

TOWNSHIP OF BEDMINSTER

ORDINANCE NO. 2013-015

AN ORDINANCE GRANTING MUNICIPAL CONSENT FOR THE OPERATION OF A CABLE TELEVISION SYSTEM WITHIN THE TOWNSHIP OF BEDMINSTER, NEW JERSEY TO CSC TKR, LLC d/b/a CABLEVISION OF RARITAN VALLEY

WHEREAS, the governing body of the Township of Bedminster (hereinafter referred to as the “Township”) determined that CSC TKR, LLC d/b/a Cablevision of Raritan Valley, (hereinafter referred to as “the Company” or “Cablevision”) had the technical competence and general fitness to operate a cable television system in the Township, and by prior ordinance granted its municipal consent for Cablevision to obtain a non-exclusive franchise (the “Franchise”) for the placement of facilities and the establishment of a cable television system in the Township; and

WHEREAS, by application for renewal consent filed with the Township and the Office of Cable Television on or about April 12, 2005, Cablevision has sought a renewal of the Franchise; and

WHEREAS, the Township having held public hearings has made due inquiry to review Cablevision’s performance under the Franchise, and to identify the Township’s future cable-related needs and interests and has concluded that Cablevision has substantially complied with its obligations under the Franchise and applicable law and has committed to certain undertakings responsive to the Township’s future cable-related needs and interests;

WHEREAS, the governing body of the Township has accordingly concluded that the consent should be renewed subject to the requirements set forth below; and that, provided Cablevision’s proposal for renewal embodies the commitments set forth below, the Township’s municipal consent to the renewal of the Franchise should be given; and

WHEREAS, imposition of the same burdens and costs on other competitors franchised by the Township is a basic assumption of the parties;

NOW THEREFORE, BE IT ORDAINED by the Mayor and Council of the Township of Bedminster, County of Somerset, and State of New Jersey, as follows:

SECTION 1. DEFINITIONS

For the purpose of this Ordinance the terms defined above shall have the meanings there indicated, and the following additional terms shall have the following meanings:

- (a) “Act” or “Cable Television Act” shall mean that statute of the State of New Jersey relating to cable television, known as the Cable Television Act, N.J.S.A. 48:5A-1 et seq.
- (b) “Application” shall mean Cablevision’s application for Renewal of Municipal Consent, which application is on file in the Township Clerk’s office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this Ordinance.
- (c) “Board” shall mean the Board of Public Utilities of the State of New Jersey or its successor agency.
- (d) “Township” shall mean the governing body of the Township of Bedminster in the County of Somerset, and the State of New Jersey.
- (e) “Company” shall mean CC TKR, LLC d/b/a Cablevision of Raritan Valley (“Cablevision”) the grantee of rights under this Ordinance.
- (f) “FCC” shall mean the Federal Communications Commission.
- (g) “Federal Act” shall mean that federal statute relating to cable communications commonly known as the Cable Communications Policy Act of 1984, 47 U.S.C. Section 521 et seq. and the Telecommunications Act of 1996, or as those statutes may be amended.
- (h) “Federal Regulations” shall mean those federal regulations relating to cable television services, 47 C.F.R. Section 76.1 et seq. (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to, those described in 47 C.F.R. Section 76.3), or as such regulations may be amended.
- (i) “Standard installation” shall mean the installation of drop cable to a customer’s premise where the distance from the point of entry into the building being served is less than 150 feet from the active cable television system plant.
- (j) “State” shall mean the State of New Jersey.
- (k) “State Regulations” shall mean those regulations of the State of New Jersey Board of Public Utilities relating to cable television. N.J.A.C. 14:17-1.1 et seq. and N.J.A.C. 14:18-1 et seq., or as such regulations may be amended.

SECTION 2. STATEMENT OF FINDINGS

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Township hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent, and that Cablevision's operating and construction arrangements are adequate and feasible.

SECTION 3. GRANT OF AUTHORITY

The Township hereby grants to Cablevision its non-exclusive consent to place in, upon, along, across, above, over, and under its highways, streets, alleys, sidewalks, public ways, and public places in the municipality poles, wires, cables, and fixtures necessary for the maintenance and operation in the Township of a cable television system or other communications facility, and for the provision of any communication service over such facilities. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

SECTION 4. DURATION OF FRANCHISE

This consent granted herein shall be non-exclusive and shall be for a term of fifteen (15) years from the date of issuance of a Certificate of Approval by the Board.

SECTION 5. EXPIRATION AND SUBSEQUENT RENEWAL

If Cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A 48:5A-16, and applicable state and federal rules and regulations. In accordance with N.J.S.A. 48:5A-25.1, both the Township and Cablevision shall be bound by the terms of this municipal consent until such time as Cablevision converts the municipal consent (and any certificate of approval) into a system-wide franchise.

SECTION 6. FRANCHISE TERRITORY

The consent granted under this Ordinance to Cablevision shall apply to the Franchise territory within the Township as described in the Application and appears on the map therein.

SECTION 7. SERVICE AREA

Cablevision shall be required to proffer video programming service along any public right-of-way to any person's residence the Franchise territory at Cablevision's schedule of rates for standard and nonstandard installation.

SECTION 8. FRANCHISE FEE

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Township, as an annual franchise fee, a sum equal to two percent (2%) of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the Township. In the event applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the Township and Cablevision shall negotiate in good faith with respect to the amount thereof; provided, however, that nothing herein shall be construed to permit the Township to require payment of a franchise fee by Cablevision that is higher than the fee paid by all other cable television service providers offering service in the Municipality.

SECTION 9. CONSTRUCTION/SYSTEM REQUIREMENTS

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable State and federal law. The Company shall be subject to the following additional construction requirements with respect to the installation of its cable plant and facilities in the Township:

(a) In the event that the Company or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the Company shall at its sole expense restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.

(b) 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 Township shall remove or relocate its equipment, at its own expense.

(c) Upon request of a person holding a building or moving permit issued by the Township, the Company shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the Company by the person requesting the same. In such cases, the Company shall be given not less than fourteen (14) days prior written notice in order to arrange for the changes required.

(d) During the exercise of its rights and privileges under this consent, the Company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Township so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the Company. Such trimming shall be only to the extent necessary to maintain proper clearance for the Company's facilities.

SECTION 10. TECHNICAL AND CUSTOMER SERVICE STANDARDS

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

SECTION 11. LOCAL OFFICE OR AGENT

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

SECTION 12. DESIGNATION OF COMPLAINT OFFICER

The Office of Cable Television is hereby designated as the complaint officer for the Township pursuant to the provisions of N.J.S.A. 48:5A-26. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

SECTION 13. LIABILITY INSURANCE

Cablevision agrees to maintain and keep in force and effect at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Township as an additional insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of five-hundred thousand dollars (\$500,000) for bodily injury or death to one person, and one million dollars (\$1,000,000) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the Company's exercise of its rights hereunder.

SECTION 14. PERFORMANCE BOND

Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this Agreement, a bond to the municipality in the amount of twenty-five thousand dollars (\$25,000.00). Such bond shall be to insure the faithful performance of its obligations as provided in this Franchise.

SECTION 15. RATES

A. The rates of the Company for cable television service shall be subject to regulation to the extent permitted by federal and State law.

B. Cablevision shall implement a senior citizen discount in the amount of ten percent (10%) off the monthly broadcast basic level of cable television service rate to any person sixty-two (62) years of age or older, who subscribes to cable television services provided by the Company, subject to the following:

- (i) Such discount shall only be available to eligible senior citizens who do not share the subscription with more than one person in the same household who is less than sixty-two (62) years of age; and,
- (ii) In accordance with N.J.S.A. 48:5A-11.2, subscribers seeking eligibility for the discount must meet the income and residence requirements of the Pharmaceutical Assistance to the Aged and Disabled program pursuant to N.J.S.A. 30:4D-21; and,
- (iii) The senior discount herein relates only to the broadcast basic level of cable television service, and shall not apply to any additional service, feature, or equipment offered by the Company, including any premium channel services and pay-per-view services; and,
- (iv) Senior citizens who subscribe to a level of cable television service beyond expanded basic service, including any premium or per channel a la carte service, shall not be eligible for the discount; and,

A. The Company shall have no further obligation to provide the senior discount herein in the event that (a) the Company converts the municipal consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1; or (b) upon Board approval of a certification that another cable television service provider offering services to residents of the Township files, in accordance with N.J.S.A. 48:5A-30(d), is capable of serving sixty percent (60%) or more of the households within the Township. In the event the Company does cease providing a senior discount pursuant to this provision, it shall comply with all notice requirements of applicable law.

SECTION 16. EMERGENCY USES

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Township pursuant to state and federal requirements. The Company shall in no way be held liable for any injury suffered by the Township 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. The Township shall utilize the state-approved procedures for such emergency uses.

SECTION 17. EQUITABLE TERMS

In the event that the service of another multi-channel video program provider not subject to the Township's regulatory authority within the Township creates a significant competitive disadvantage to Cablevision, the Company shall have the right to request from the Township lawful amendments to its Franchise that relieve it of burdens which create the unfair competitive situation. Should the Company seek such amendments to its Franchise, the parties agree to negotiate in good-faith appropriate changes to the Franchise in order to relieve the Company of such competitive disadvantages. If the parties can reach an agreement on such terms, the Township agrees to support the Company's petition to the Board for modification of the consent in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

If the parties are unable to reach an agreement on appropriate amendments to the franchise, the Township acknowledges that the Company shall have the right to petition the Board directly for such amendments in accordance with N.J.S.A. 48:5A-47 and N.J.A.C. 14:17-6.7; provided, however, the Township shall be under no obligation to support Cablevision's request for such relief from the Board.

In any subsequent municipal consent, Township shall require, at a minimum, the same terms and conditions of any other provider of multi-channel video programming subject to the Township's regulatory authority as those contained in the instant consent. In the event such subsequent consent does not contain the same terms and conditions as the instant consent, Township agrees to support the Company's petition to the Board for modification of the consent in accordance with NJSA 48:5A-47 and NJAC 14:17-6.7 to relieve the Company of competitive disadvantages identified in the Company's petition.

SECTION 18. REMOVAL OF FACILITIES

Upon expiration, termination or revocation of this Ordinance, Cablevision at its sole cost and expense and upon direction of the Board, shall remove the cables and appurtenant devices constructed or maintained in connection with the cable services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six

(6) months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

SECTION 19. PUBLIC, EDUCATIONAL, AND GOVERNMENTAL ACCESS

A. Cablevision shall continue to make available non-commercial public, educational and governmental (PEG) access services available to the residents of the Township as described in the Application for municipal consent. All Cablevision support under this Section 19 shall be for the exclusive benefit of Cablevision's subscribers within the Township.

B. The Township agrees that Cablevision shall retain the right to use the PEG access channel, or portion thereof, for non-PEG access programming, during times when the Township is not utilizing the channel for purposes of providing PEG access programming. In the event that the Company uses said PEG access channel for the presentation of such other programming, the PEG programming shall remain the priority use and the Company's rights with respect to using the channel for non-PEG programming shall be subordinate to the Township's provision of PEG access programming on such channel.

C. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 19.

D. Cablevision shall continue to provide and maintain the access return line at 3 Hills Drive, Bedminster, New Jersey, 07921, for use by the Township in the production of non-commercial public, educational and governmental access programming on the cable system. Cablevision shall have discretion to determine the format and method of transmission of the PEG access programming provided for in this Section 19.

E. Subject to Subsection A of this Section 19, Cablevision shall provide the Township with a grant for any technology, cable and/or telecommunications related purposes of the Township in a total amount of thirty thousand dollars (\$30,000.00), which is to be paid as follows: (1) an initial grant payment of fifteen thousand dollars (\$15,000.00) within 60 days of the issuance of the Certificate of Approval by the Board of Public Utilities; (2) a grant of ten thousand dollars (\$10,000.00) provided upon written request by the Township at any time during the second year of the term of this ordinance; (3) and a grant of five thousand dollars (\$5,000) upon written request at any time during the third year of this ordinance. Each installment of the grant shall be payable to the Township within ninety (90) days from receipt of the Township's written request. Cablevision shall not be obligated to make any additional payments beyond year three of the franchise term.

F. The Company shall have no further obligation to provide any PEG grant payments due and payable after the date upon which the Company converts the municipal

consent granted herein to a system-wide franchise in accordance with N.J.S.A. 48:5A-25.1.

SECTION 20. INCORPORATION OF APPLICATION

All of the commitments contained in the Application and any amendment thereto submitted in writing to the Township by the Company except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The Application and any other written amendments thereto submitted by Cablevision in connection with this consent are incorporated in this Ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this Ordinance, or to the extent that they conflict with State or federal law.

SECTION 21. CONSISTENCY WITH APPLICABLE LAWS

This consent shall be construed in a manner consistent with all applicable federal, State and local laws, as such laws, rules and regulations may be amended from time to time.

SECTION 22. SEPARABILITY

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

SECTION 23. NOTICE

Notices required under this Ordinance shall in writing and shall be mailed, first class, postage prepaid, to the addresses below. Either party may change the place where notice is to be given by providing such change in writing at least thirty (30) days prior to the time such change becomes effective. The time to respond to notices under this Ordinance shall run from receipt of such written notice.

Notices to the Company shall be mailed to:

Cablevision Systems Corporation
111 Stewart Avenue
Bethpage, NY 11714
Attention: Vice President for Government/Public Affairs, New Jersey

With a copy to:

Cablevision of Raritan Valley
 1111 Stewart Avenue
 Bethpage, NY 11714
 Attention: Legal Department

Notices to the Township shall be mailed to:
 Township of Bedminster
 One Miller Lane
 Bedminster, New Jersey 07921
 Attention: Township Administrator

SECTION 24. EFFECTIVE DATE AND BOARD OF PUBLIC UTILITY APPROVAL

This Ordinance shall take effect upon issuance of a Certificate of Approval as issued by the Board of Public Utilities that incorporates the material terms of this Ordinance. Nothing herein shall alter the right of the Company to seek modification of this Ordinance in accordance with N.J.S.A 48:5A-47 and N.J.A.C. 14:17-6.7.

BE IT FURTHER ORDAINED that this Ordinance shall take effect upon the passage, and publication as required by law.

Introduced by:
 Passed:
 Published:
 Adopted:

ATTEST: BEDMINSTER TOWNSHIP COMMITTEE

By: _____
Judith A. Sullivan, Township Clerk

By: _____
Steven E. Parker, Mayor

Introduced	Seconded	Township Committee	Vote for Adoption	Nay	Abstain	Absent
		Steven E. Parker, Mayor				
		Bernie Pane				
		Carolyn Freeman				
		Lawrence F. Jacobs				
		Staci Santucci				

