

## Chapter A234

### CABLE TELEVISION FRANCHISE

§ A234-1. Franchise granted; terms and conditions.

§ A234-2. Franchise fee; statement of gross receipts.

§ A234-3. When effective.

[HISTORY: Adopted by the Mayor and Council of Pocomoke City 7-10-1995 as Ord. No. 330. Amendments noted where applicable.]

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#### § A234-1. Franchise granted; terms and conditions.

The Mayor and Council of Pocomoke City does hereby grant unto Comcast Cablevision of Delmarva, Inc., a Delaware corporation, as aforesaid, hereinafter called the "grantee," its successors and assigns the right, privilege and franchise to construct, maintain and operate, within the corporate limits of Pocomoke City, Maryland, as presently constituted and as the same may be subsequently enlarged, a cable communications system, and its necessary facilities and additions thereto, for the transmission and distribution, by cable and other equipment, of broadband audio, video, voice and data impulses and energy in, over, under, along, across and upon the streets, lanes, avenues, sidewalks, alleys, bridges and other public places in said town, subject to the following terms and conditions:

- A. The poles and posts used for the grantee's transmission system shall be erected by the grantee and/or those erected and maintained by the Chesapeake and Potomac Telephone Company and/or Delmarva Power and Light Company and/or such other person, firm or corporation who or which at the time may be maintaining poles or posts within the corporate limits of Pocomoke City, when and where practicable, provided that mutually satisfactory rental agreements can be entered into with such companies.
- B. The grantee's transmission and distribution system, poles, wires and appurtenances shall be located, erected and maintained so that none of it or them shall endanger the lives of persons or interfere with any improvements the Mayor and Council may deem proper to make or hinder unnecessarily or obstruct the free use of the streets, alleys, bridges or other public property in said town.
- C. In the maintenance and operation of its cable communications system in the streets, alleys and other public places and in the course of any new construction or addition to its facilities, the grantee shall proceed with due regard for the inconvenience of the general public. Whenever the grantee shall take up or disturb any pavement, sidewalk or other improvement of any street, avenue, alley or other public place, the same shall be replaced and the surface restored in as good condition as before entry. The grantee shall at all times comply with any and all rules and regulations which the Mayor and Council has made or may make applying to the public generally with reference to excavations in streets and other public places not inconsistent with their use for the purposes contemplated by said

franchise.

- D. The grantee shall indemnify and hold the Mayor and Council of Pocomoke City harmless at all times during the term of said franchise from against all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation and maintenance of any structure, equipment, appliance or products authorized by the grantee or use pursuant to authority of said franchise.
- E. Service to educational institutions; list of officers and shareholders; operation and maintenance.
- (1) The grantee shall, upon reasonable request of the Worcester County Board of Education and at such time as such service shall become reasonable and practical and available to its equipment, after installation of the complete transmission system, furnish basic cable service to all public schools and public educational institutions within Pocomoke City, without installation charge or monthly service charge of any kind; provided, however, that the grantee shall not be required to furnish any installation beyond the property line of any such school property or within any school building.
  - (2) The grantee shall file, upon request, with the Mayor and Council of Pocomoke City, on or before the regular December meeting date of said Mayor and Council in any year during the continuance of this franchise, a full and complete list of all of its officers and shareholders.
  - (3) The grantee shall operate and maintain the cable communications system in accordance with the rules and regulations promulgated by the Federal Communications Commission (FCC) and shall provide cable service in the area covered by this franchise.
- F. Unless the same shall be sooner and lawfully revoked pursuant to the terms of this ordinance, the franchise hereby granted to the grantee shall take effect upon being accepted by the grantee, its successors or assigns and shall thereupon be and remain in force until January 1, 2007, and after that date shall automatically renew itself for one (1) additional five-year period unless the Council of Pocomoke City or the grantee, its successors and assigns shall notify the other, not less than thirty-three (33) months prior to the expiration of said franchise or any renewal thereof, of its intention not to automatically renew the same.
- G. The grantee shall provide service in accordance with FCC standards having due regard to atmospheric conditions, war, acts of God, unavoidable catastrophes and national emergencies. Should the grantee fail or refuse to transmit such service to its subscribers, the Mayor and Council may terminate this franchise by written notice to the grantee, if the grantee shall fail or refuse to correct such service, by methods available to it, within sixty (60) days after being notified, in writing, by the Mayor and Council of such failure to comply with FCC standards; provided, however, that no such action may be taken except at a public meeting of the City Council of which the grantee has been apprised and at which the grantee may present evidence in its behalf.

**§ A234-2. Franchise fee; statement of gross receipts.**

- A. The grantee shall pay to the Mayor and Council of Pocomoke City, on a quarterly basis, a franchise fee calculated at the rate of five percent (5%) (or such other maximum amount allowed by federal law and mutually agreed upon by the grantor and grantee) of the grantee's gross receipts for the previous quarter, derived from all cable service (including premium channels), installation fees and additional outlets within the city limits. Said franchise fee shall be paid within thirty (30) days of the end of the quarter.
  
- B. In addition, the grantee shall provide to the Mayor and Council of Pocomoke City, by March 31 of each year, a statement of gross subscriber receipts and subscriber count for the previous calendar year, certified by a duly authorized officer of the grantee, which indicates the gross receipts received per month from all cable service (including premium channels), installation fees and additional outlets within the city limits.

**§ A234-3. When effective.**

This ordinance shall take effect from the date of its passage.