

**BOARD OF COMMISSIONERS
FOR THE
THE TOWN OF UPPER MARLBORO**

ORDINANCE: 2022-09

SESSION: Regular Town Meeting

INTRODUCED: November 22, 2022

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO GRANTING A RENEWAL OF THE CABLE FRANCHISE TO COMCAST OF MARYLAND, LLC AND AUTHORIZING A FRANCHISE AGREEMENT; AND GENERALLY RELATING TO CABLE TELEVISION

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Town of Upper Marlboro (hereinafter, the “Town”) has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality; and

WHEREAS, the Board has the ordinance making power under §5-204(d) of the Local Government Article, Annotated Code of Maryland to grant non-exclusive cable franchises; and

WHEREAS, the Board has the power under §82-16(2)(y) (Franchises) of the Town Charter to pass ordinances not contrary to the laws and Constitution of this State, for the specific purposes: to grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies, and any others which may be deemed advantageous and beneficial to the Town, provided that no franchise shall be granted for longer period than fifty years; and

WHEREAS, the Town entered into a cable franchise agreement with Comcast of Maryland, LLC which ended in 2015, but has been extended during the negotiation of the renewal of the franchise agreement; and

WHEREAS, through a consortium of participating municipalities, the Board authorized the negotiation of the renewal of the franchise agreement with Comcast of Maryland, LLC and said proposed agreement has been prepared and presented to the Board; and

WHEREAS, pursuant to this Ordinance, the Town shall provide for the holding of a public hearing within the proposed franchise area, following reasonable notice to the public, at which every franchisee or applicant and its applications or requests shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard; and

WHEREAS, the Comcast Cable Franchise Agreement of 1999 required construction of a Prince George's County Intergovernmental Network (“I-Net”) governed by a committee represented by the county and all participating municipalities (“PM’s”) with infrastructure and connectivity to 174 sites, and a functional purpose of connecting authorized users, including specific governmental, educational, and public facilities, with connectivity via the network offering participating governments a communication vehicle to reduce costs for services otherwise provided through commercially leased lines (e.g., Dial-Up, DSL (Digital Subscriber Line), ISDN (Integrated Services Digital Network), etc.); and

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WHEREAS, the elected leadership of the County and PM's regarding a joint franchise agreement have been asked to approve a 10-year cable franchise renewal with Comcast and the consortium has asked the PM's to pass their ordinances before January 1, 2023, in order to make the County's legislative deadlines after the New Year; and

WHEREAS, the major features of the new collective franchise agreement are as follows: (i) 5% of gross revenues as a franchise fee, (ii) 3% of gross revenues as support for PEG (includes I-Net/C-Net), (iii) up to 3 municipal PEG channels with option for county to utilize unused channels; (iv) the I/C-Net is preserved for 10 years until transitioned to a government network, (v) provide new service at cost and maintain existing connections to government buildings; (vi) free build out or extension of service area up to 350 ft. from network, and (vi) provides for two company offices in the county for equipment pick up and drop off; and

WHEREAS, the Board of Commissioners have determined that it is in the public interest to renew the cable franchise with Comcast of Maryland, LLC, within the corporate limits of the Town, on condition that Comcast of Maryland, LLC. enter into a franchise agreement in substantially the form as attached to this Ordinance.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, the renewal of the non-exclusive right to construct and operate a cable television system along the public rights of way in the Town of Upper Marlboro is hereby granted to Comcast of Maryland, LLC, subject to the provisions a franchise agreement between the Town and Comcast Cable, LLC, which is incorporated by reference herein in a form substantially similar to that attached as Exhibit A to this Ordinance. The Mayor of the Town of Upper Marlboro is authorized to endorse the franchise agreement on behalf of the Town.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Board of Commissioners of the Town of Upper Marlboro that upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the Town Clerk shall distribute a copy to each Board member and shall maintain a reasonable number of copies in the office of the Town Clerk and shall post at Town Hall, to the official Town website, to the Town-maintained e-mail LISTSERV, if any, and on the Town cable channel, if any, and if time permits, in any Town newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Board.

The public hearing, hereby set for _____ on the ____ day of _____ 2022, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Board meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Board may adopt the proposed ordinance with or without amendments or reject it. This proposed Ordinance shall be posted by the Town Clerk as is or as a fair summary of the Ordinance and notice of its adoption at Town Hall, to the official Town website, to the Town-maintained e-mail LISTSERV, on the Town cable channel, and in any regularly published Town newsletter.

Section 3. BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro that the Town hereby adopts by reference Subtitle 5A. - Cable Television and

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Telecommunications of the Prince George's County Code, adopted by reference herein along with this Ordinance (the "Town Cable Code").

Section 4. BE IT FURTHER ORDAINED AND ENACTED, that if any section or part of a section of this ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 5. AND BE IT FURTHER ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance shall become effective at the expiration of twenty (20) calendar days following approval by the Board of Commissioners.

Section 6. AND BE IT FURTHER ORDAINED AND ENACTED by the Board of Commissioners of the Town of Upper Marlboro, Maryland that this ordinance shall be posted in the Town Hall office, and it shall be published once in a newspaper of general circulation in the Town

Adopted this _____ day of _____, 2022.

ATTEST:

THE TOWN OF UPPER MARLBORO

John Hoatson, Town Clerk

Sarah Franklin, President

Date: _____

Charles Colbert, Commissioner

Janice Duckett, Commissioner

Thomas Hanchett, Commissioner

Karen Lott, Commissioner

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CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Ordinance, and that said Ordinance is in full force and effect and has not been amended or repealed.

In witness whereof, I have hereunto set my hand and seal of the municipal corporation, this _____ day of _____, 2022.

John Hoatson, Town Clerk

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