

TOWN OF NEWPORT
DELAWARE

ORDINANCE # 2009-001

AN ORDINANCE GRANTING A NON-EXCLUSIVE CABLE TELEVISION FRANCHISE TO VERIZON DELAWARE LLC, ITS PERMITTED SUCCESSORS, ASSIGNS AND TRANSFEREES, TO OPERATE AND MAINTAIN A CABLE SYSTEM IN THE TOWN OF NEWPORT; SETTING FORTH THE TERMS AND CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE AND PROVIDING TOWN USE OF THE CABLE SYSTEM.

WHEREAS, the TOWN OF NEWPORT wishes to grant VERIZON DELAWARE LLC a nonexclusive franchise to construct, install, maintain, extend, and operate a cable television system in the TOWN OF NEWPORT;

WHEREAS, the TOWN OF NEWPORT is a "franchising authority" in accordance with Title VI of the Communications Act of 1934, as amended (see 47 U.S.C. § 522(10)) and is authorized to grant one or more nonexclusive cable franchises pursuant to applicable state law;

WHEREAS, VERIZON DELAWARE LLC is in the process of installing a Fiber to the Premise Telecommunications Network ("FTTP Network") in the vicinity for the transmission of Non-Cable Services pursuant to authority granted by the State of Delaware;

WHEREAS, the FTTP Network will occupy the Public Rights-of-Way within the TOWN OF NEWPORT, and VERIZON DELAWARE LLC desires to use portions of the FTTP Network once installed to provide Cable Services in the corporate limits of the TOWN OF NEWPORT;

WHEREAS, the TOWN OF NEWPORT has identified the future cable-related needs and interests of the TOWN OF NEWPORT and its community, has considered the financial, technical, and legal qualifications of VERIZON DELAWARE LLC, and has determined that VERIZON DELAWARE LLC's plans for its Cable System are adequate, in a full public proceeding affording due process to all parties;

WHEREAS, the TOWN OF NEWPORT has found VERIZON DELAWARE LLC to be financially, technically, and legally qualified to operate the Cable System;

WHEREAS, the TOWN OF NEWPORT has determined that the grant of a nonexclusive franchise to VERIZON DELAWARE LLC is consistent with the public interest; and

WHEREAS, the TOWN OF NEWPORT and VERIZON DELAWARE LLC have reached agreement on the terms and conditions of their non-exclusive Franchise.

NOW, THEREFORE, THE COMMISSIONERS OF THE TOWN OF NEWPORT HEREBY ORDAIN:

- Section 1: Grant of Franchise. The TOWN OF NEWPORT hereby grants a non-exclusive cable television franchise to VERIZON DELAWARE LLC its permitted successors, assigns and transferees subject to all terms and conditions set forth in the attached Cable Franchise Agreement between the TOWN OF NEWPORT and VERIZON DELAWARE LLC, the terms of which are attached hereto and are incorporated herewith by reference as if fully set forth herein. (see attached "Cable Franchise Agreement", hereinafter referred to as such).
- Section 2: Execution of Cable Franchise Agreement. Upon final passage of this Ordinance by the Mayor and Commissioners of the TOWN OF NEWPORT, the Town Manager is hereby authorized to execute on behalf of the TOWN OF NEWPORT the Cable Franchise Agreement between the TOWN OF NEWPORT and VERIZON DELAWARE LLC.
- Section 3: Severability. If any section, clause, or phrase of this Ordinance or Cable Franchise Agreement be declared invalid or unconstitutional by the judgment of any court of competent jurisdiction, such invalidity shall not affect the remaining sections, clauses or phrases of this Ordinance.
- Section 4. Conflicts. Other ordinances or parts of other ordinances deemed to be in conflict with this Ordinance are hereby repealed and superceded to the extent that other such ordinances or parts of ordinances are in conflict, provided that such repeal shall not abate a right of action already accrued under any repealed ordinance.
- Section 5. Effective Date. The Town Secretary shall certify to the adoption of this Ordinance and this Ordinance shall take full force and effect immediately after the date of final passage, approval and execution of the Cable Franchise Agreement by the Town Manager.

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The Commissioners of the Town of Newport hereby adopt this Ordinance with the attached Cable Franchise Agreement and its provisions to be held in full effect from this 21st day of MAY, 2009.

Ganne E. Mudi
Town Secretary

[Signature]
Town Solicitor

[Signature]
Mayor

[Signature]
Commissioner

[Signature]
Commissioner

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Commissioner

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Commissioner