

**ORWIGSBURG BOROUGH
SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA**

ORDINANCE NO. 458

ORDINANCE OF ORWIGSBURG BOROUGH AUTHORIZING EXECUTION OF A CABLE FRANCHISE AGREEMENT BETWEEN THE BOROUGH AND COMCAST OF FLORIDA/MICHIGAN/NEW MEXICO/PENNSYLVANIA/WASHINGTON, LLC ("COMCAST") WHICH GRANTS A FRANCHISE TO COMCAST FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF A CABLE TELEVISION SYSTEM WITHIN THE BOROUGH, AND ESTABLISHES THE TERM, FRANCHISE FEE AND OTHER TERMS, CONDITIONS AND REGULATIONS FOR USE; AND PROVIDING REPEALERS, SEVERABILITY AND THE EFFECTIVE DATE.

WHEREAS, pursuant to the Title VI of the Communications Act of 1934, as amended by the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competitive Act of 1992 and the Telecommunications Act of 1996, as amended (the "Cable Act"), the regulations of the Federal Communications Commission ("FCC") and Pennsylvania law, the Borough is authorized to grant and renew franchises to construct, operate and maintain a Cable System utilizing public rights-of-way and properties within the Borough's jurisdiction; and

WHEREAS, Comcast of the South, Inc. currently holds a cable franchise from the Borough by virtue of a Cable Franchise Agreement with the Borough; and

WHEREAS, Comcast of Florida/Michigan/New Mexico/Pennsylvania/Washington, LLC ("Comcast"), successor to Comcast of the South, Inc., has requested that the Borough renew Comcast's franchise to maintain, construct, operate, and upgrade its cable system over, under and along the aforesaid rights-of-ways for use by the Borough's residents; and,

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

WHEREAS, the Borough 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 Borough's rights-of-ways as provided by federal law, obtain the use of educational and governmental channels, establish certain reporting requirements, obtain certain complimentary services and provide for the current and future cable-related needs of its residents; and

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

WHEREAS, the Borough held a public hearing on the subject of cable franchise renewal, including reviewing the cable operator's past performance and identifying the Borough's future cable-related community needs and, 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 Borough Council 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 parts of ordinances inconsistent herewith are hereby repealed.

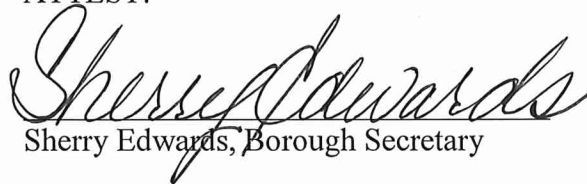
SECTION 3. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Borough that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

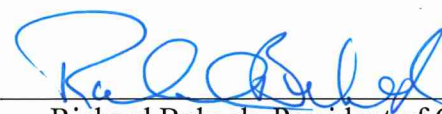
SECTION 4. Effective Date. This Ordinance shall become effective upon enactment.

ENACTED and ORDAINED into an ordinance this 2nd day of August, 2023, by the Council of the Borough of Orwigsburg, Schuylkill County, Pennsylvania, in lawful session duly assembled.

BOROUGH OF ORWIGSBURG
Schuylkill County, Pennsylvania

ATTEST:


Sherry Edwards, Borough Secretary

By: 
Richard Bubeck, President of Council

EXAMINED and APPROVED this 2nd day of August, 2023.


Barry J. Berger, Mayor, Borough of Orwigsburg