

## ORDINANCE NO. 24

THIS INDENTURE, made this 19<sup>th</sup> day of January, 1995, by and between:

THE BOROUGH OF MILL VILLAGE, a municipal corporation, organized and existing under the laws of the Commonwealth of Pennsylvania, hereinafter referred to as the "Borough,"

- and -

COAXIAL CABLE TELEVISION CORPORATION, a Pennsylvania corporation, hereinafter referred to a "Coaxial."

WITNESSETH:

That the Borough, for and in consideration of the rents and covenants hereinafter mentioned and reserved and, on the part of Coaxial, to be fully kept and performed, does hereby lease, let and grant to Coaxial a non-exclusive franchise to use all rights-of-way and public places which the Borough has and possesses in the Borough of Mill Village and as more fully appears hereinafter, and for the purposes hereinafter set forth and only for the purpose or purposes hereinafter set forth:

To have and to hold and use the aforesaid right-of-way and public places for a period of fifteen (15) years for the date set forth above, and as more fully set forth hereinafter, from the date of the signing of this Agreement by the parties hereto, subject, however, to Coaxial exercising its option to renew pursuant to the provisions and terms of then-applicable law.

This Agreement is entered into pursuant to the authority granted and authorized by the Borough of Mill Village Ordinance No. 24 of 95 (hereinafter referred to as the "Ordinance").

If there is a conflict, ambiguity, discrepancy or a variation between this Agreement and the Ordinance, that provision or provisions which is (are) contained in the Ordinance shall be deemed to be operative and controlling.

In consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

1. That a non-exclusive franchise, right-of-way, lease and privilege is hereby granted to Coaxial, to engage in the business of operating and providing a community cable television system throughout the entire Borough of Mill Village and for that purpose, the right and privilege to construct, erect, operate, and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated and all extensions thereof, and additions thereto in the Borough of Mill Village, poles, wires, cables, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation in the Borough of Mill Village of a cable television and radio signals or other lawful services by Coaxial to subscribers for a fee subject to the terms and conditions and provisions contained in this Agreement and the Ordinance.
2. Coaxial shall procure when reasonably possible and economically feasible any and all easements, rights-of-way, covenants, grants, certificates of approval and permits which may be required from any private persons or corporations or other entities, from any federal, state, municipal or other governmental authority and from the utility companies presently operating in the Borough of Mill Village for or in connection with the placing, maintaining or using of the of the attachments and the television cable herein referred to for the granting of this right-of-way, use or lease.
3. Coaxial shall provide one outlet to each municipally owned building, fire station, police station, and public or private school that is passed by its cable. Said outlet shall be conventional viewing outlets of the types supplied to subscribers and shall be supplied without installation charges or monthly service charge, provided, however, that a months fee or service charge shall be due and payable with respect to any and all programming other than the basic tier provided to all subscribers. If more than one outlet is requested at any of the said locations, Coaxial shall install same at its normal service charge. In no event, however, shall this provision be used to supply outlet for individual use, such as but not limited to, college dormitory rooms.
4. Coaxial shall pay to the Borough during the term of this Agreement, a maximum fee of five percent (5%) of Coaxial's annual gross revenues within the Borough in accordance with the Ordinance. Said fee shall be due and payable on a quarterly basis; that is, March 31, June 30, October 31, and December 31 of each and every year hereafter. Neither this charge nor any other charge presently enacted or to be enacted in the future shall operate to discharge Coaxial from payment of any tax under the Local Tax Enabling Act.

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Coaxial's obligation to the Borough for payment of the five percent (5%) fee shall commence immediately.

5. This Agreement or permission hereby granted shall continue for a term consistent with the terms, conditions, and provisions of the Ordinance.
6. The permission and use hereby granted in a non-exclusive permission and use and the Borough may grant similar use and/or permission to other persons, firms or corporations. Should litigation or threats thereof ensue as a result of this Agreement, the Borough and its Council reserve the absolute right to determine how far and to what extent the Borough will participate and carry forward any litigation, and reserves the right to terminate its participation in any such litigation at any point without any right of recourse from any person, firm, corporation or other entity, including, but not limited to, Coaxial.
7. The permission and use hereby granted and the conditions hereof shall be binding on the successors and assigns of Coaxial.
8. Should the regulations of the activity herein envisioned and commonly called "Cable T.V.:" be assumed in part or in full by any agency of government, the Lessee's or Grantee's obligation to pay the franchise fee herein discussed shall still continue and be in full force and effect provided Coaxial has the lawful obligation, ability and authority to do so and the Borough of Mill Village has the obligation, ability and authority to collect said fee.
9. No person, firm, corporation or other entity shall be required to subscribe to the services by Coaxial.
10. It is agreed between the parties hereto that should Coaxial or the Borough, at any time, fail to perform under this Agreement or Ordinance, the Borough or Coaxial shall have the right to initiate such proceedings and have such remedied provided in the Ordinance or in law or equity.
11. All rights, privileges, duties, obligations and the liabilities of the parties hereto as set forth in the Ordinance, are incorporated herein by reference and made a part hereof.
12. Coaxial shall permit no unlawful business to be carried on upon said premises, nor permit anything to be done contrary to the conditions of the policies of insurance on said premises whereby the hazard might be increased or the insurance invalidated.
13. Coaxial hereby agrees to comply with and abide by all provisions, terms and conditions of the Ordinance.
14. Throughout the term of this Agreement, Coaxial shall have all of the rights and privileges of a Grantee and cable operator or Franchisee as provided in the Ordinance, a true and correct copy of which is attached hereto, made a part hereof, and marked Exhibit "A".
15. This Agreement is entered into by the duly authorized representatives of the Borough of Mill Village, Erie County, Pennsylvania, pursuant to Resolution of Borough Council duly enacted on the 19<sup>th</sup> day of January, 1995.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year first above written.

ATTEST:

BOROUGH OF MILL VILLAGE

By: Mary S. Powell  
Secretary Treasurer

By: Linda L. Falconer President  
President

Joseph Sam  
Mayor

ATTEST:

COAXIAL CABLE TELEVISION  
CORPORATION

By: Edward M. Mead  
Edward Mead, Secretary

By: Michael Mead  
Michael Mead, President