

TOWN OF EAGLE HARBOR, MARYLAND
ORDINANCE
OF
THE BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR

ORD. NO. 1-22

AN ORDINANCE OF THE BOARD OF TOWN COMMISSIONERS FOR EAGLE HARBOR GRANTING A RENEWAL OF THE CABLE FRANCHISE TO COMCAST OF MARYLAND, LLC AND AUTHORIZING A FRANCHISE AGREEMENT; AND GENERALLY RELATING TO CABLE TELEVISION

Introduced By: Commissioner Joyce E. Prince

ENACTED: _____, 2023

WHEREAS, The Town of Eagle Harbor is an incorporated municipality governed pursuant to Article XI-E of the Constitution of Maryland; and

WHEREAS, pursuant to LG Art., § 5-202 of the Md. Ann. Code, the Board of Town Commissioners has the authority to pass such ordinances as it deems necessary to assure the good government of the municipality, to protect and preserve the municipality's rights, to secure persons and property from danger and destruction, and to promote the health, comfort and convenience of the citizens of the municipality; and

WHEREAS, pursuant to §5-201 *et seq.* of the Local Government Article, Annotated Code of Maryland, the Town of Eagle Harbor (hereinafter, the "Town") has the power to pass such ordinances as it deems necessary to protect the health, safety and welfare of the citizens of the municipality; and

WHEREAS, the Board has the ordinance making power under §5-204(d) of the Local Government Article, Annotated Code of Maryland to grant non-exclusive cable franchises; and

WHEREAS, the Board has the power under Article III, §2(25) (Franchises) of the Town Charter to grant and regulate franchises to water companies, electric light companies, gas companies, telegraph and telephone companies, transit companies, taxicab companies and any others which may be deemed advantageous and beneficial to the Town, subject, however, to the limitations and provisions of Article 23 [LG Article] of the Annotated Code of Maryland, and provided that no franchise shall be granted for a longer period than fifty (50) years; and

WHEREAS, the Town appears to have entered into a cable franchise agreement with Comcast of Maryland, LLC which ended in 2015, but has been extended during the negotiation of the renewal of the franchise agreement; and

WHEREAS, through a consortium of participating municipalities (PM's), the Board authorized the negotiation of the renewal of the franchise agreement with Comcast of Maryland, LLC and said proposed agreement has been prepared and presented to the Board; and

WHEREAS, pursuant to this Ordinance, the Town shall provide for the holding of a public hearing within the proposed franchise area, following reasonable notice to the public, at which every franchisee or applicant and its applications or requests shall be examined and the public and all interested parties afforded a reasonable opportunity to be heard; and

WHEREAS, the Comcast Cable Franchise Agreement of 1999 required construction of a Prince George's County Intergovernmental Network ("I-Net") governed by a committee represented by the county and all participating municipalities ("PM's") with infrastructure and connectivity to 174 sites, and a functional purpose of connecting authorized users, including specific governmental, educational, and public facilities, with connectivity via the network offering participating governments a communication vehicle to reduce costs for services otherwise provided through commercially leased lines (e.g., Dial-Up, DSL (Digital Subscriber Line), ISDN (Integrated Services Digital Network), etc.); and

WHEREAS, the elected leadership of the County and PM's regarding a joint franchise agreement have been asked to approve a 10-year cable franchise renewal with Comcast and the consortium has asked the PM's to pass their ordinances before January 1, 2023, in order to make the County's legislative deadlines after the New Year; and

WHEREAS, the major features of the new collective franchise agreement are as follows: (i) 5% of gross revenues as a franchise fee, (ii) 3% of gross revenues as support for PEG (includes I-Net/C-Net), (iii) up to 3 municipal PEG channels with option for county to utilize unused channels; (iv) the I/C-Net is preserved for 10 years until transitioned to a government network, (v) provide new service at cost and maintain existing connections to government buildings; (vi) free build out or extension of service area up to 350 ft. from network, and (vi) provides for two company offices in the county for equipment pick up and drop off; and

WHEREAS, the Board of Commissioners have determined that it is in the public interest to renew the cable franchise with Comcast of Maryland, LLC, within the corporate limits of the Town, on condition that Comcast of Maryland, LLC enter into a nonexclusive franchise agreement in substantially the form as attached to this Ordinance.

Section 1. NOW THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Commissioners of the Town of Eagle Harbor, the renewal of the non-exclusive right to construct and operate a cable television system along the public rights of way in the Town of Eagle Harbor is hereby granted to Comcast of Maryland, LLC, subject to the provisions a franchise agreement between the Town and Comcast Cable, LLC, which is incorporated by reference herein in a form substantially similar to that attached as Exhibit A to this Ordinance.

The Mayor of the Town of Eagle Harbor is authorized to endorse the franchise agreement on behalf of the Town.

Section 2. BE IT FURTHER ORDAINED AND ENACTED by the Board of Commissioners of the Town of Eagle Harbor that upon formal introduction of this proposed Ordinance, which shall be by way of a motion duly seconded and without any further vote, the Town Clerk shall distribute a copy to each Board member and shall maintain a reasonable number of copies in the office of the Town Clerk and shall post at Town Hall, to the official Town website, to the Town-maintained e-mail LISTSERV, if any, and on the Town cable channel, if any, and if time permits, in any Town newsletter, the proposed ordinance or a fair summary thereof together with a notice setting out the time and place for a public hearing thereon and for its consideration by the Board.

The public hearing, hereby set for 10:00 am on the 7th day of January 2023, shall follow the publication by at least seven (7) days, may be held separately or in connection with a regular or special Board meeting and may be adjourned from time to time. All persons interested shall have an opportunity to be heard. After the hearing, the Board may adopt the proposed ordinance with or without amendments or reject it. This proposed Ordinance shall be posted by the Town Clerk as is or as a fair summary of the Ordinance and notice of its adoption at Town Hall, to the official Town website, to the Town-maintained e-mail LISTSERV, on the Town cable channel, and in any regularly published Town newsletter.

Section 3. BE IT FURTHER ORDAINED AND ENACTED, that if any section or part of a section of this ordinance shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Ordinance nor the context in which such section or part of section so held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

Section 4. AND BE IT FURTHER ORDAINED AND ENACTED, that upon passage, the Town Clerk-Treasurer shall cause the exact text of this ordinance to be posted on a bulletin board in the Town office for twenty (20) successive days following its passage and thereafter a fair summary shall be placed in a newspaper of general circulation published within the Town and/or on the Town website.

HAVING BEEN INTRODUCED AND HAVING BEEN READ as an ordinance and passed by a ye and nay vote of the Board of Town Commissioners of Eagle Harbor with the affirmative votes of a majority of the whole number of members elected to the Town Commission at a Public Meeting of Town Commission held on this day of , 2023, at :00 o'clock a.m., in the Town of Eagle Harbor, Maryland.

I HEREBY CERTIFY that the above Ordinance No. 1-22 was passed by the required yeas and nay votes of the Board of Town Commissioners for Eagle Harbor on the ___ day of _____ 2023.

ATTEST:

BOARD OF TOWN COMMISSIONERS FOR
EAGLE HARBOR, TOWN OF EAGLE
HARBOR

Bertha A. Guerra, Clerk-Treasurer

By: _____
Noah Waters Mayor

CERTIFICATE

I hereby certify that this Ordinance 01-22 was passed at a regular or special meeting of the Board of Town Commissioners subsequent to the meeting in which it is introduced, held not less than six (6) nor more than seventy (70) days after the meeting at which this ordinance was introduced. Said ordinance shall become effective at the expiration of twenty-one (21) calendar days following approval by the Board. I further certify that exact text of this ordinance shall be posted on a bulletin board in the Town office for twenty (20) successive days following its passage. I further certify that after twenty (20) days have elapsed since its enactment, a fair summary of this ordinance shall be published at least once in a newspaper or newspapers having general circulation in the Town or on the Town's website.

Bertha A. Guerra, Clerk-Treasurer