



**2013 ORDINANCE AGREEMENTS**

**AN ORDINANCE GRANTING RENEWAL OF MUNICIPAL CONSENT TO COMCAST TO CONSTRUCT, CONNECT, OPERATE AND MAINTAIN A CABLE TELEVISION AND COMMUNICATIONS SYSTEM IN THE TOWNSHIP OF BLOOMFIELD, NEW JERSEY.**

**BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE TOWNSHIP OF BLOOMFIELD, AS FOLLOWS:**

**SECTION 1. PURPOSE OF THE ORDINANCE**

The municipality hereby grants to Com cast 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 municipality, 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 Municipality 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. "Town" or "Municipality" is the Township of Bloomfield, County of Essex, 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.

APPROVED AS TO FORM AND PROCEDURE  
ON BASIS OF FACTS SET FORTH

*Brian J. Alonzo*  
Director of Law - Township Attorney

- h. "Application" is the Company's Application for Renewal of Municipal Consent.
- i. "Primary Service Area" or "PSA" consists of the area of the Municipality currently served with existing plant as set forth in the map annexed to the Company's Application for Municipal Consent.

**SECTION 3. STATEMENT OF FINDINGS**

Public hearings conducted by the municipality, concerning the renewal of Municipal Consent herein granted to the Company were held after proper public notice pursuant to the terms and conditions of the Act and the regulations of the Board adopted pursuant thereto. Said hearings, having been fully open to the public, and the municipality, having received at said public hearings all comments regarding the qualifications of the Company to receive this renewal of Municipal Consent, the Municipality hereby finds that the Company possesses the necessary legal, technical, character, financial and other qualifications and that the Company's operating and construction arrangements are adequate and feasible.

**SECTION 4. DURATION OF FRANCHISE**

The non-exclusive Municipal Consent granted herein shall expire 15 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 5. 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 Municipality 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 Municipality or any higher amount required by the Act or otherwise allowable by law, whichever is greater.

**BUNDLED SERVICES**

In the event Comcast shall have the right to use and occupy the Public Rights-of-Way to furnish

services other than Cable Service by virtue of legal authority from a source outside this Franchise ("Other Services"), and Comcast bundles, integrates, ties, or combines Cable Service with Other Services creating a bundled package so that Subscribers pay a single fee for more than one class of service and receive a discount on Cable Service, Gross Revenue shall be determined based on an equal allocation of the package revenue in a manner consistent with GAAP (Generally Accepted Accounting Purposes) as follows:

- (a) Comcast agrees that for purposes of calculation of the franchise fee, it shall allocate to Cable Service revenue a discount of no more than a pro rata share of the total discount applied to the bundled or combined services.
- (b) The pro rata share shall be computed on the basis of the published charge for each service of the bundled or combined classes of services when purchased separately.
- (c) If Comcast does not offer any component of the bundled package separately, it shall declare a stated retail value for each component as reflected on the books and records of Comcast in accordance with FCC or state public utility regulatory commission rules, regulations, standards or orders, and/or based on reasonable comparable prices for the service for the purpose of determining franchise fees based on the package discount.

**SECTION 6. FRANCHISE TERRITORY**

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

**SECTION 7. EXTENSION OF SERVICE**

The Company shall be required to proffer service to any residence or business along any public right-of-way in the Primary Service Area, as set forth in the Company's Application. The Company's Line Extension Policy, as set forth in the Company's Application, shall govern any extension of plant beyond the Primary Service Area.

**SECTION 8. 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 natural 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.

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 9. 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 municipality upon written request of the municipality Administrator or Clerk.

- a. The Company shall continue to comply fully with all applicable state and federal statutes and regulations regarding credit 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 reasonable effort to meet or exceed voluntary standards for telephone accessibility developed by the National Cable Television Association (NCTA).
- 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 permitted under law.

## **SECTION 10. 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 Municipality customers from the OCTV.

## **SECTION 11. LOCAL OFFICE**

During the term of this franchise, and any renewal thereof, the Company shall maintain a business office or agent in accordance with N.J.A.C. 14:18-5.1 for the purpose of receiving, investigating and resolving all local complaints regarding the quality of service, equipment malfunctions, and similar matters. Such a business office shall have a publicly listed toll-free telephone number and be open during standard business hours, and in no event (excepting emergent circumstances) less than 9:00A.M. to 5:00P.M., Monday through Friday.

## **SECTION 12. PERFORMANCE BONDS**

During the life of the franchise the Company shall give to the municipality a bond in the amount oftwent-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 13. SUBSCRIBER RATES**

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

## **SECTION 14. PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS**

- a. The Company shall continue to provide residents with a system-wide public access channel maintained by the Company. Qualified individuals and organizations may utilize public access for the purpose of cablecasting noncommercial 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 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 continue to provide two local access channels maintained by the Company for the purpose of cablecasting non-commercial access programming in conformance with the Company's guideline and applicable state and federal statutes and regulations.
- d. 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 15. COMMITMENTS BY THE COMPANY**

- a. The Company shall continue provide standard installation and basic cable television service on one (1) outlet at no cost to each school in the Municipality, public and private, elementary, intermediate and secondary, provided the school is within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials plus labor basis by the school requesting service. Monthly service charges, except equipment, shall be waived on all additional outlets.
- b. The Company shall continue to provide standard installation and basic cable television service at no cost on one (1) outlet in the municipal building, community center, fire department, first aid squad, public library, and public works building that is located in or may be constructed within the township provided the facility is located within 200 feet of active cable distribution plant. Each additional outlet installed, if any, shall be paid for on a materials and equipment plus labor basis by the Municipality. Monthly service charges, except equipment, shall be waived on all additional outlets.
- c. The Company shall also provide, within one year of written request and at no cost to the municipality, two additional access channel returns and necessary equipment for signal transmission. Origination sites for the channel returns must be within 200 feet of active cable distribution plant. The return sites contemplated in this ordinance include, Bloomfield Township Hall and Foley Field and will be terminated at the Township's Municipal Access Center.
- d. Within six (6) months of the issuance of a Renewal Certificate of Approval (COA) by the NJBPU, the Company shall provide to the township a one-time technology and access-related grant in the amount of one hundred thousand dollars (\$143,750).
- e. In the event that the current channel designations for local access channels are changed by the Company (i.e., the channel is transferred to a new channel numbers), Comcast shall endeavor to give the Township of Bloomfield sixty (60) days advance written notice of any change in PEG Channel assignments (if commercially practicable), but in no event fewer than thirty (30) days advance written notice and in addition reimburse the Municipality for reasonable administrative costs associated with notifying persons of the channel re-designations and re-branding content and materials. The total amount to be paid by Comcast shall not exceed the sum of five thousand dollars (\$5,000) Comcast shall provide, free of charge, public announcements of such change for at least thirty (30) days prior to the change by providing Bloomfield Township or its designee with advertising inserts based on its then-current New Jersey 18-hour Run of Schedule ("ROS") in the equivalent amount of thirty thousand dollars (\$30,000).
- f. In committing to an access grant and any other costs arising from the provision of access channels and support for access services, Comcast reserves its external cost, pass-through rights to the extent permitted by federal law, in particular Section 622( c) of the Cable Act.

g. Video On Demand

1. Comcast shall include Bloomfield Township Access Programming on its video-on-demand

("VOD") platform. Comcast shall provide the Designated Access Providers with the VOD capacity on Comcast's server to include a minimum of thirty-one(31) hours of Access Programming on Comcast's VOD at any given time. The Township of Bloomfield shall coordinate use of such VOD capacity.

2. Comcast agrees to work in good faith with the Township of Bloomfield to establish a process agreeable to the Township of Bloomfield for placing Access Programming on Comcast's VOD, utilizing a system that enables online content uploading to an FTP site or equivalent technology. Such process will also include, but not limited to, addressing programming technical formatting, submitting program description to the Electronic Programming Guide, and identifying potentially offensive programming for disclaimers. Township of Bloomfield is responsible for selecting Access Programming and providing it to Comcast in a High Definition MPEG2 format or other appropriate format compatible with Comcast's equipment and system.

3. Any Access Programming placed on VOD shall be accessible by Subscribers free of charge, provided that they subscribe to the appropriate level of cable service in which access to Comcast's VOD platform is included.

4. All Parties recognize that VOD platforms for distribution of programming may change over time. Future development may allow the Township of Bloomfield and Comcast to agree on a mutually acceptable alternative to include Access Programming on Comcast's VOD Platform and, as a result, increasing the amount of Access Programming available to Subscribers. To that end, Comcast agrees to engage in good faith efforts to discuss alternative to included Access Programming on any Comcast VOD Platform.

**SECTION 16.**

**EMERGENCY USES**

The Company will comply with the Emergency Alert System ("EAS") rules in accordance with applicable state and federal statutes and regulations. 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 17.**

**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 \$5,000,000.

**SECTION 18. INCORPORATION OF THE APPLICATION**

All of the statements and commitments contained in the Application or annexed thereto and incorporated therein, and any amendment thereto, except as modified herein, are binding upon the Company as terms and conditions of this consent. The Application and other relevant writings submitted by the Company shall be annexed hereto and made a part hereof by reference provided same do not conflict with applicable State or Federal law.

**SECTION 19. COMPETITIVE EQUITY**

Should the Municipality 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 20. 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 21. 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.

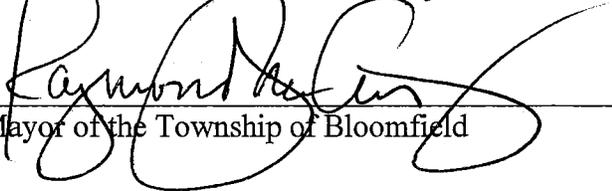
**SECTION 22. EFFECTIVE DATE**

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

\*...\*...\*...\*

I hereby certify that the above ordinance was duly adopted by the Mayor and Council of the Township of Bloomfield at a meeting of said Township Council held on .

  
 \_\_\_\_\_  
 Municipal Clerk of the Township of Bloomfield

  
 \_\_\_\_\_  
 Mayor of the Township of Bloomfield

✓ Vote Record - Ordinance 2129						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Deny	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Michael Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> First Reading	Peggy O'Boyle Dunigan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table with no Vote	Bernard Hamilton	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
<input type="checkbox"/> Approve	Raymond McCarthy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Veto by Mayor						
<input type="checkbox"/> Discussion						

✓ Vote Record - Ordinance 2129						
		Yes/Aye	No/Nay	Abstain	Absent	
<input type="checkbox"/> Adopt		<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Deny	Elias Chalet	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Withdrawn	Nicholas Joanow	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table	Carlos Bernard	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Not Discussed	Michael Venezia	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> First Reading	Peggy O'Boyle Dunigan	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Table with no Vote	Bernard Hamilton	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Approve	Raymond McCarthy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
<input type="checkbox"/> Veto by Mayor						
<input type="checkbox"/> Discussion						