

**TOWNSHIP OF UPPER BERN
COUNTY OF BERKS
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO.: 162-2021

**ORDINANCE OF THE TOWNSHIP OF UPPER BERN AUTHORIZING EXECUTION
OF A CABLE FRANCHISE AGREEMENT BETWEEN THE TOWNSHIP AND
COMCAST OF NEW MEXICO/PENNSYLVANIA, LLC**

WHEREAS, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, the Telecommunications Act of 1996 and any future amendments thereto (hereinafter collectively referred to as the "Cable Act"), the regulations of the Federal Communications Commission (hereinafter referred to as the "FCC") and Pennsylvania law, the Township is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing public rights-of-way and properties within the Upper Bern Township's (the "Township") jurisdiction; and

WHEREAS, Comcast currently holds a cable franchise from Upper Bern Township issued pursuant to Ordinance No. 77 of 2004 dated December 1, 2004; and

WHEREAS, Comcast has requested that the Township renew Comcast's franchises to maintain, construct, operate, and upgrade its cable system over, under and along the aforesaid rights-of-ways for use by the Township's residents; and

WHEREAS, the aforesaid rights-of-way used by Comcast are public properties acquired and maintained by the Township on behalf of the citizens of the Township, and the right to use said rights-of-way is a valuable property right; and

WHEREAS, the Township desires to protect and manage the aforesaid rights-of-way, establish standards of customer service, maintain a technologically advanced cable system, receive franchise fees for Comcast's use of the Township's rights-of-ways as provided by federal law, reserve the use of an educational and governmental channel, establish certain reporting requirements, reserve certain services and provide for the current and future cable-related needs of its residents; and

WHEREAS, the Township has determined that Comcast has the financial, legal, and technical ability to provide cable services to subscribers located in the Township; and

WHEREAS, the Township, after affording the public notice and opportunity for comment, has determined that the public interest would be served by renewing a franchise with Comcast according to the terms and conditions contained in the Cable Franchise Agreement ("Agreement"), and that the process for consideration of these documents complies with all applicable federal, state and local laws and regulations.

NOW THEREFORE, BE IT ORDAINED THAT,

Section 1: Grant of Franchise. The Township Board of Supervisors does hereby approve the Agreement negotiated with Comcast, including all of the terms and conditions contained therein, and does hereby authorize the execution of such Agreement. A copy of the Agreement is attached hereto as Exhibit A.

Section 2: Repealer. All Ordinances or Resolutions, or parts of Ordinances or Resolutions, insofar as they are inconsistent herewith, shall be in the same or hereby repealed.

Section 3: Validity. If any Section or part of a Section of this Ordinance shall be declared invalid, such invalidity shall not affect the remaining parts or Sections of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been enacted as if such invalid Section or portion thereof had not been included therein.

Section 4: Effective Date. This Ordinance shall become effective upon adoption.

ORDAINED AND ENACTED this 30th day of December, 2021, by a vote of 2
Yes _____ No _____ Abstained _____ Absent.

UPPER BERN TOWNSHIP BOARD OF SUPERVISORS

By: _____
Nancy Hartman, Chairman

By: Gloria Grim
Gloria Grim, Vice Chairman

By: Mike Fisher
Mike Fisher, Supervisor

Attest:

Dee Shavallin
Secretary