

ORDINANCE 207

AN ORDINANCE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, MONROE COUNTY, PENNSLVANIA, AUTHORIZING RENEWAL OF THE CURRENT AMENDED CABLE FRANCHISE AGREEMENT BETWEEN THE TOWNSHIP AND BLUE RIDGE COMMUNICATIONS FOR AN ADDITIONAL EIGHT (8) YEAR TERM AND EXECUTION OF A RENEWAL AGREEMENT WITH BLUE RIDGE COMMUNICATION, AND AMENDING THE CODE OF THE TOWNSHIP OF MIDDLE SMITHFIELD, APPENDIX, CHAPTER A203, CABLE FRANCHISE AGREEMENT, BY ADDING A SECTION A203-2, AUTHORIZING THE AFORESAID RENEWAL

WHEREAS, the Board of Supervisors ("Board") of the Township of Middle Smithfield ("Township") has heretofore adopted a comprehensive compilation of ordinances of the Township entitled the "Code of the Township of Middle Smithfield" (the "Code"); and

WHEREAS, any and all additions, amendments, deletions, or supplements to the Code, when passed and adopted in such form as to indicate the intention of the Board to be a part thereof, shall be deemed to be incorporated into such Code so that reference to the Code shall be understood and intended to include such changes; and

WHEREAS, whenever such additions, amendments, deletions, or supplements to the Code shall be adopted, they shall thereafter be printed and, as provided hereunder, inserted in the post-bound book containing said Code as amendments and supplements thereto; and

WHEREAS, Section 1506 of the Second Class Township Code, Act of May 1, 1933, P.L. 103, No. 69, as amended by the Act of November 9, 1995, P.L. 350, No. 60, found at 53 P.S. § 66506, entitled "General Powers," authorizes the Board to make and adopt ordinances necessary for the proper management, care, and control of the Township, and the maintenance of the health and welfare of the Township and its citizens; and

WHEREAS, pursuant to the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection Act of 1992, the Telecommunications Act of 1996 (hereafter collectively referred to as the "Cable Act"), the regulations of the Federal Communications Commission ("FCC") and the laws of the Commonwealth of Pennsylvania, 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 Township's jurisdiction;

WHEREAS, Blue Ridge Cable Technologies, Inc. t/a, d/b/a, Blue Ridge Communications ("Blue Ridge") currently holds a cable franchise from the Township by virtue of the Amended Cable Franchise Agreement, which commenced on June 12, 2008 and is expiring on June 11, 2016, as authorized by Township Ordinance 161 and as amended pursuant to Township Ordinance 161-A (together, "Prior Authorizing Ordinances"); and

WHEREAS, the aforesaid cable franchise authorizes Blue Ridge to maintain, construct, operate, and upgrade its cable system over, under, and along the aforesaid rights-of-way for use by Township residents; and

WHEREAS, Blue Ridge has requested that the term of the Amended Cable Franchise Agreement be renewed and extended for an additional eight (8) year term, until June 11, 2024; and

WHEREAS, the Township desires to protect and manage the aforesaid rights-of-way, require high standards of customer service, ensure future technical improvements to maintain a state-of-the-art cable system, obtain complimentary services for its public buildings, receive federal compensation for Blue Ridge's use of the Township's rights-of-way as provided by federal law, establish certain reporting requirements, and provide for the current and future cable-related needs of its residents; and

WHEREAS, the Township has held a public hearing, on May 26, 2016, on the subject of cable franchise renewal, including reviewing the cable operator's past performance and identifying the Township's future cable-related community needs; and

WHEREAS, the Township has determined that Blue Ridge 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 Blue Ridge, according to the terms and conditions contained in the Amended Cable Franchise Agreement.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the

authority of the same, to wit:

SECTION 1: AUTHORIZATION OF RENEWAL OF AMENDED CABLE
FRANCHISE AGREEMENT.

The Board of Supervisors hereby authorizes renewal of the current Amended Cable Franchise Agreement between the Township and Blue Ridge executed as of June 12, 2008, for an additional eight (8) year term, ending June 11, 2024. The remaining terms and conditions of the Prior Authorizing Ordinances and Amended Cable Franchise Agreement shall remain in full force and effect.

SECTION 2: EXECUTION OF RENEWAL AGREEMENT.

The Chair or Vice Chair of the Board of Supervisors is hereby authorized to execute and deliver, on behalf of the Township, a Renewal Agreement with Blue Ridge in accordance with the provisions of this Ordinance.

SECTION 3: AMENDMENT OF THE CODE OF THE TOWNSHIP.

The Code of the Township is amended by adding the following the following section to the Appendix, Chapter A203, Cable Franchise Agreement:

SA203-2. Authorization of Renewal.

The Board of Supervisors authorizes renewal of the Amended Cable Franchise Agreement between the Township and Blue Ridge, executed as of June 12, 2008, for an additional eight (8) year term, ending June 11, 2024. The remaining terms and conditions of the Amended Cable Franchise Agreement shall remain in full force and effect.

SECTION 4: SEVERABILITY.

The provisions of this Ordinance shall be severable, and if any of the provisions hereof shall be found to be invalid or unenforceable, the remaining provisions of this Ordinance shall remain in effect.

SECTION 5: REPEALER.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed insofar, but only insofar, as the same are inconsistent herewith.

SECTION 6: EFFECTIVE DATE:

This Ordinance shall take effect five (5) days after the date of its enactment.

ORDAINED AND ENACTED into an Ordinance at a regular meeting of the Board of Supervisors of Middle Smithfield Township, Monroe County, Pennsylvania, this 26th day of May, 2016.

TOWNSHIP OF MIDDLE SMITHFIELD
BOARD OF SUPERVISORS

Carroll A. Hinson
Chairperson

Michael J. Clewell
Vice Chairperson

Mark King
Supervisor

Michael J. Clewell
Township Secretary

