

**AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO
COMCAST OF NEW JERSEY II, LLC. TO CONSTRUCT, CONNECT,
OPERATE AND MAINTAIN A CABLE TELEVISION**

BE IT ORDAINED BY THE MAYOR AND TOWNSHIP COMMITTEE, as follows:

SECTION 1. PURPOSE OF THE ORDINANCE

The Township hereby grants to Comcast of New Jersey II, LLC renewal of its non-exclusive Municipal Consent to place in, upon, across, above, over and under highways, streets, alleys, sidewalks, easements, public ways and public places in the Township, poles, wires, cables, underground conduits, manholes and other television conductors, fixtures, apparatus and equipment as may be necessary for the construction, operation and maintenance in the Township of a cable television and communications system.

SECTION 2. DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning or definition of terms is supplemental to those definitions of the Federal Communications Commission ("FCC") rules and regulations, 47 C.F.R. Subsection 76.1 et seq., and the Cable Communications Policy Act, 47 U.S.C. Section 521 et seq., as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and shall in no way be construed to broaden, alter or conflict with the federal and state definitions:

- a. "Municipality" or "Township" is the Township of Winfield, County of Union, State of New Jersey.
- b. "Company" is the grantee of rights under this Ordinance and is known as Comcast of New Jersey II, LLC.
- c. "Act" or "Cable Television Act" is Chapter 186 of the General Laws of New Jersey, and subsequent amendments thereto, N.J.S.A. 48:5A-1, et seq.
- d. "FCC" is the Federal Communications Commission.
- e. "Board" or "BPU" is the Board of Public Utilities, State of New Jersey.
- f. "Office" or "OCTV" is the Office of Cable Television of the Board.
- g. "Basic Cable Service" means any service tier, which includes the retransmission of local television broadcast signals as defined by the FCC.

SECTION 3. DURATION OF FRANCHISE

The non-exclusive Municipal Consent granted herein shall expire ten (10) years from the date of expiration of the previous Certificate of Approval issued by the Board.

In the event that the Municipality shall find that the Company has not substantially complied with the material terms and conditions of this Ordinance, the Municipality shall have the right to petition the OCTV, pursuant to N.J.S.A. 48:5A-47, for appropriate action, including modification and/or termination of the Certificate of Approval; provided however, that the Municipality shall first have given the Company written notice of all alleged instances of non-compliance and an opportunity to cure same within ninety (90) days of that notification.

SECTION 4. FRANCHISE FEE

Pursuant to the terms and conditions of the Act, the Company shall, during each year of operation under the consent granted herein, pay to the Township two percent (2%) of the gross revenues from all recurring charges in the nature of subscription fees paid by subscribers for cable television reception service in the Township or any higher amount permitted by the Act or otherwise allowable by law, whichever is greater.

SECTION 5. FRANCHISE TERRITORY

The consent granted under this Ordinance to the renewal of the franchise shall apply to the entirety of the Township and any property subsequently annexed hereto.

SECTION 6. EXTENSION OF SERVICE

The Company shall be required to proffer service along any public right-of-way to any person's residence or business located in all areas of the franchise territory as described herein, at tariffed rates for standard and non-standard installations.

SECTION 7. CONSTRUCTION REQUIREMENTS

Restoration: In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways, or other surface in the nature topography, the Company shall, at its sole expense, restore and replace such places or things so disturbed in as good a condition as existed prior to the commencement of said work.

Relocation: If at any time during the period of this consent, the Municipality shall alter or change the grade of any street, alley or other way or place the Company, upon reasonable notice by the Municipality, shall remove, re-lay or relocate its equipment, at the expense of the Company.

Temporary Removal of Cables: The Company shall, upon request of the Municipality at the Company's expense, temporarily raise, lower, or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances. Whenever the request is made by, for, or on behalf of private parties, the cost will be borne by those same parties.

Removal or Trimming of Trees: During the exercise of its rights and privileges under this franchise, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks or other public places of the municipality so as to prevent the branches of such trees from coming in contact with the wires and cable of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance of the Company's wire and cables.

SECTION 8. CUSTOMER SERVICE

In providing services to its customers, the Company shall comply with N.J.A.C. 14:18-1, et seq. and all applicable state and federal statutes and regulations. The Company shall strive to meet or exceed all voluntary company and industry standards in the delivery of customer service and shall be prepared to report on it to the community upon written request of the Township Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credits for outages, the reporting of same to regulatory agencies and notification of same to customers.
- b. The Company shall continue to fully comply with all applicable state and federal statutes and regulations regarding the availability of devices for the hearing impaired and the notification of same to customers.

- c. The Company shall use every effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA). Those standards shall include, but not be limited to, the goal of answering ninety (90%) percent of incoming telephone calls within thirty (30) seconds.
- d. Nothing herein shall impair the right of any subscriber or the Municipality to express any comment with respect to telephone accessibility to the Complaint Officer, or impair the right of the Complaint Officer to take any action that is appropriate under law.
- e. The Company is permitted, but is not required to, charge a late fee consistent with applicable state and federal statutes and regulations.

SECTION 9. MUNICIPAL COMPLAINT OFFICER

The Office of Cable Television is hereby designed as the Complaint Officer for the Municipality pursuant to N.J.S.A. 48:5A-26(b). All complaints shall be received and processed in accordance with N.J.A.C. 14:17-6.5. The Municipality shall have the right to request copies of records and reports pertaining to complaints by Township customers from the OCTV.

SECTION 10. PERFORMANCE BONDS

During the life of the franchise the Company shall give to the municipality a bond in the amount of twenty-five thousand (\$25,000.00) dollars. Such bond shall be to insure the faithful performance of all undertakings of the Company as represented in its application for municipal consent incorporated herein.

SECTION 11. SUBSCRIBER RATES

The rates of the Company shall be subject to regulation as permitted by federal and state law.

SECTION 12. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS

- a. The Company shall continue to provide residents with a system-wide public access channel (currently channel 26) maintained by the Company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting non-commercial access programming in conformance with the Company's published public access rules.
- b. The Company shall continue to provide a system-wide leased access channel (currently channel 27) maintained by the Company for the purpose of cablecasting commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.
- c. The Company shall take any steps that are necessary to ensure that the signals originated on the access channels are carried without material degradation, and with a signal whose quality is equal to that of the other standard channels that the Company transmits.

SECTION 13. COMMITMENTS BY THE COMPANY

The Company shall continue to provide free basic television service on one (1) outlet in each public and private elementary and secondary school that may be constructed in the Township, and on one (1) outlet in the municipal building, fire department, first aid squad, library, and public works building that is located in or may be constructed within the Township, provided the facility is located within 200' of active cable distribution plant.

SECTION 14. TWO WAY SERVICES AND INTERCONNECTION

In the event that the Township determines that it is necessary and feasible for it to contract with the Company for the purpose of providing two-way or interconnection services, the Company shall be required to apply to the BPU for approval to enter into and establish the terms and conditions of such contract. All costs for such application to the BPU shall be borne by the Township.

SECTION 15. EMERGENCY USES

The Company shall be required to fully comply with all applicable federal and state statutes and regulations rules and regulations governing the implementation, operation and testing of the Emergency Alert System (EAS)

The Company shall in no way be held liable for any injury suffered by the municipality or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein.

SECTION 16. LIABILITY INSURANCE

The Company shall at all times maintain a comprehensive general liability insurance policy with a single limit amount of \$1,000,000 covering liability for any death, personal injury, property damages or other liability arising out of its construction and operation of the cable television system, and an excess liability (or "umbrella") policy in the amount of \$3,000,000.

SECTION 17. INCORPORATION OF THE APPLICATION

All of the commitments and statements contained in the application and any amendment thereto submitted in writing to the Municipality by the Company, except as modified herein, are binding upon the Company as terms and conditions of this Municipal Consent. The application and any other relevant writings submitted by the Company shall be considered a part of this Ordinance and made a part hereof by reference as long as it does not conflict with state or federal law. All ordinances or parts of ordinances or other agreements between the Township and the Company that are in conflict with the provisions of this agreement are hereby declared invalid and superseded.

SECTION 18. COMPETITIVE EQUITY

Should the Township grant a franchise to construct, operate and maintain a cable television system to any other person, corporation or entity on terms materially less burdensome or more favorable than the terms contained herein, the Company may substitute such language that is more favorable or less burdensome for the comparable provision of this Ordinance subject to the provisions of N.J.A.C. 14:17-6.7.

SECTION 19. SEPARABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and its validity or unconstitutionality shall not affect the validity of the remaining portions of the Ordinance.

SECTION 20. THIRD PARTY BENEFICIARIES

Nothing in this Franchise or in any prior agreement is or was intended to confer third-party beneficiary status on any member of the public to enforce the terms of such agreements or Franchise.


SECTION 21. EFFECTIVE DATE

This Ordinance shall take effect immediately upon issuance of a Renewal Certificate of Approval by the BPU.

Introduced: June 7, 2004

Adopted: July 19, 2004



Mayor Norman Whitehouse, Jr.

Motioned by: 
Comm. David Wright, Sr.

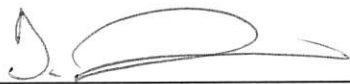
Seconded by: _____
Comm. Jo Anne Viteka

ATTEST: 
Laura Reinertsen, Township Clerk

PUBLIC NOTICE
The foregoing ordinance was introduced and approved on first reading at the regular meeting of the Winfield Township Committee held on June 7, 2004 and will be considered for public hearing and final adoption at the regular meeting of the Township Committee to be held on July 19, 2004 at 7:30 PM in the Municipal Building, 12 Gulfstream Avenue, Winfield, NJ.


Laura Reinertsen, Twp. Clerk

PUBLIC NOTICE
The foregoing ordinance was introduced and approved on first reading at a regular meeting of the Township Committee held June 7, 2004 and was approved for adoption on final reading at the regular meeting of the Township Committee held on July 19, 2004, 7:30 pm.


Laura Reinertsen, Twp. Clerk