

## Chapter 15, CABLE TELEVISION COMMISSION

(HISTORY: Adopted by the City Council of the City of Long Branch 5-13-1980 by Ord. No. 983 (Sec. 27-30 of the 1971 Code). Amendments noted where applicable.)

### GENERAL REFERENCES

Cable television franchise -- See Ch. A350.

§ 15-1. Purpose.

The purpose of this chapter is to establish a Cable Television Commission that shall report to the Mayor and Council on its findings and recommendations, which findings and recommendations shall be for informational purposes only.

§ 15-2. Establishment; powers and duties.

The municipality hereby establishes a Cable Television Commission. The Commission shall have the following functions:

A. To solicit comments and recommendations from the public and other city officials concerning the quality of cable television service provided by the companyEN and suggestions on how to improve said service and report the same to the Mayor and City Council.

B. To review and study all the procedures and operations of the companyEN and render semiannual reports to the Mayor and City Council.

C. To review the construction and operation of the local access studio and the type of programs which may be transmitted to other municipalities and report any recommendations of the same to the Mayor and City Council.

D. To meet with the companyEN on a regular basis to discuss the operations of the company and possible ways to improve its service to the residents of the municipality and report any recommendations to the Mayor and City Council.

§ 15-3. Members; appointment; term of office. (Amended 5-23-1995 by Ord. No. 22-95)

A. The Commission shall consist of 13 Commissioners to be appointed in the following manner: (Amended 6-27-2000 by Ord. No. 18-00)

(1) One Commissioner appointed by the Mayor.

(2) One Commissioner appointed by the Board of Education of the City.

(3) Nine Commissioners appointed by the City Council, with each City Council member having the right to recommend one appointment to the Commission subject to the approval of the City Council.

(4) Two members who shall be members of the City Council.

B. The initial members of the Commission shall have a term of office to July 1, 1982. Each member of the Council shall initially have an opportunity to appoint one member. After all initial appointments, the term of the appointment shall be for the term of the appointing party. However, in no event shall an appointment be for longer than four years, except upon renewal of an appointment by the party who originally appointed said member pursuant to Subsection A, or one who has filled that party's position. (Amended 100-27-1998 by Ord. No. 36-98)

§ 15-4. Powers and duties; quorum.

A. The Commission shall review and study the procedures and operation of the company, the local access studio and those programs which may be transmitted to other municipalities. It shall also solicit comments from the public and city officials concerning the quality of the cable television service and recommendations on how to improve it. The Commission shall report all its findings directly to the Mayor and Council of the municipality. The Commission may make recommendations to the Mayor and Council of the municipality. The Commission shall have the power to set its own procedural rules and the power to elect its own officers. The powers of the Commission shall be specifically limited to those powers enumerated herein and as set forth in § 15-1, Purpose. It is the intent of this section for the Commission to be advisory only, with no delegation of those duties, powers and authority to be given to said Commission presently and hereafter belonging to the Mayor and City Council.

B. In order for the Commission to hold a meeting and conduct any business, a quorum of no less than three Commissioners must be present. Once a quorum is established, a majority of those present is necessary for the Commission to take any action or make any recommendation as authorized by this chapter.

(Added 6-27-2000 by Ord. No. 18-00)

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE**

**Chapter A350, CABLE TELEVISION FRANCHISE**

[HISTORY: Adopted by the City Council of the City of Long Branch 9-28-1995 by Ord. No. 38-95. Amendments noted where applicable.]

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-1.  
Definitions.**

**§ A350-1. Definitions.**

For the purpose of this ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein. Such meaning of terms is supplemental to those definitions of the FCC Rules and Regulations 576-5:47 C.F.R. 420 (March 1972), as amended, and the Cable Television Act, N.J.S.A. 48:5A-1 et seq., and in no way shall be construed to broaden, alter or conflict with the federal or state definitions.

ACT or CABLE TELEVISION ACT -- Chapter 186 of the General Laws of the State of New Jersey, 1972, N.J.S.A. 48:5A-1 et seq.

BOARD -- The Board of Public Utilities of the Department of Energy of the State of New Jersey.

COMPANY -- The grantee of rights under this ordinance, which is known as "Comcast Cablevision of Monmouth County, Inc., of Monmouth County."

MUNICIPALITY -- The Municipality of the City of Long Branch, in the County of Monmouth and the State of New Jersey.

OFFICE -- The Office of Cable Television within the Board of Public Utilities.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-2.  
Purpose; issuance of municipal consent; renewal.**

**§ A350-2. Purpose; issuance of municipal consent; renewal.**

The municipality hereby grants the company a nonexclusive franchise renewal for the maintenance and operation in the municipality of the existing cable television system and cable communication system. The existing cable television will be expanded to at least a sixty-channel system as per § A350-7 of this ordinance. If the federal and state statutes change in any manner regarding the franchise fee to be charged, then either party to this agreement can open negotiations to change the fees as agreed upon herein.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-3. Statement of findings.**

**§ A350-3. Statement of findings.**

A public hearing concerning the renewal of the franchise herein granted to the company was held after proper public notice pursuant to the terms and conditions of the Act. Said hearing having been held as above stated and said hearing having been fully open to the public and the municipality having received at said hearing all comments regarding the qualifications of the company to receive a renewal of its franchise, the municipality hereby finds that the company possesses the necessary legal, technical, character, financial and other qualifications and that the company's operating and construction arrangements are adequate and feasible.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-4. Duration of franchise.**

**§ A350-4. Duration of franchise.**

The consent herein granted in § A350-2 shall expire 15 years from the effective date of the certificate of approval granted to the company by the Board of Public Utilities. Notwithstanding said fifteen-year franchise term, the company recognizes the municipality's ability to petition the New Jersey Board of Public Utilities to revoke the franchise for the company's failure to comply with any term and/or condition set forth herein or any federal or state statute.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-5. Franchise fees.**

**§ A350-5. Franchise fees.**

Pursuant to the terms and conditions of the Act, N.J.S.A. 48:5A-30a, the company shall, during each year of operation under the consent granted herein, pay to the municipality 2% of the gross revenues from any and all charges received by the company from subscribers to its cable television reception service in the municipality. Comcast Cablevision of Monmouth County, Inc., shall on or before the 25th day of January, each year, file with the Chief Fiscal Officer of the municipality a statement verified by oath, showing the gross receipts from such charges, and shall at the same time pay thereon to said Chief Fiscal Officer the 2% charges hereby imposed as a yearly franchise revenue for the use of its streets.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-6. Franchise territory.**

**§ A350-6. Franchise territory.**

The consent granted herein to the company shall apply to the entirety of the municipality of the City of Long Branch, County of Monmouth, State of New Jersey, and any property hereafter annexed thereto.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-7. Construction timetable.**

**§ A350-7. Construction timetable.**

The timetable for the construction of an upgraded cable system consisting of at least 60 channels shall be as follows:

- A. The company shall complete the construction of the expanded and upgraded fiber optic/coaxial cable television system for the municipality of Long Branch by December 4, 1995, but in any event not later than 30 months from the date upon which it receives a renewal certificate of approval from the New Jersey Board of Public Utilities. Pursuant to N.J.A.C. 14:18-12 and N.J.S.A. 48:5A-17, the company shall petition the New Jersey Board of Public Utilities for a renewal certificate of approval no later than 30 days after the enactment of the within ordinance. Upon receipt of the renewal certificate of approval, the company shall commence construction within 60 days thereof.

- B. The company shall provide a timetable/schedule of construction, which shall be approved by the municipality and attached hereto and be adhered to by the company.<sup>EN(1)</sup> The company will advise the municipality of any delays in said timetable and the reasons therefor.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-8.  
Conditions of construction.**

**§ A350-8. Conditions of construction.**

- A. Restoration. In the event that the company or its agents shall disturb any pavement, street surface, sidewalks, alley, driveways or other surface in the natural topography, the company shall, at its sole expense, restore and replace such places or things so disturbed in as good condition as existed prior to the commencement of such work within 30 days of said disturbance.
- B. Relocation. If at any time during the period of this consent the municipality shall alter or change the grade of any street, alley, other way or place, the company, upon reasonable notice by the municipality, shall, at its own expense, remove, re-lay and relocate its equipment. Whenever the request for removal is made by private parties, the cost will be borne by those same parties.
- C. Temporary removal of cables. The company shall, upon request of the municipality, at the company's expense, temporarily raise, lower or remove its lines in order to facilitate the moving of buildings or machinery or in other like circumstances.
- D. Removal or trimming of trees. During the exercise of its rights and privileges upon this franchise, the company shall have the authority to trim trees upon and overhanging streets, alleys, sidewalks and public places of and in the municipality so as to prevent the branches of such trees from coming in contact with the wires and cables of the company. Such trimming shall be only to the extent necessary to maintain proper clearance for the company's wires and cable. Such trimming shall be done at the expense of the company, and all refuse associated with the same shall be removed by the company.<sup>EN(2)</sup>
- E. The municipality and Board of Public Utilities, Office of Cable Television shall have the right to inspect all construction or installation work performed by the company in the easements, streets and other places or lands of the municipality and make such other inspections as the municipality deems necessary to ensure compliance with the terms of this consent and other pertinent provisions of law, including but not limited to city ordinances and all necessary municipal approval required by city, state or federal laws. However, it is noted that the Board of Public Utilities, Office of Cable Television has set standards that must be

complied with in the construction and technical standards of a cable television system.

- F. All construction and installation by the company shall be effectuated in a manner that is consistent with the Federal Communications Commission's and the Public Utilities Commission's rules as to technical standards.
- G. All wires, cables, conduits and fixtures required in the installation of said system shall not be placed or constructed so as to unreasonably inconvenience public travel on the highways or the use thereof by public utilities or other persons or organizations having rights therein.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-9.  
Extension of service.**

**§ A350-9. Extension of service.**

The company shall be required to offer service to any person's residence or business located in those areas of the franchise territory, City of Long Branch, described herein, in accordance with the proposal for the provision of services as described in this application and defined in § A350-15 of this ordinance. Any additional extension of the system which is necessary in the future but not contemplated in the application shall be made in accordance with the Board's line extension policy now or hereafter promulgated.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-10.  
Payment center; local business office.**

**§ A350-10. Payment center; local business office.**

During the term of this franchise the company shall maintain a payment center in the City of Long Branch. This payment center shall provide the citizens of the City of Long Branch with the ability to pay or make payments on any and all bills received from the company. The payment center located in the City of Long Branch shall be open during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday, except holidays. If, however, technological advances make the foregoing obsolete, the company shall have the ability to present the same to the City Council of the City of Long Branch. During the term of this franchise, and any renewal thereof, the company shall maintain a local business office for the purpose of receiving, investigating and resolving complaints regarding the quality of service, equipment, malfunctions and similar matters. Such local business office shall be open during normal business hours, and in no event less than 9:00 a.m. to 5:00 p.m., Monday through Friday.

It is not required that said office be located within the municipality; however, the same shall be located within the County of Monmouth, State of New Jersey.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-11.  
Complaint officer.**

**§ A350-11. Complaint officer.**

In accordance with the Cable Television Act, N.J.S.A. 48:5A-26(a), the municipality hereby designates the Office of Cable Television of the New Jersey Board of Public Utilities to receive and act upon complaints by the subscribers to the cable television reception services provided by the company.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-12.  
Indemnification and insurance.**

**§ A350-12. Indemnification and insurance.**

The company shall indemnify, protect and hold the municipality harmless at all times from and against all claims for injury and damage to persons or property, both real and personal, including payments made under the Workmen's Compensation Law, arising out of construction, erection, operation, repair, installation, replacement and maintenance of any structure, equipment or appliance or product used pursuant to this ordinance or caused by awarding of this Municipal Consent or by any act of the company, its agents or employees. The company shall also provide evidence by way of certificate of insurance, or otherwise, of sufficient insurance insuring the municipality and the company with respect to liability for any death, personal injury, property damage or other liability arising out of the company's construction and operation of its Cable Access Television system pursuant to the Cable Television Act, N.J.S.A. 48:5A-28(f), in the following minimum amounts:

- A. One hundred fifty thousand dollars for bodily injury or death to any one person, within the limit, however, of \$500,000 for bodily injury or death resulting from any one accident.
- B. One hundred thousand dollars for property damage resulting from any one accident.
- C. Five hundred thousand dollars for all other types of liability.



**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-13.  
Performance bond.**

**§ A350-13. Performance bond.**

The company shall post a bond which remains in effect for the life of the franchise, in the penal sum of not less than \$25,000, for the faithful performance of all undertakings by the company as represented in the company's application to the Board of Public Utilities of the Department of Energy of the State of New Jersey and as set forth herein.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-14.  
Changes to be part of consent.**

**§ A350-14. Changes to be part of consent.**

It is understood that, should the Federal Communications Commission modify, change or alter any of its provisions as to franchise standards, such modifications, changes or alterations shall be incorporated into the consent issued hereunder within one year of the adoption by the Federal Communications Commission of said modifications, changes or alterations.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-15.  
Application incorporated by reference.**

**§ A350-15. Application incorporated by reference.**

The written application of the company submitted to the municipality and the cover letter accompanying the same and all of the written commitments contained in the written application, together with the transcripts of the hearings of March 21, 1994 and April 19, 1994 and the written application of the company made to the Board of Public Utilities of the Department of Energy of the State of New Jersey, are to be made part of this ordinance by incorporation by reference and shall be binding upon the company. In the event that any inconsistency exists between the terms of this ordinance and the company's written application, the terms of this ordinance shall prevail, and such inconsistency shall not invalidate this ordinance. However, nothing in this ordinance shall be interpreted in such a manner as to release the company from any of its representations as contained in its written application as aforesaid and the transcripts of

the hearings held as noted above; to the extent any commitments contained in the application exceed Federal Communications Commission requirements, those commitments are enforceable. The commitments made with respect to the written application, except as modified herein, are to be considered to be upon the applicant as the terms and conditions of this consent, and that application shall be annexed hereto and made a part hereof by reference, provided that any provisions of the Cable Television Act N.J.S.A. 48:5A-1 et seq and/or FCC Rules and Regulations 5576.1 et seq. (1973), as amended and as clarified, and FCC Clarifications of Rules 37 FED Reg. 14288 through 14300 (April 1974) shall not be construed as effective under the terms of this grant, and such provisions in the application which exceed the FCC Rules and Regulations are considered unenforceable.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-16. Rates for Cable Access Television reception service.**

**§ A350-16. Rates for Cable Access Television reception service.**

The rates for Cable Access Television service shall be as defined in the company's Application for Renewal of Municipal Consent, Appendix G, pages 1, 2, 3 and 4, except as the same may be lawfully amended from time to time.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-17. Emergency uses.**

**§ A350-17. Emergency uses.**

The company shall be required to participate in a state-wide emergency alert system (EAS) so as to have the capability to override at the Head End the audio portion of television signals. The company's participation in EAS shall commence upon the completion of the EAS.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-18. Interconnection; capital contribution.**

**§ A350-18. Interconnection; capital contribution.**

A. Interconnection; Mini Head End. As a condition of the consent herewith given, the company

shall provide a return line and the necessary hardware to allow for live cablecasting of programming. The channel shall have the capability of transmitting standard composite video and audio signals from a designated Mini Head End and necessary transmitter and will be operational at the municipality's election upon completion of the upgrade as set forth in § A350-7. The Mini Head End and necessary transmitter shall be located within the City of Long Branch Public Library. The company shall bear all costs and expenses of and associate with said Mini Head End and necessary transmitter.

- B. Additional interconnection services. In the event that the municipality determines that it is necessary and feasible for it to contract with the company for the purpose of providing interconnection services other than the service to the origination site Mini Head End and locations noted in § A350-20, the company shall be required to apply to the Board of Public Utilities, Office of Cable Television for approval to enter into and establish the terms and conditions of such contract. All costs for such application to the Board shall be borne by the company. Any such connection shall be done in accordance with the prior Federal Communications Commission authorization and in accordance with Paragraph 22 of the Clarification of Rules, FCC 74384 46 FCC 2d 175(1974), and FCC Rules and Regulations, 5576 252(a)(2) and 5576 252,41 Red. Reg. 20665 (6-30-1976).
- C. Capital contribution. As a condition of the consent herewith given, the company shall provide the municipality with a capital contribution in the sum of \$60,000. The municipality has received the approval of the Board of Public Utilities Office of Cable Television on July 28, 1995, as to the expenditure of the sixty-thousand-dollar capital contribution.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-19.  
Programming.**

**§ A350-19. Programming.**

The company hereby agrees to offer to any of the subscribers within the territory of this municipal consent any and all programming offered by Comcast Cablevision of Monmouth County, Inc., to any other franchised municipality, whether or not said programming is available at the date of this municipal consent or should the same become available during the term hereof. The intent is to require the company, when its system is upgraded, to contain at least 60 channels to the City of Long Branch.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-20. Local  
schools.**

**§ A350-20. Local schools.**

The company does agree to provide cable television to all local public and private schools, fire houses, police stations, rescue stations and libraries located within the municipality and, in addition to said locations, to one another and to an origination site (Mini Head End) located in the Long Branch Public Library and the access studio in a location to be designated, at no cost to the municipality or the owner of the location of the property where the local origination studio is to be located. The company agrees to provide technical assistance and training to the municipality with regard to the operation of an access studio in the event that the municipality elects to operate such a studio.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-21. Identification.**

**§ A350-21. Identification.**

The company and its employees must at all times in their interaction with the public in the City of Long Branch comply with all proper codes for Long Branch identification.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-22. Miscellaneous.**

**§ A350-22. Miscellaneous.**

The company shall issue rate cards which will include subscribers' costs within the franchise territory.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 / APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-23. Severability.**

**§ A350-23. Severability.**

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court or federal or state agency 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 portions hereof.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-24.  
Consistency with future federal and state rules, regulations and orders.**

**§ A350-24. Consistency with future federal and state rules, regulations and orders.**

It is understood that, should any state or federal agency or body modify, change or alter any of its provisions with respect to cable television generally, such modifications, changes or alterations shall be incorporated into this consent consistent with the applicable dates specified in the change.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-25.  
Effective date of ordinance.**

**§ A350-25. Effective date of ordinance.**

This municipal consent shall become effective as of the date upon which the municipality received written notification that the company accepts the terms and conditions herein.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A350, CABLE TELEVISION FRANCHISE / § A350-26.  
Repealer.**

**§ A350-26. Repealer.**

All ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed.

**CODE OF THE CITY OF LONG BRANCH NEW JERSEY, v33 Updated 07-01-2008 /  
APPENDIX / Chapter A351, TELEPHONE FRANCHISE**