATION PROCEEDINGS.

A. NOTICE OF VIOLATION OR DEFAULT. In the event the Township believes that the Company has not complied with the material terms of the Ordinance, it shall notify the Company in writing with specific details regarding the exact nature of the alleged non-compliance or default.

B. COMPANY'S RIGHT TO CURE OR RESPOND. The Company shall have thirty (30) days from the receipt of the Township's written notice (1) to respond to the Township, contesting the assertion of non-compliance or default; or (2) to cure such default; or (3) in the event that, by nature of the default, such default cannot be cured within the thirty (30) day period, initiate reasonable steps to remedy such default and notify the Township of the steps being taken and the projected date that the cure will be completed.

C. PUBLIC HEARINGS. In the event the Company fails to respond to the Township's notice or in the event that the alleged default is not remedied within thirty (30) days or the date projected by the Company, the Township shall schedule a public hearing to investigate the

default. Such public hearing shall be held at the next regularly scheduled meeting of the Township that is scheduled at a time that is no less than thirty (30) business days therefrom. The Township shall notify the Company in writing of the time and place of such meeting and provide the Company with a reasonable opportunity to be heard. This shall include the ability to introduce evidence, to question witnesses, and to respond to any notice of default. Such notice shall state the exact nature of the default. The Township, after the public hearing and upon finding the existence of a default, may either declare that the Franchise granted under this Ordinance shall be terminated and revoked, excuse such grounds upon a showing by Company of mitigating circumstances, seek performance of any provision that reasonably lends itself to such remedy or assess a lesser penalty. Within thirty (30) days, the Township shall send the decision to Company by certified mail or by a reputable overnight courier.

In addition to the other rights, powers and remedies retained by the Township under this Ordinance, the Township after a public hearing and an opportunity to be heard and present evidence as set forth above, reserves the separate and distinct right to revoke the grant of the Franchise if:

1. It is demonstrated that the Company practiced any fraud or deceit upon the Township in its operation of the Cable System or any other activities; or
2. Company seeks, or an involuntary case is brought against the Company, seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency or other similar law or seeking the appointment of a trustee, receiver, custodian or other similar official of a substantial part of the Company's property and such proceeding shall remain unstayed and not dismissed for a period of one hundred twenty (120) days.

SECTION 15 - UNFORESEEN AND UNCONTROLLABLE ACTS.

The Company shall not be liable or responsible for any delay or failure of performance of its Franchise if prevented from doing so by acts of God including flood, storms, fires, explosions, strikes, lock-outs, riots, wars, whether or not declared, insurrections, epidemics or any law, rule or acts of any court or instrumentality whether Federal, State or municipal government or any causes beyond its control, provided that the same is not willfully done or brought about for the purpose of excusing failure or omissions to perform under the Franchise and providing that using reasonable care, the same could not have been avoided by the Company. In the event Company is rendered unable to perform in whole or in part, the Company shall begin to perform its Franchise as soon as is practical after such conditions cease to exist.

SECTION 16 - REPEALS.

Upon the effectiveness of this Ordinance, all ordinances or parts of ordinances and all agreements or parts of agreements conflicting with the provisions of this Ordinance shall be and the same are hereby repealed or suspended and of no further force and effect.

SECTION 17 - SEVERABILITY.

If any section, sentence, clause or phrase of this Ordinance is deemed to be unconstitutional or otherwise held invalid or preempted by State or Federal statutes or regulations, said section, sentence, clause or phrase shall be null and void. The remaining portion of this Ordinance shall remain valid and binding upon the Township and the Company.

SECTION 18 LIQUIDATED DAMAGES.

A. For the violation of any of the following provisions of this Ordinance, liquidated damages shall be paid by the Company to the Township; provided, however, that liquidated damages cannot be imposed unless and until the Township has followed the notice and cure provisions in this Ordinance. Any such liquidated damages shall only be assessed after a full finding of default according to the provisions of Section 14, effective beginning as of the date of a public hearing on the notice of default scheduled by the Township in accordance with Section 14.C above. On an annual basis from the Effective Date, the Company shall not be liable for liquidated damages that exceed five thousand dollars (\$5,000):

1. For failure to operate and maintain the Cable System, in accordance with Section 5 herein, one hundred dollars (\$100.00) per day, for each day that such non-compliance continues;

2. For failure to comply with the FCC Customer Service Obligations pursuant to Section 7 herein, one hundred dollars (\$100.00) per day that any such non-compliance continues; and

3. For failure to carry insurance required in Section 9 herein, two hundred dollars (\$200.00) per day, for each day that such non-compliance continues.

B. Such liquidated damages shall be in addition to, and not a limitation upon, any other provisions of this Franchise and applicable law, including revocation, or any other statutorily or judicially imposed penalties or remedies; provided, however, that in the event that the Township collects liquidated damages for a specific breach pursuant to this Section, the collection of such liquidated damages shall be deemed to be the exclusive remedy for said specific breach. Such damages shall not however be a substitute for the future specific performance by Company but shall be in addition to such performance.

C. Company shall have thirty (30) days from receipt of written notice from the Township to pay the liquidated damages; provided, however, that Company may appeal (by pursuing administrative, judicial or other relief) any assessment of liquidated damages within thirty (30) days of receiving written notice of the assessment.

D. Each of the above-mentioned cases of non-compliance in this Section shall result in damage to the Township, its residents, businesses and institutions, compensation for which will be difficult to ascertain. The Company agrees that the liquidated damages in the amounts set forth above are fair and reasonable compensation for such damage. The Company agrees that said

foregoing amounts are liquidated damages, not a penalty for forfeiture, and are within one or more exclusions to the term "franchise fee" provided by Section 622(g)(2)(A) of the Cable Act.

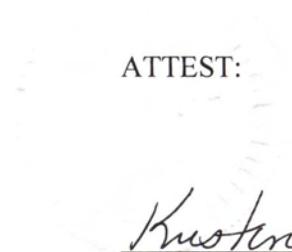
SECTION 19 - EFFECTIVENESS

This Ordinance shall become effective in accordance with law.

ENACTED AND ORDAINED this 20th day of February 2012.

ATTEST:

**PENN TOWNSHIP BOARD
OF COMMISSIONERS**


Kristina Rodgers
Kristina Rodgers, Secretary

By: Wendell Felix
Wendell Felix, President