

**INTRODUCED BY:** \_\_\_\_\_ **INTRODUCTION** \_\_\_\_\_  
**SECONDED BY:** \_\_\_\_\_ **HEARING:** \_\_\_\_\_  
**ADOPTION:** \_\_\_\_\_

**BOROUGH OF CLIFFSIDE PARK  
COUNTY OF BERGEN, STATE OF NEW JERSEY**

**ORDINANCE 2009-05**

**AN ORDINANCE AMENDING ORDINANCE #12-2005, GRANTING MUNICIPAL CONSENT TO THE RENEWAL OF A FRANCHISE TO TWFANCH-ONE CO. TO CONSTRUCT, OWN, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE BOROUGH OF CLIFFSIDE PARK, COUNTY OF BERGEN, STATE OF NEW JERSEY**

**WHEREAS**, on or about February 7, 1977, the Borough of Cliffside Park (sometimes the ABorough@ or ACliffside Park@) granted its municipal consent for a non-exclusive franchise to Vision Cable Television Company (hereinafter AVision Cable@), to own, operate and maintain a cable television system (ASystem@) within the Borough of Cliffside Park, County of Bergen, State of New Jersey; and

**WHEREAS**, on or about February 4, 1986, the Borough renewed Vision Cable=s Municipal Consent to continue to own, operate and maintain the System in the Borough; and

**WHEREAS**, on or about March 13, 1995, in Docket No. CM94110531 the New Jersey Board of Public Utilities (ABoard@) approved the transfer of the System from Vision Cable to Time Warner Entertainment-Advance/Newhouse Partnership (TWE-A/N@); and

**WHEREAS**, on or about January 31, 2001, in Docket CM00080556, the Board approved the transfer of the System from TWE-A/N to TWFanch-one Co., d/b/a Time Warner Cable of New York and New Jersey (ATime Warner Cable@); and

**WHEREAS**, by Application for Renewal of Municipal Consent filed with the Borough on August 3, 2001 (AApplication@), Time Warner Cable sought issuance of the Borough=s Municipal Consent for the renewal of said franchise; and

**WHEREAS**, the Borough Council considered such Application and has conducted a public hearing after proper public notice pursuant to the terms and conditions of the New Jersey Cable Television Act, N.J.S.A. 48:5A-1 *et seq.*, and the Regulations adopted by the Board thereunder; and

**WHEREAS**, the Borough determined that Time Warner Cable possesses the necessary legal, technical, character, financial and other qualifications to support a renewed grant of Municipal Consent; and

**WHEREAS**, on December 20, 2005, the Borough adopted Ordinance #12-2005 granting to Time Warner Cable its Municipal Consent to the renewal of a franchise to construct, own, operate and maintain the System within the Borough; and

**WHEREAS**, Paragraph 4 of Ordinance #1-2005 specifies that said Municipal Consent Ashall expire five (5) years from the date of expiration of the Certificate of Approval issued by the Board@; and

**WHEREAS**, the previous Certificate of Approval issued by the Board expired on May 12, 2002, thereby requiring that the term of renewal under Ordinance #1-2005, pursuant to Paragraph 4 thereof, would expire on May 12, 2007; and

**WHEREAS**, in order to invoke the procedures governing franchise renewal proceedings under federal and State law, renewal proceedings are required to be commenced, upon notification, between thirty (30) and thirty-six (36) months prior to expiration of an existing franchise; and

**WHEREAS**, if Paragraph 4 of Ordinance #12-2005 were to remain unchanged, the parties would not have been able to comply with federal and State law insofar as commencing the next renewal proceedings in a timely fashion; and

**WHEREAS**, Time Warner Cable has requested that Paragraph 4 of Ordinance #12-2005 be corrected so as to provide for a renewal term of five (5) years from the date of issuance of a new Certificate of Approval to be issued by the Board; and

**WHEREAS**, such modification will permit the parties to commence the next renewal proceedings in a timely fashion and in compliance with federal and State law; and

**WHEREAS**, it is in the interests of the parties to so amend Ordinance #1-2005;

**NOW, THEREFORE, BE IT ORDAINED** by the Mayor and Council of the Borough of Cliffside Park, County of Bergen, State of New Jersey, as follows:

1. Ordinance #12-2005 is hereby amended and modified by deleting in its entirety Paragraph 4 therein, entitled ADURATION OF FRANCHISE=. In place thereof, Paragraph 4 of Ordinance #1-2005 shall read as follows:

DURATION OF FRANCHISE

The consent herein granted shall expire five (5) years from the date of issuance by the Board of a Renewal Certificate of Approval with regard to this matter.

2. In all other aspects, Ordinance #12-2005 shall remain unchanged.

This Ordinance shall take effect immediately upon passage and publication as provided by law.

**Severability.**

If any section, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair, or invalidate the remainder of this Ordinance, but shall be confined in its effect to the section, sentence or other part of this Ordinance directly involved in the controversy which such judgment shall be rendered.

**Repealer.**

All Ordinances of the Borough of Cliffside Park which are inconsistent with the provisions of this Ordinance are hereby repealed to the extent of such inconsistency.

**INTRODUCED \_\_\_\_\_,2009**

**ADOPTED \_\_\_\_\_,2009**

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**Gerald A. Calabrese, Mayor**

**ATTEST:**

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**Sercan Zoklu, Borough Clerk**