

CABLE TELEVISION FRANCHISE

Chapter A276

CABLE TELEVISION FRANCHISE

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Exhibit A

[HISTORY: Adopted by the Mayor and Council of the Borough of Wood-Ridge 3-14-2000 by Ord. No. 2000-3.¹ Amendments noted where applicable.]

§ A276-1. Definitions.

For the purpose of this ordinance, the terms defined above² shall have the meanings there indicated, and the following additional terms shall have the following meanings:

ACT or CABLE TELEVISION ACT — That statute of the State of New Jersey relating to cable television, known as the “Cable Television Act,” N.J.S.A. 48:5A-1 et seq.

APPLICATION — Cablevision’s application for renewal of municipal consent, which application is on file in the Borough of Wood-Ridge Clerk’s office and is incorporated herein by reference and made a part hereof, except as modified, changed, limited or altered by this ordinance.

BOARD — The Board of Public Utilities of the State of New Jersey or its successor agency.

¹ Editor’s Note: This ordinance also superseded former Ch. A276, Cable Television Franchise, adopted 8-16-1978 by Ord. No. 737, as amended 7-18-1988 by Ord. No. 88-11.

² Editor’s Note: The term “above” refers to the whereas clauses of Ord. No. 2000-3 which is on file in the borough offices.

BOROUGH — The governing body of the Borough of Wood-Ridge in the County of Bergen and the State of New Jersey.

COMPANY — Cablevision of Oakland, Inc., the grantee of rights under this ordinance.

FCC — The Federal Communications Commission.

FEDERAL ACT — That federal statute relating to cable communications commonly known as the "Cable Communications Policy Act of 1984," 47 U.S.C. § 521 et seq., and the Telecommunications Act of 1996 or as those statutes may be amended.

FEDERAL REGULATIONS — Those federal regulations relating to cable television services, 47 C.F.R. § 76.1 et seq., (and, to the extent applicable, any other federal rules and regulations relating to cable television, including but not limited to those described in 47 C.F.R. § 76.3) or as such regulations may be amended.

STATE — The State of New Jersey.

STATE REGULATIONS — Those regulations of the State of New Jersey Board of Public Utilities relating to cable television, N.J.A.C. 14:17-1.1 et seq., or as such regulations may be amended.

§ A276-2. Statement of findings.

A public hearing concerning the consent herein granted to Cablevision was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held and fully open to the public, and the municipality having received all comments regarding the qualifications of Cablevision to receive this consent, the Borough of Wood-Ridge hereby finds Cablevision possesses the necessary legal, technical, character, financial and other qualifications to support municipal consent and that Cablevision's operating and construction arrangements are adequate and feasible.

§ A276-3. Grant of authority.

The Borough of Wood-Ridge hereby grants to Cablevision its nonexclusive consent to place in, upon, along, across, above, over and under its highways, streets, alleys, sidewalks, public ways and public places in the municipality poles, wires, cables and fixtures necessary for the maintenance and operation in the Borough of a cable television system and for the provision of any other service over the such system as may be authorized by federal or state regulatory agencies. Operation and construction, pursuant to said consent, is conditioned upon prior approval of the Board of Public Utilities.

§ A276-4. Duration of franchise.

This consent granted herein shall be nonexclusive and shall be for 10 years from the date of issuance of a certificate of approval by the Board.

§ A276-5. Expiration and subsequent renewal.

If cablevision seeks successive consent, it shall, prior to the expiration of this consent, apply for a municipal consent and certificate of approval in accordance with N.J.S.A. 48:5A-11 and N.J.S.A. 48:5A-16 and applicable state and federal rules and regulations. The company shall also petition the Board for approval authorizing continued operation during the period following expiration of the consent granted herein and until such a time that a decision is made by the Borough of Wood-Ridge and the Board relative to the renewal of said consent.

§ A276-6. Franchise territory.

The consent granted under this ordinance to Cablevision shall apply to the entirety of the Borough of Wood-Ridge and any property hereafter annexed.

§ A276-7. Service area.

Cablevision shall be required to proffer service along any public right-of-way to any person's residence located in the franchise territory at tariffed rates for standard and nonstandard installation.

§ A276-8. Franchise fee.

Pursuant to the terms and conditions of the Cable Television Act, Cablevision shall pay to the Borough of Wood-Ridge, as an annual franchise fee, a sum equal to 2% of the actual gross revenues received from all recurring charges in the nature of subscription fees paid by subscribers for its cable television reception services in the borough. In the event that applicable law hereinafter permits a larger franchise fee to be collected, but does not fix the amount thereof, the borough and Cablevision shall negotiate in good faith with respect to the amount thereof.

§ A276-9. Free service.

Cablevision shall provide, free of charge, one standard installation and monthly basic cable television service to all state or locally accredited public schools and all public libraries, as well as municipal buildings located within the Borough of Wood-Ridge as set forth in Exhibit A to this ordinance.³

§ A276-10. Construction/system requirements.

Cablevision shall perform construction and installation of its plant and facilities in accordance with applicable state and federal law. The company shall be subject to the following additional construction requirements with respect to the installation of its plant and facilities in the Borough of Wood-Ridge:

³ Editor's Note: Exhibit A is included at the end of this chapter.

- A. In the event that Cablevision or its agents shall disturb any pavement, street surfaces, sidewalks, driveways or other surfaces, the company shall, at its sole expense, restore and replace such disturbances in as good a condition as existed prior to the commencement of said work.
- B. If at any time during the period of this consent the municipality shall alter or change the grade of any street, alley or other way or place, Cablevision, upon reasonable notice by the municipality, shall remove or relocate its equipment at its own expense.
- C. Upon request of a person (other than the borough) holding a building or moving permit issued by the borough, Cablevision shall temporarily move or remove appropriate parts of its facilities so as to permit the moving or erection of buildings or for the performance of other work. The expense of any such temporary removal or relocation shall be paid in advance to the company by the person requesting the same. In such cases, the company shall be given not less than 14 days' prior written notice in order to arrange for the changes required.
- D. During the exercise of its rights and privileges under this consent, the company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of the Borough of Wood-Ridge so as to prevent the branches of such trees from coming in contact with the wires, cables, conduits and fixtures of the company. Such trimming shall be only to the extent necessary to maintain proper clearance for the company's facilities and upon prior notice to the borough, emergency situations excepted.

§ A276-11. Construction requirements.

Cablevision shall rebuild the cable plant serving the Borough of Wood-Ridge from a 450 MHz to 750 MHz by December 31, 2002.

§ A276-12. Technical and customer service standards.

Cablevision shall comply with the technical and customer service standards established for the cable industry under applicable federal and State laws, rules and regulations.

§ A276-13. Local office or agent.

Cablevision shall establish and maintain during the entire term of this consent a local area business office or agent for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment malfunctions and similar matters. Said office shall be open daily during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, with the exception of holidays.

§ A276-14. Designation of complaint officer.

The Office of Cable Television is hereby designated as the complaint officer for the Borough of Wood-Ridge pursuant to the provisions of N.J.S.A. 48:5A-26, and any complaints by local subscribers to cable television reception or service shall be filed directly with the said office. All complaints shall be reviewed and processed in accordance with N.J.A.C. 14:17-6.5.

§ A276-15. Liability insurance.

Cablevision agrees to maintain and keep in force and effect, at its sole cost at all times during the term of this consent, sufficient liability insurance naming the Borough of Wood-Ridge as an insured and insuring against loss by any such claim, suit, judgment, execution or demand in the minimum amounts of

\$500,000 for bodily injury or death to one person and \$1,000,000 (\$15,000,000 excess coverage thereafter) for bodily injury or death resulting from any one accident or occurrence stemming from or arising out of the company's exercise of its rights hereunder.

§ A276-16. Performance bond.

Not later than 45 days after the effective date of this franchise, Cablevision shall obtain and maintain, at its sole cost and expense, during the entire term of this agreement, a bond to the municipality in the amount of \$25,000. Such bond shall be to insure the faithful performance of its obligations as provided in this franchise.

§ A276-17. Rates.

The rates of the company shall be subject to regulation as permitted by federal and state law. In the event that applicable federal or state law hereafter is amended to permit the exercise of regulatory power over rates by municipalities, the municipality reserves the right to exercise the maximum power permitted by law.

§ A276-18. Reduced rate for seniors.

At such time that Cablevision provides for a senior citizens discount plan to any of its customers in any Cablevision of Oakland, Inc., municipality during the term of this franchise, said plan, and all of its terms, shall be made available to qualified Wood-Ridge residents.

§ A276-19. Emergency uses.

Cablevision shall be required to have the capability to override the audio portion of the system in order to permit the broadcasting of emergency messages by the Borough of Wood-

Ridge pursuant to state and federal requirements. The company shall in no way be held liable for any injury suffered by the Borough or any other person, during an emergency, if for any reason the municipality is unable to make full use of the cable television system as contemplated herein. The borough shall utilize the state-approved procedures for such emergency uses.

§ A276-20. Equitable terms.

- A. In the event that the Borough of Wood-Ridge approves or permits a cable system to operate in the community on terms more favorable or less burdensome than those contained in this ordinance, such more favorable or less burdensome terms shall be applicable in this consent, subject to a petition to the Board of Public Utilities as provided for in accordance with N.J.S.A. 48:5A-15 and N.J.A.C. 14:17-6.7.
- B. In the event that a nonfranchised multichannel video programmer provides service to residents of the Borough of Wood-Ridge, Cablevision shall have a right to request franchise amendments to this ordinance that relieve Cablevision of regulatory burdens that create a competitive disadvantage to the company. In requesting amendments, Cablevision shall file with the Board of Public Utilities a petition for approval in accordance with N.J.S.A. 48:5A-15 and N.J.A.C. 14:17-6.7 seeking to amend the ordinance. Such petition shall: indicate the presence of a nonfranchised competitor(s); identify the basis for Cablevision's belief that certain provisions of this franchise place it at a competitive disadvantage; and identify the regulatory burdens to be amended or repealed in order to eliminate the competitive disadvantage. The borough shall not unreasonably withhold or object to granting the company's petition and so amending the ordinance, subject to a petition to the Board of Public Utilities as provided for in accordance with N.J.S.A. 48:5A-15 and N.J.A.C. 14:17-6.7.

§ A276-21. Removal of facilities.

Upon expiration, termination or revocation of this ordinance, Cablevision, at its sole cost and expense and upon direction of the Borough of Wood-Ridge and approval from the New Jersey Board of Public Utilities, shall remove the cables and appurtenant devices constructed or maintained in connection with the services authorized herein, unless Cablevision, its affiliated entities or assignees should, within six months after such expiration, termination or revocation obtain certification from the FCC to operate an open video system or any other federal or state certification to provide telecommunications.

§ A276-22. Public, educational, and governmental access.

- A. Cablevision shall continue to make available noncommercial public, educational and governmental (PEG) access as described in the application for municipal consent.
- B. The Borough of Wood-Ridge agrees that Cablevision shall retain the right to use the channel, or portion thereof, for non-PEG programming during times when the Borough is not utilizing the channel for purposes of providing PEG programming. In the event that the company uses said PEG channel for the presentation of such other programming, the PEG programming shall remain the priority use and the company's rights with respect to using the channel for non-PEG programming shall be subordinate to the borough's provision of PEG access programming on such channel.

§ A276-23. Equipment.

- A. Cablevision shall supply the Borough of Wood-Ridge with the following equipment in consideration for a ten-year renewal, to be utilized in the production of noncommercial public access programming.
 - (1) Modulator.

- (2) S-VHS VCR.
- (3) S-VHS camcorders.
- (4) Television monitor.
- (5) Titlemaker 3000 character generator.

B. Cablevision will install a reverse feed to originate noncommercial local access programming at a municipally owned building, provided that it is a standard installation, free of charge.

§ A276-24. Incorporation of application.

All of the commitments contained in the application and any amendment thereto submitted in writing to the Borough of Wood-Ridge by the company, except as modified herein, are binding upon Cablevision as terms and conditions of this consent. The application and any other writings submitted by Cablevision in connection with this consent are incorporated in this ordinance by reference and made a part hereof, except as specifically modified, changed, limited, or altered by this ordinance, or to the extent that they conflict with state or federal law.

§ A276-25. Consistency with applicable laws.

This consent shall be construed in a manner consistent with all applicable federal, state and local laws.

§ A276-26. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion thereof.

§ A276-27. When effective.

This ordinance shall take effect upon final passage and publication according to law and upon issuance of a certificate of approval by the Board of Public Utilities.

§ A276-28. Repealer.

All ordinances or parts of ordinances inconsistent herewith are repealed as to such inconsistencies.

CABLE TELEVISION FRANCHISE

EXHIBIT A

Locations for free cable service in the Borough of Wood-Ridge
(§ A276-9):

Building	Location
Municipal Building	85 Humboldt Street
Memorial Library	231 Hackensack Street
DPW	Concord Street
Civic Center	Highland Avenue
Catherine E. Doyle School	12th and Wood-Ridge Avenue
Greta R. Ostrozsky School	540 Windsor Road
High School	258 Hackensack Street
Board of Education Building	89 Hackensack Street