

## ORDINANCE NO. 91 - 1

AN ORDINANCE OF THE TOWNSHIP OF HILLTOWN DEFINING AND GRANTING, BY LICENSE, NON-EXCLUSIVE RIGHTS AND PRIVILEGES TO SUBURBAN CABLE T.V. COMPANY, INC., TO ERECT, MAINTAIN AND OPERATE A DISTRIBUTION SYSTEM AND FACILITIES AND ADDITIONS NECESSARY THERETO; ESTABLISHING THE LICENSE TERM; DETERMINING STREET/ROAD OCCUPANCY CONDITIONS AND SAFETY REQUIREMENTS; ESTABLISHING REQUIREMENTS FOR PAYMENT OF LICENSE FEES TO THE TOWNSHIP; AND PRESCRIBING PROCEDURES FOR EVALUATING LICENSEE'S PERFORMANCE AND ACCEPTANCE HEREOF BY LICENSEE.

Preamble

The Hilltown Township Board of Supervisors hereby ordains:

SECTION 1

A. In consideration of the faithful performance and observance of the conditions, restrictions and reservations hereinafter specified, a license is hereby granted to Suburban Cable T.V. Company, Inc., its successors or assigns (hereinafter referred to as "**Licensee**") by the Township of Hilltown (hereinafter referred to as "**Licensor**") to erect, maintain and operate for a period of five (5) years, and during any extensions of said period, from the date of final passage of this Ordinance, a distribution system and necessary facilities and additions thereto, in, under, over, along, across and upon streets, lanes, avenues, alleys, sidewalks, bridges, rights-of-way, easements, highways and other places in the Township, for the

purpose of transmission and distribution of audio, digital and video impulses in accordance with the laws and regulations of the United States of America and the Commonwealth of Pennsylvania, and with the provisions of this Ordinance.

B. The license granted hereafter may be extended for subsequent periods after a hearing held before the Township and upon determination that the **Licensee** has generally and satisfactorily abided by and fulfilled the terms and conditions of the Agreement as herein described.

The **Licensor** and the **Licensee** agree that any proceedings under taken by the **Licensor** that relate to the renewal of the **Licensee's** license shall be governed by and comply with the provisions of the Cable Communications Policy Act of 1984, Public Law 98-549, H.B. 4103 (hereinafter "the Cable Act"), unless the procedures and substantive protection therein shall be deemed to be preempted and superseded by the provisions of any subsequent amendments of Federal or State law.

## SECTION 2

Except as otherwise provided in this Section, **Licensee** shall erect its facilities on existing power and telephone poles pursuant to Pole Attachment Agreements to be entered into between **Licensee** and the utility companies having

ownership of or otherwise having jurisdiction over such existing power and telephone poles. No new poles shall be set by **Licensee** except where no poles exist or use of an existing utility pole is not practicable due to excessive rearrangements or other conditions.

### SECTION 3

The distribution facilities of **Licensee** shall be at all times maintained in a good and safe condition by **Licensee**, and shall be constructed and maintained by **Licensee** so as not to interfere with television and radio reception by inhabitants not using services of **Licensee**. **Licensor** agrees to promptly notify **Licensee** of all permits granted for the development of residential subdivision or multiple dwelling complexes to enable **Licensee** to make arrangements for installation of its cable facilities within same.

### SECTION 4

Construction and maintenance of the transmission distribution system shall be in accordance with the provisions of the National Electrical Safety Code, the National Electrical Code, and applicable ordinances and regulations of **Licensor** affecting or otherwise covering electrical installations.

### SECTION 5

A. **Licensee** shall indemnify and hold **Licensor** harmless from and against any loss and expenses, including attorney's

fees, from any claims, demands or actions for injury and damage to persons or property, both real and personal, arising out of the construction, erection, operation and maintenance of the facilities of **Licensee**.

B. **Licensee** shall carry insurance against any and all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any of the facilities of **Licensee**. The amount of such insurance against liability due to damage to property shall not be less than One Hundred Thousand Dollars (\$100,000.00) as to any one person, and Two Hundred Thousand Dollars (\$200,000.00) as to any one accident; and the amount of such insurance against liability due to injury or death to persons shall not be less than Five Hundred Thousand Dollars (\$500,000.00) as to any one person, and One Million Dollars (\$1,000,000.00) as to any one accident. **Licensee** shall also carry such insurance necessary to protect it from all claims under the Workmen's Compensation Law in effect and applicable to **Licensee**. All insurance required by this Ordinance shall be and remain in full force and effect during the entire term of the license granted hereunder, including all periods of extensions. **Licensee** shall, if requested, provide **Licensors** with a certificate evidencing insurance coverage by this subsection.

C. **Licensee**, upon receipt of due notice in writing from **Licensor**, shall defend, at the sole expense of **Licensee**, any action or proceeding against **Licensor** in which it is claimed that personal injuries or property damage arose from the activities of **Licensee** in the construction, erection, operation or maintenance of the facilities of the **Licensee**.

#### SECTION 6

In consideration of the license granted by this ordinance, **Licensee** hereby agrees to pay **Licensor** five percent (5%) of its gross revenues received from subscribers in the Township from its monthly basic and premium cable service excluding the share of premium service revenues that belong to and are paid to the suppliers of such services. **Licensor** agrees that the said sums of money to be paid to and accepted by the **Licensor** are in full payment for the privilege of **Licensee** for using public thoroughfares of the Township by the **Licensee** in conducting activities pursuant to this license and in lieu of any other taxes or charges that may be assessed or charged by **Licensor**. Payments of the said fee shall be made by **Licensee** to **Licensor** on a quarterly basis, and shall be accompanied by a report of such gross revenues received, certified by a certified public accountant or officer of **Licensee**.

SECTION 7

All public and private schools and all municipal buildings maintained by **Licensor** and which are passed by **Licensee's** distribution cable shall receive regular monthly service free of charge. With the exception of a normal aerial installation of one outlet, the cost of installation of service from the street to the building and within the building shall be the responsibility of each such user.

SECTION 8

The rates charged by **Licensee** for installation of and providing any and all cable services shall be set by **Licensee** with appropriate input by **Licensor** as permitted by the Cable Communications Policy Act of 1984, as amended.

SECTION 9

**Licensee** is hereby granted the right to assign the license granted by this Ordinance upon permission of **Licensor**, which permission shall not be unreasonably withheld. Notwithstanding, **Licensee** shall have the right, without such permission of **Licensor**, to assign this license to any affiliate or subsidiary of **Licensee**.

SECTION 10

**Licensee** shall maintain a business office at a location where subscribers may readily visit and may call without incurring toll charges. **Licensee** shall generally respond to all service calls within twenty-four (24) hours and

correct cable malfunctions as promptly as possible; and shall maintain a competent staff sufficient to provide adequate and prompt service to its subscribers.

SECTION 11

In the event that **Licensee** fails to comply with any material provision of this Ordinance and fails to correct such noncompliance within ninety (90) days after written notice received from **Licensors** to do so, **Licensors** shall have the right, in addition to all other rights and remedies allowed by law, to require **Licensee** to terminate service until such failure is cured.

SECTION 12

**Licensee** shall accept the provisions of this ordinance in writing to be received by the Township no later than fifteen (15) days from the date of the enactment of this Ordinance. In the event that such notice is not received by the Township within said time period, the provisions of this Ordinance and the license granted hereby shall be rendered wholly ineffective and void.

SECTION 13




If any section is determined to be illegal, invalid or unconstitutional by any court of common jurisdiction, such determination shall have no effect on the validity of any other section hereof.

SECTION 14

Ordinance No. 81-8 is hereby specifically repealed, and all other ordinances or parts of ordinances which are inconsistent herewith are repealed to the extent of such inconsistency.

ENACTED and ORDAINED this 25<sup>th</sup> day of February, A.D., 1991.

HILLTOWN TOWNSHIP  
BOARD OF SUPERVISORS

  
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