

**Town of Thompson's Station
Board of Mayor and Aldermen
Meeting Agenda
November 10, 2015**

Meeting Called To Order

Pledge Of Allegiance

Appointment

Town Recorder - Jennifer Jones

Minutes-

Consideration Of The Minutes Of The October 13, 2015 Meeting.

Documents: [OCTOBER 13TH 2015 MINUTES.PDF](#)

Public Comments-

Reports-

BOMA Report

Town Administrator Report

Retirement Presentation – **Resolution 2015-015:** A resolution of the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee to establish a defined contribution plan for the Town employees and to authorize the Mayor to enter into an agreement with Acuff & Associates to administer said plan.

Documents: [TA REPORT 11102015.PDF](#), [RESO 2015-15 RETIREMENT PLAN.PDF](#)

Finance Report

Documents: [TW 1 2015 11 CASH REPORT FOR BOMA.PDF](#), [TW 2 2015 11 GENERAL FUND ACTUAL VS BUDGET - YTD.PDF](#), [TW 3 2015 11 GENERAL FUND ACTUAL VS BUDGET - TREND.PDF](#), [TW 4 2015 11 WASTEWATER FUND ACTUAL VS BUDGET - YTD.PDF](#), [TW 5 2015 11 WASTEWATER FUND ACTUAL VS BUDGET - TREND.PDF](#)

Building Report

Documents: [BLDG INSPECT - FAIL RATE.PDF](#), [PERMITS COMPARISON - 2012-2015.PDF](#)

Unfinished Business:

1. Second Reading Ordinance 2015-008

An Ordinance of the Town of Thompson's Station, TN, to Amend Title 19 of the Municipal Code Regarding Cable and Telecommunication Services Within the Town

Documents: [ORDINANCE 2015-008 WITH EXHIBIT.PDF](#)

2. Second Reading And Public Hearing: Ordinance 2015-009

An Ordinance of the Town of Thompson's Station, TN, to Amend Title 20, Chapter 1 of the Municipal Code Regarding Homeowners Associations and Exclusive Bulk Service Agreements Within the Town.

Documents: [ORDINANCE 2015-009.PDF](#)

New Business:

3. Public Hearing And Resolution 2015-013

A resolution of the Town of Thompson's Station, Tennessee to annex certain properties (tax map 131, parcel 11.03, tax map 119, parcel 1.0 and tax map 119, parcel 2.0) generally located North of I-840 and North and South of (and including that portion of) West Harpeth Road into the Town and approve the plan of services for said annexation.

Documents: [RESOLUTION 2015-13 ANNEX WEST HARPETH.PDF](#), [RESOLUTION 2015-13 EXHIBIT A MAP.PDF](#), [RESOLUTION 2015-13 EXHIBIT B PLAN OF SERVICES.PDF](#), [ITEM 3 4 AND 5 STAFF REPORT.PDF](#)

4. Public Hearing And Resolution 2015-014

A resolution of the Town of Thompson's Station, Tennessee to annex certain properties (tax map 104, parcel 40.07 and tax map 104, parcel 39.04) generally located North of the existing Town limits and South of Coleman Road into the Town and to approve the plan of services for said annexation.

Documents: [RESOLUTION 2015-14 ANNEX COLEMAN.PDF](#), [RESOLUTION 2015-14 EXHIBIT A MAP.PDF](#), [RESOLUTION 2015-14 EXHIBIT B PLAN OF SERVICES.PDF](#), [ITEM 3 4 AND 5 STAFF REPORT.PDF](#)

5. First Reading Of Ordinance 2015-010

An ordinance of the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee to amend the Town's Zoning Map by zoning newly annexed territory (Map 104, Parcel 40.07; Map 104, Parcel 39.04; Map 119, Parcel 2.00 and a portion of Map 119, Parcel 1.00) as Transect Community (TC) and the remaining newly annexed territory (portion of Map 119, Parcel 1.00; Map 131, Parcel 11.03) as T2 – Rural as shown on the attached map.

Documents: [ORDINANCE 2015-010 WITH EXHIBIT.PDF](#), [ITEM 3 4 AND 5 STAFF REPORT.PDF](#)

Adjourn

*This meeting will be held at 7:00 p.m. at Thompson's Station Community Center
1555 Thompson's Station Road West*

Town of Thompson's Station
Board of Mayor and Aldermen
Minutes of the Meeting
October 13, 2015

Call to Order.

The meeting of the Board of Mayor and Aldermen of the Town of Thompson's Station was called to order at 7:00 p.m. on Tuesday, October 13, 2015 with the required quorum. Members and staff in attendance were: Mayor Corey Napier; Alderman Brinton Davis; Alderman Sarah Benson; Alderman Brandon Bell; Alderman Graham Shepard; Town Administrator Joe Cosentini; Town Finance Director Tammy Womack and Town Attorney Todd Moore. Town Recorder Chandra Boughton was unable to attend.

Pledge of Allegiance.

Recognition: The board recognized and congratulated Town Administrator Joe Cosentini on the completion of his Master's Degree in Public Administration.

Consideration of Minutes. The minutes of the September 8, 2015 Regular Meeting were previously submitted.

Alderman Benson moved to accept the minutes of the September 8, 2015 Regular Meeting as submitted. The motion was seconded and carried unanimously.

Consideration of Minutes. The minutes of the September 29, 2015 Special-Called Meeting were previously submitted.

Alderman Davis moved to accept the minutes of the September 29, 2015 Special-Called Meeting as submitted. The motion was seconded and carried unanimously.

Public Comments:

Michael Danilozyk, 2549 Westerham Way – Thanked the Board for their hard work. Expressed concerns regarding traffic on Critz Lane; questions about Crystal Clear (CCT) FAQ document item #11; supports 401 retirement plan for Town staff.

Larry Simmons, 3116 Hazelton Drive – Questioned how penalties can be assessed when the Town has no court system; asked about 911 provisions.

Courtney Cates, 2196 Chaucer Park Lane – Expressed concerns regarding CCT; requested ordinance include language preventing fees for services not requested; requested developer controlled HOA's be prohibited; requested help from the Town in dealing with CCT issues; questioned CCT FAQ item #11.

Chuck Welch and Jenny Jones of Farris Bobango, LLC, 414 Union Street Ste 1105, Nashville – Feels Ordinance 2015-008 is pretty good, submitted some revisions he feels would make it better; found several issues with Ordinance 2015-009, suggested reading the HOA Bill before the state prior to making a decision.

Jim Smith, 3400 Colebrook Drive – Expressed concerns regarding CCT issues, requested the Board not approve Ordinance 2015-008.

Traci Reed, 2936 Americus Drive – Expressed concerns regarding CCT services, requested the Board not approve Ordinance 2015-008.

Christopher Northam, 3549 Robbins Nest Road – Agrees with previous comments regarding CCT, asked the Board to do its due diligence.

Stephen Lugg, 2144 English Garden Way – Thanked the Board for approving the LDO. Expressed concerns regarding CCT and paying for services he does receive from CCT.

Justin Wilson, 2968 Americus Drive – Expressed concerns regarding CCT issues and billing confusion. Thanked the Board for their efforts.

BOMA Reports

Alderman Bell reported construction hour violations in Tollgate and asked how the Town can enforce the hours.

Mr. Cosentini stated that if residents will contact the Town with the lot number and the time of the violation, the Town will withhold inspections on that particular lot.

Town Administrator's Report

Mr. Cosentini reviewed his report and discussed proposed retirement benefits for full-time Town employees. He asked the Board's permission to have Acuff & Associates prepare a proposal for a 457 non-elective employer contribution plan to be presented to the Board in November. Alderman Shepard requested they present a side-by-side comparison of a 457 plan and a 401 plan.

Mr. Cosentini also discussed the following non-agenda items:

- A new website for the Town has been created, should launch by October 16th. New site will allow for more content and greater capability of distributing information to the public.
- Mr. Cosentini will attend the TCMA conference in Chattanooga October 21-23. He has been asked to sit in on a panel discussion and will be giving presentation on the new Land Development Ordinance.
- Mr. Cosentini has been in contact with the Sheriff's department regarding the possibility of traffic control during peak hours at Critz lane and 31. The Sherriff department is currently under-staffed and has many similar requests, however they will look into the request.

Finance Report

Mrs. Womack reviewed the financial documents from the packet, noting some new changes to the reports to accommodate information requests from BOMA. Mrs. Womack stated the Town is in a strong cash position and answered questions. Alderman Shepard requested a break out of the capital projects.

Unfinished Business:

Public Hearing and Second Reading: Ordinance 2015-008 - An Ordinance of the Town of Thompson's Station, TN, to Amend Title 19 of the Municipal Code Regarding Cable and Telecommunication Services Within the Town

Public Hearing Comments: No one came forward to speak.

Alderman Shepard discussed his proposed changes to the Ordinance and asked for feedback. Mayor Napier suggested tabling the Ordinance in order to provide time for the Telecommunications Task Force and the Town attorney to analyze the new suggestions. Alderman Bell clarified that this is an Ordinance and not a Franchise Agreement.

After discussion, Alderman Shepard moved to defer the Second Reading of Ordinance 2015-008 - An Ordinance of the Town of Thompson's Station, TN, to Amend Title 19 of the Municipal Code Regarding Cable and Telecommunication Service Within the Town to the November BOMA meeting. The motion was seconded and carried unanimously.

Wastewater Request: Whistle Stop Development

Mr. Cosentini reviewed the findings of his research on sand filtration treatment systems since the BOMA meeting in September. He expressed his concerns with the maintenance responsibilities of the individual tanks and control panels at each home and suggested either a third party owner/operator or a different type of system that does not require individual equipment. Mr. Greg Gamble, representing the applicant, addressed the Board and provided information about the sequencing batch reactor (SBR) system they are proposing. He proposed bonding the SBR system at 110% and temporarily utilizing 46 taps at the Heritage Commons treatment facility.

After discussion, Alderman Benson moved to approve Whistle Stop Development to move forward with the development of an SBR system and the temporary use of 46 sewer taps at the Heritage Commons treatment facility, contingent upon a Developer Agreement being approved by the BOMA within the next six months. The motion was seconded and carried unanimously.

New Business:

First Reading: Ordinance 2015-009 - An Ordinance of the Town of Thompson's Station, TN, to Amend Title 20, Chapter 1 of the Municipal Code Regarding Homeowner Associations and Exclusive Bulk Service Agreements Within the Town

Mr. Cosentini reviewed the ordinance, recommending the document be kept very specific and limited to the regulation of bulk agreements. He also recommended the elimination of section 103 from the ordinance. Alderman Shepard explained the intent of the ordinance. Mr. Todd Moore discussed his findings and legal opinion regarding the ordinance. Alderman Bell expressed his concerns regarding regulating HOA's in the Town.

After discussion, Alderman Shepard moved to remove Section 103 and then approve the First Reading: Ordinance 2015-009 - An Ordinance of the Town of Thompson's Station, TN, to Amend Title 20, Chapter 1 of the Municipal Code Regarding Homeowner Associations and Exclusive Bulk Service Agreements within the Town. The motion was seconded and approved by a vote of 4-1 with Alderman Davis casting the dissenting vote.

Special Event Request with Road Closures

Request withdrawn by applicant. No action taken.

Adjourn

There being no further business, the meeting was adjourned at 8:35 p.m.

Corey Napier, Mayor

Jennifer Jones, Town Recorder



DATE: November 4, 2015
TO: The Board of Mayor and Aldermen (BOMA)
FROM: Joe Cosentini, Town Administrator
SUBJECT: TA Report 11/10/2015

Agenda Items –

Retirement: Jeremy Sweeney, Ameriprise Financial Services, will be in attendance at the Board meeting to give a brief presentation on the proposed 457 retirement plan. The plan is a defined contribution program that has a mandatory 5% minimum employee contribution along with a maximum 5% employer contribution. Mr. Sweeney will be able to answer any additional questions at the Board meeting. In addition, a question was asked at the October meeting regarding a standard 401(k) plan. These plans are not available to government agencies and were not evaluated as an option.

We would like to begin offering this benefit to employees beginning January 1, 2016 and have included the authorizing resolution as a part of the information packet. The cost to the Town has been budgeted for under the following expense categories:

General Fund:		
41110 – Payroll Expense		\$28,900
41289 – Employee Retirement Expense		\$53,000
Wastewater Fund		
4010 – Payroll Expense		\$ 5,500
4789 – Employee Retirement Expense		\$12,000

The current fiscal year budget will be adjusted to reflect actual expected costs once the Board authorizes the benefit. Town Staff recommends approval of the proposal and authorizing resolution.

Cable and Telecommunication Ordinance: The ordinance has been modified by the Telecommunication Task Force based on comments received at the October BOMA meeting. These items include:

1. Pg. 1 Addition to the “Purpose of Chapter”
2. Pg. 3 Additional language added setting the ordinance as “minimum requirements”
3. Pg. 14 Addition to the “Rights of individuals”
4. Pg. 24-25 Additional language added to require open access and the Town’s right of first refusal
5. Pg. 42 Addition to Nondiscrimination; Consumer protection

As previously reported, this document will put the Town in a much better negotiating position on future franchise agreements including telecommunication providers and Staff recommends approval.

HOA Ordinance: The proposed ordinance has been adjusted to reflect the changes as discussed at the October Board meeting and is presented for public hearing and second reading.

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www.thompsons-station.com



1550 Thompson's Station Road W.
P.O. Box 100
Thompson's Station, TN 37179

Annexation: The Town has received a request by the owners of several tracts of land totaling 1,961 acres north of S.R. 840 on the west side of Town for annexation in to our municipal boundary. The purpose of the annexation would be to allow for a large mixed-use community on roughly 1,200 acres that will include residential, commercial, and recreational uses in compliance with our recently adopted Land Development Ordinance.

Our Planning Commission has reviewed the annexation request along with the proposed plan of services agreement and has recommended the annexation for approval and zoning. The attached staff report outlines the recommendations.

The parcels under consideration for annexation are contiguous to our current municipal limits as shown in the exhibits. Tennessee law now allows for annexation by resolution at the request of the property owner. However, a few of the parcels are outside of the Town's designated urban growth boundary (UGB). The Town may annex parcels outside of its UGB without going through the growth plan amendment process under the following conditions:

- (1) The tract is contiguous to a tract of land that has the same owner and has already been annexed by the municipality; and
- (2) The tract is being provided water and sewer services; and
- (3) The owner of the tract, by notarized petition, consents to being included within the urban growth boundaries of the municipality.

The properties will be served by HB&TS water and the Town will be providing onsite wastewater service to be constructed and dedicated by the developer) which satisfies condition #2 and the Town has received a notarized petition requesting the annexation satisfying condition #3. In order to comply with condition #1 the Board must annex the parcels in two parts. The first consisting of all parcels within the UGB and the second annexing the parcels outside the UGB. A plan of services must accompany all annexation requests. The POS is included and contains provisions for a future school site and a public safety building for potential fire/EMS/police services. All off site traffic improvements will be the responsibility of the developer and will be coordinated with Williamson County.

Upon annexation, the Board is being asked to zone the area south of West Harpeth Road as T2 which is largely an open space or agricultural designation and the area north of West Harpeth Road as TC or Transect Community where the development can be designed under our hamlet community type. The hamlet is a mixed use community based around one pedestrian shed and requires a minimum of 60% open space.

Staff is supportive of this project and is recommending approval of all items as presented.

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Non-Agenda Updates:

PlaceMaker Contract: Now that the Town has completed the adoption of the new Land Development Ordinance, our contract with PlaceMakers is completed. I would like to propose extending a consulting contract with PlaceMakers so they can continue to assist staff with plan review on projects being considered for the transect district. Review costs for specific projects would be passed on to the developers of the project which should keep out of pocket costs to the Town at a minimum. We anticipate having a contract for approval on the BOMA agenda in January.

Water Line Project in Town Center: The Town is working with HB&TS on a water line project that is proposed to go down Thompson's Station Road West. Given the future plans of the Town Center area, staff believes the best location for this water line is within the existing right-of-way of Thompson's Station Road. HB&TS has a standing policy that their water lines are typically put within private easements. They have agreed to have the water line designed within the right-of-way if the Town would be willing to agree that any future streetscape project that would require the line to be relocated would be paid for by the Town. The agreement is being prepared by the HB&TS counsel, will be reviewed by our Town Attorney, and will be presented to the BOMA for approval once the review is completed.

In addition, should this project move forward, it would be an opportunity for the Town to install the proposed wastewater infrastructure along Thompson's Station Road and School Street. These projects could be bid as a single contract allowing one contractor to handle all of the installation and, theoretically, minimizing conflict between water and wastewater infrastructure.

Kimley Horn: The Town has been approached by Kimley Horn regarding a potential partnership that would allow critical wastewater infrastructure to be installed along S.R. 31 during the TDOT SIA project. The Town has an existing easement in this area that will need to be relocated as a result of the TDOT widening project. Included within the existing easement is an old 4" water line that could be used as a future wastewater force main serving development south of S.R. 840. We are attempting to have this line upsized and relocated at no cost to the Town. The construction cost would be paid by TDOT and the design work would be paid 50% by TDOT and 50% by developers who would be utilizing the new wastewater line.

The scope of work is being prepared by Kimley Horn and will be presented to the BOMA when it is ready for consideration.

Tree Lighting: Please mark your calendars for Sunday, December 6, 2015 for the annual Christmas Tree Lighting Ceremony. The Thompson's Station Community Association will again be sponsoring the event. I will forward additional information once the program is finalized.

RESOLUTION NO. 2015-015

A RESOLUTION OF THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO ESTABLISH A DEFINED CONTRIBUTION RETIREMENT PLAN FOR TOWN EMPLOYEES AND TO AUTHORIZE THE MAYOR TO ENTER INTO AN AGREEMENT WITH ACUFF & ASSOCIATES TO ADMINISTER SAID PLAN

WHEREAS, the Board of Mayor and Aldermen have determined that it is important to offer competitive compensation packages to recruit and retain Town employees and has budgeted funds for the creation of a retirement plan; and

WHEREAS, the Town has solicited and received proposals to establish a retirement plan for Town employees; and

WHEREAS, based on the proposals received and the recommendation of the Town Administrator, the Board of Mayor and Aldermen has determined that it is in the best interest of the Town to establish a §457 defined contribution retirement plan for Town employees and to enter into an agreement with Acuff & Associates to administer said plan.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the Town of Thompson's Station as follows:

That the Town Administer shall take the necessary steps to establish a §457 defined contribution retirement plan for Town employees. The plan to be offered shall require a mandatory employee contribution of 5% with a matching Town contribution. The plan shall be available to all full-time Town employees on January 1, 2016.

The Town has selected Acuff & Associates to administer the retirement plan and the Mayor shall be authorized to sign all agreements necessary to establish said plan.

RESOLVED AND ADOPTED this _____ day of _____, 2015

Corey Napier, Mayor

ATTEST:

Jennifer Jones, Town Recorder

APPROVED AS TO LEGALITY AND FORM:

Todd Moore, Town Attorney



Town of Thompson's Station
Cash Balance Report
As of October 31, 2015

	Aug-15	Sep-15	Oct-15
General Fund:			
Checking Account	\$ 483,979	\$ 579,522	\$ 406,524
Money Market Investment Accounts	4,560,605	4,561,661	5,061,661
Total General Fund Cash	\$ 5,044,583	\$ 5,141,182	\$ 5,468,184
Less: Developer Cash Bonds Held	(474,800)	(474,800)	(474,800)
Less: County Privilege Tax Held	(145,094)	(149,376)	(225,346)
Less: County Mixed Drink Tax Payable	-	(1,681)	(573)
Less: Accounts Payable	-	-	-
Less: FY16 Capital Projects			
Greenway Trail	(850,000)	(850,000)	(836,358)
Parks	(380,000)	(380,000)	(380,000)
Community Center Design	(25,000)	(25,000)	(25,000)
Town Center	(350,000)	(350,000)	(350,000)
Critz Lane Design	(50,000)	(50,000)	(50,000)
Miscellaneous	(23,210)	(23,210)	(23,210)
Cash Available - General Fund	\$ 2,746,479	\$ 2,837,115	\$ 3,102,898
Wastewater Fund:			
Checking Account	\$ 145,575	\$ 154,960	\$ 145,027
Money Market Investment Accounts	1,492,188	1,492,506	1,542,506
Total Wastewater Fund Cash	\$ 1,637,763	\$ 1,647,466	\$ 1,687,533
Less: Accounts Payable	-	-	-
Cash Available - Wastewater Fund	\$ 1,637,763	\$ 1,647,466	\$ 1,687,533
Total Cash Available	\$ 4,384,242	\$ 4,484,580	\$ 4,790,431



Town of Thompson's Station
General Fund Income and Expense Analysis
As of October 31, 2015

Year to Date
Actual versus Budget

Year to Date (33%)

	Sep-15	Oct-15	Budget	% of Budget	Comment
Income					
31111 · Real Property Tax Revenue	1,145	1,239	125,000	1%	
31310 · Interest & Penalty Revenue	67	77	-	100%	
31610 · Local Sales Tax - Trustee	178,402	243,391	600,000	41%	
31710 · Wholesale Beer Tax	28,066	37,329	95,000	39%	
31810 · City Portion of County Priv Tax	11,736	15,270	30,000	51%	
31900 · CATV Franchise Fee Income	3,424	3,424	12,000	29%	
32000 · Beer Permits	-	-	500	0%	
32200 · Building Permits	153,602	224,319	325,000	69%	
32230 · Submittal & Review Fees	21,523	23,301	30,000	78%	Roderick Phase I Preliminary Plat
32245 · Miscellaneous Fees	30	40	500	8%	
32260 · Business Tax Revenue	7,390	9,162	81,000	11%	
32300 · Impact Fees	227,396	340,069	500,000	68%	
33320 · TVA Payments in Lieu of Taxes	-	-	29,000	0%	
33510 · Local Sales Tax - State	51,659	69,924	170,000	41%	
33520 · State Income Tax	-	-	100,000	0%	
33530 · State Beer Tax	-	698	1,100	63%	
33535 · Mixed Drink Tax	1,754	2,327	1,500	155%	
33552 · State Streets & Trans. Revenue	1,365	1,819	5,500	33%	
33553 · SSA - Motor Fuel Tax	13,051	17,366	48,000	36%	
33554 · SSA - 1989 Gas Tax	2,129	2,824	7,700	37%	
33555 · SSA - 3 Cent Gas Tax	3,951	5,241	14,300	37%	
33725 · Greenways & Trails Grant	-	-	599,000	0%	
36120 · Interest Earned - Invest. Accts	2,085	2,085	4,500	46%	
36130 · Interest Income-Interfund Loan	-	-	12,000	0%	
37746 · Pavilion & Comm. Ctr. Rental	2,700	4,227	4,000	106%	
37747 · Pavilion Comm. Ctr Dep Refund	(1,900)	(2,200)	-	100%	
37990 · Other Revenue	966	1,166	-	100%	
37999 · Loan Repayment From W/W Fund	-	-	56,000	0%	
39999 · Budgeted Fund Balance - GF	-	-	741,000	0%	
Total Income	710,541	1,003,098	3,592,600		
Expense					
41110 · Payroll Expense	128,941	164,456	578,000	28%	
41141 · Payroll Taxes - FICA	7,994	10,196	29,000	35%	
41142 · Payroll Taxes - Medicare	1,870	2,385	8,000	30%	
41147 · Payroll Taxes - SUTA	582	903	3,500	26%	
41161 · Board Member Expenses	44	44	500	9%	
41211 · Postage, Freight & Express Chgs	835	1,183	4,000	30%	
41221 · Printing, Forms & Photocopy Exp	1,339	1,717	5,000	34%	
41230 · Recording & Filing Fees	115	152	1,000	15%	
41231 · Publication of Legal Notices	190	481	3,000	16%	
41235 · Memberships & Subscriptions	2,351	3,060	6,000	51%	
41241 · Utilities - Electricity	3,451	4,525	10,000	45%	
41242 · Utilities - Water	693	693	2,300	30%	
41244 · Utilities - Gas	217	289	2,000	14%	
41245 · Telecommunications Expense	1,065	1,165	4,500	26%	
41252 · Prof. Fees - Legal Fees	32,572	41,717	80,000	52%	
41253 · Prof. Fees - Auditor	0	0	4,000	0%	
41254 · Prof. Fees-Consulting Engineers	4,185	9,180	40,000	23%	
41259 · Prof. Fees - Other	11,724	11,724	60,000	20%	
41264 · Repairs & Maint - Vehicles	2,044	2,455	5,000	49%	
41265 · Parks & Rec. Expense	2,256	4,559	20,000	23%	
41266 · Repairs & Maint - Bldg	3,059	4,060	50,000	8%	
41268 · Repairs & Maint-Roads, Drainage	20,502	21,967	418,100	5%	
41269 · SSA - Street Repair Expense	0	0	70,000	0%	
41270 · Vehicle Fuel & Oil Expense	3,470	4,665	15,000	31%	
41280 · Travel Expense	52	81	2,000	4%	
41285 · Continuing Education Expense	2,323	2,383	7,000	34%	
41289 · Employee Retirement Expense	0	0	53,000	0%	
41291 · Animal Control Services	3,133	3,133	3,200	98%	Paid annually
41300 · Economic Development Expense	224	294	10,000	3%	
41311 · Office Expense	3,589	7,555	10,000	76%	
41511 · Insurance - Property	2,701	2,701	2,500	108%	Paid annually
41512 · Insurance - Workers Comp.	13,812	13,812	12,500	110%	Paid annually
41513 · Insurance - Liability	4,357	4,357	4,500	97%	Paid annually
41514 · Insurance - Employee Medical	19,816	26,263	100,000	26%	
41515 · Insurance - Auto	2,257	2,257	2,000	113%	Paid annually
41516 · Insurance - E & O	10,695	10,695	12,000	89%	Paid annually
41551 · Trustee Commission	24	26	3,000	1%	
41691 · Bank Charges	0	0	2,000	0%	
41720 · Donations	800	800	100,000	1%	
41899 · Other Expenses	174	174	10,000	2%	
41940 · Capital Projects	1,790	15,432	1,680,000	1%	
41943 · Acquisition of Public Use Prop.	26,938	26,938	-		Reimbursable property tax
49030 · Capital Outlay Note Payment	130,087	130,087	160,000	81%	Paid annually
Total Expense	425,332	538,563	3,592,600		
Net Income	285,209	464,535	0		



Town of Thompson's Station
General Fund Income and Expense Analysis
As of October 31, 2015

**Month to Month
Trend Analysis**

	Month to Month Trend Analysis				Comment
	Aug-15	Sep-15	Oct-15	Current Change	
Income					
31111 · Real Property Tax Revenue	171	106	94	(12)	
31310 · Interest & Penalty Revenue	11	9	10	1	
31610 · Local Sales Tax - Trustee	58,748	60,636	64,989	4,352	
31710 · Wholesale Beer Tax	9,095	8,990	9,263	273	
31810 · City Portion of County Priv Tax	3,547	3,135	3,534	399	
31900 · CATV Franchise Fee Income	3,424	-	-	-	Received quarterly
32000 · Beer Permits	-	-	-	-	
32200 · Building Permits	49,047	54,338	70,717	16,379	
32230 · Submittal & Review Fees	1,727	16,357	1,778	(14,579)	Roderick Phase I Preliminary Plat
32245 · Miscellaneous Fees	10	10	10	-	
32260 · Business Tax Revenue	390	3,519	1,772	(1,747)	
32300 · Impact Fees	72,547	74,688	112,673	37,985	
33320 · TVA Payments in Lieu of Taxes	-	-	-	-	
33510 · Local Sales Tax - State	17,844	15,221	18,265	3,045	
33520 · State Income Tax	-	-	-	-	
33530 · State Beer Tax	-	-	698	698	
33535 · Mixed Drink Tax	-	1,681	573	(1,108)	
33552 · State Streets & Trans. Revenue	454	455	454	(1)	
33553 · SSA - Motor Fuel Tax	4,592	4,176	4,315	139	
33554 · SSA - 1989 Gas Tax	732	695	695	-	
33555 · SSA - 3 Cent Gas Tax	1,359	1,289	1,290	1	
33725 · Greenways & Trails Grant	-	-	-	-	
36120 · Interest Earned - Invest. Accts	360	1,056	-	(1,056)	
36130 · Interest Income-Interfund Loan	-	-	-	-	
37746 · Pavilion & Comm. Ctr. Rental	2,100	150	1,527	1,377	
37747 · Pavilion Comm. Ctr Dep Refund	(100)	(1,400)	(300)	1,100	
37990 · Other Revenue	266	-	200	200	
37999 · Loan Repayment From W/W Fund	-	-	-	-	
39999 · Budgeted Fund Balance - GF	-	-	-	-	
Total Income	226,324	245,111	292,557	47,446	
Expense					
41110 · Payroll Expense	46,319	43,287	35,515	(7,772)	BOMA
41141 · Payroll Taxes - FICA	2,872	2,683	2,202	(481)	
41142 · Payroll Taxes - Medicare	672	628	515	(113)	
41147 · Payroll Taxes - SUTA	-	-	321	321	
41161 · Board Member Expenses	-	44	-	(44)	
41211 · Postage, Freight & Express Chgs	354	481	348	(133)	
41221 · Printing, Forms & Photocopy Exp	583	378	378	-	
41230 · Recording & Filing Fees	23	36	37	1	
41231 · Publication of Legal Notices	55	53	291	238	
41235 · Memberships & Subscriptions	772	38	709	671	
41241 · Utilities - Electricity	1,035	1,317	1,074	(243)	
41242 · Utilities - Water	299	186	-	(186)	
41244 · Utilities - Gas	72	73	72	(1)	
41245 · Telecommunications Expense	290	291	100	(191)	
41252 · Prof. Fees - Legal Fees	9,579	12,217	9,145	(3,072)	
41253 · Prof. Fees - Auditor	-	-	-	-	
41254 · Prof. Fees-Consulting Engineers	4,185	-	4,995	4,995	
41259 · Prof. Fees - Other	-	11,224	-	(11,224)	Placemakers
41264 · Repairs & Maint - Vehicles	1,723	321	411	90	
41265 · Parks & Rec. Expense	1,616	140	2,303	2,163	Eagle Scout Project
41266 · Repairs & Maint - Bldg	1,419	1,104	1,001	(103)	
41268 · Repairs & Maint-Roads, Drainage	7,409	9,007	1,465	(7,542)	Guardrail repair
41269 · SSA - Street Repair Expense	-	-	-	-	
41270 · Vehicle Fuel & Oil Expense	1,276	736	1,195	459	
41280 · Travel Expense	52	-	29	29	
41285 · Continuing Education Expense	149	2,174	60	(2,114)	Joe masters (final); Tammy training
41289 · Employee Retirement Expense	-	-	-	-	
41291 · Animal Control Services	-	-	-	-	
41300 · Economic Development Expense	70	-	70	70	
41311 · Office Expense	2,262	641	3,966	3,325	Annual Town Hall phone service
41511 · Insurance - Property	2,701	-	-	-	Paid annually
41512 · Insurance - Workers Comp.	-	-	-	-	
41513 · Insurance - Liability	5,607	(1,250)	-	1,250	Paid annually; rebate received
41514 · Insurance - Employee Medical	5,140	6,429	6,447	18	Normalizing after credit
41515 · Insurance - Auto	2,257	-	-	-	Paid annually
41516 · Insurance - E & O	10,695	-	-	-	Paid annually
41551 · Trustee Commission	4	2	2	-	
41691 · Bank Charges	-	-	-	-	
41720 · Donations	-	800	-	(800)	Dog and Pony Show golf carts
41899 · Other Expenses	71	41	-	(41)	
41940 · Capital Projects	-	-	13,642	13,642	Greenway design services
41943 · Acquisition of Public Use Prop.	-	-	26,938	26,938	Reimbursable property tax
49030 · Capital Outlay Note Payment	-	130,087	-	(130,087)	Paid annually
Total Expense	109,561	223,167	113,231	(109,936)	
Net Income	116,763	21,944	179,326	157,382	



Town of Thompson's Station
Wastewater Fund Income and Expense Analysis
As of October 31, 2015

Year to Date
 Actual versus Budget

	Year to Date (33%)			Comment
	Oct-15	Budget	% of Budget	
Income				
3100 · Wastewater Treatment Fees	189,829	400,000	47%	
3101 · Septage Disposal Fees	34,215	150,000	23%	
3105 · Late Payment Penalty	1,923		100%	
3109 · Uncollectible Accounts	0	(5,000)	0%	
3300 · Tap Fees	317,305	475,000	67%	
3902 · Interest Income - Invest Accts	466	300	155%	
4009 · Returned Check Charges	45		100%	
Total Income	543,783	1,020,300		
Expense				
4010 · Payroll Expense	32,252	110,000	29%	
4100 · Capital Expenditures	0	20,000	0%	
4150 · WW Infrastructure Installed	0	75,000	0%	
4210 · Permits & Fees Expense	1,277	10,000	13%	
4220 · Laboratory Water Testing	2,587	9,000	29%	
4230 · Supplies Expense	763	7,500	10%	
4240 · Repairs & Maint. Expense	3,364	81,200	4%	
4310 · Utilities - Electric	32,360	100,000	32%	
4320 · Utilities - Water	437	1,500	29%	
4390 · Insurance Expense	16,748	20,000	84%	Paid annually
4400 · Prof. Fees-Consulting Engineers	42,673	75,000	57%	Evaluations
4420 · Prof. Fees - Auditor	0	1,800	0%	
4490 · Prof. Fees - Other	0	10,000	0%	
4710 · Payroll Taxes - FICA	2,000	7,000	29%	
4720 · Payroll Taxes - Medicare	468	1,500	31%	
4730 · Payroll Taxes - SUTA	0	500	0%	
4789 · Employee Retirement Expense	0	12,000	0%	
4800 · Bank Charges	15	300	5%	
4900 · Other Expense	400	1,000	40%	Annual utility district dues
4990 · Depreciation Expense	91,668	275,000	33%	
4993 · Loan Repayment-Franklin Synergy	37,037	112,000	33%	
4994 · Interest Expense	7,183	22,000	33%	
4995 · Interest Expense-Interfund Loan	0	12,000	0%	
4999 · Loan Repayment to General Fund	0	56,000	0%	
Total Expense	271,232	1,020,300		
Net Income	272,551	0		



Town of Thompson's Station
Wastewater Fund Income and Expense Analysis
As of October 31, 2015

Month to Month
Trend Analysis

	Month to Month Trend Analysis				Comment
	Aug-15	Sep-15	Oct-15	Current Change	
Income					
3100 · Wastewater Treatment Fees	49,628	48,244	47,982	(262)	
3101 · Septage Disposal Fees	11,565	12,510	0	(12,510)	
3105 · Late Payment Penalty	302	431	975	544	
3109 · Uncollectible Accounts	0	0	0	0	
3300 · Tap Fees	79,426	75,127	92,626	17,499	
3902 · Interest Income - Invest Accts	1	318	0	(318)	
4009 · Returned Check Charges	10	35	0	(35)	
Total Income	140,932	136,665	141,583	4,918	
Expense					
4010 · Payroll Expense	9,953	7,645	7,587	(58)	
4100 · Capital Expenditures	0	0	0	0	
4150 · WW Infrastructure Installed	0	0	0	0	
4210 · Permits & Fees Expense	173	897	0	(897)	
4220 · Laboratory Water Testing	150	695	1,262	567	
4230 · Supplies Expense	0	603	160	(443)	
4240 · Repairs & Maint. Expense	845	366	806	440	
4310 · Utilities - Electric	7,831	9,070	7,022	(2,048)	
4320 · Utilities - Water	165	85	0	(85)	
4390 · Insurance Expense	16,748	0	0	0	Paid annually
4400 · Prof. Fees-Consulting Engineers	16,663	26,010	0	(26,010)	Evaluations
4420 · Prof. Fees - Auditor	0	0	0	0	
4490 · Prof. Fees - Other	0	0	0	0	
4710 · Payroll Taxes - FICA	617	474	471	(3)	
4720 · Payroll Taxes - Medicare	145	111	110	(1)	
4730 · Payroll Taxes - SUTA	0	0	0	0	
4789 · Employee Retirement Expense	0	0	0	0	
4800 · Bank Charges	0	15	0	(15)	
4900 · Other Expense	0	0	0	0	
4990 · Depreciation Expense	22,917	22,917	22,917	0	
4993 · Loan Repayment-Franklin Synergy	9,260	9,259	9,259	0	
4994 · Interest Expense	1,837	1,816	1,737	(79)	
4995 · Interest Expense-Interfund Loan	0	0	0	0	
4999 · Loan Repayment to General Fund	0	0	0	0	
Total Expense	87,304	79,963	51,331	(28,632)	
Net Income	53,628	56,702	90,252	33,550	

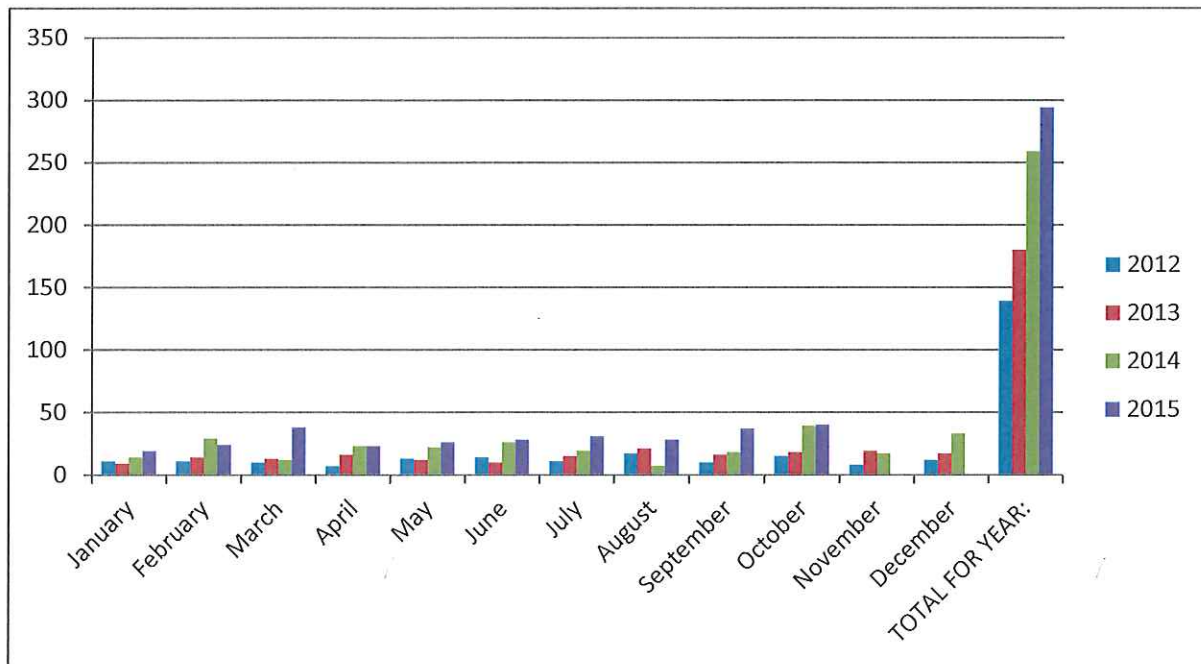
October 2015 Building Inspections - Inspections vs. Failed Inspections

<u>Date</u>	<u>Total Inspections</u>	<u>Total Failed</u>	<u>Fail Rate</u>	<u>Inspections that Failed:</u>
10/1/2015	14	3	21%	Frame; Slab (x2)
10/2/2015	17	2	12%	PRI; Frame
10/5/2015	15	4	27%	Insulation (x3); Load Points
10/6/2015	12	2	17%	Frame; Insulation
10/7/2015	16	2	13%	Deck Footing; Frame
10/8/2015	18	7	39%	Load Points; Sewer & Water; Frame (x3); Final; Foundation
10/9/2015	17	2	12%	Insulation; Foundation
10/12/2015	17	2	12%	Frame (x2)
10/13/2015	16	3	19%	Slab; PRI; Load Points
10/14/2015	16	3	19%	Frame (x2); HVAC
10/15/2015	0	0	#DIV/0!	Richard Out - No Inspections
10/16/2015	30	9	30%	Foundation; Frame(x2); Gas; Final; PRI; Lintel
10/19/2015	16	6	38%	Insulation (x2); Plumbing; Gas; Frame; Water & Sewer
10/20/2015	19	6	32%	Frame (x3); HVAC; Foundation; Gas (x2)
10/21/2015	17	7	41%	Frame (x2); Water & Sewer (x2); PRI; Slab (x2)
10/22/2015	19	2	11%	Footing; Slab
10/23/2015	17	0	0%	
10/26/2015	13	0	0%	
10/27/2015	10	1	10%	Gas
10/28/2015	14	5	36%	Foundation; Final (x2); PRI (x2)
10/29/2015	19	1	5%	Frame
10/30/2015	30	5	17%	Frame (x2); Footing; Final; PRI
<u>TOTAL for September</u>	<u>348</u>	<u>69</u>	<u>20%</u>	
Average/Day	17	3	19%	

New Residential Permits Issued 2012-2015

Monthly Comparison

	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>
January	11	9	14	19
February	11	14	29	24
March	10	13	12	38
April	7	16	23	23
May	13	12	22	26
June	14	10	26	28
July	11	15	19	31
August	17	21	7	28
September	10	16	18	37
October	15	18	39	40
November	8	19	17	
December	12	17	33	
TOTAL FOR YEAR:	<u>139</u>	<u>180</u>	<u>259</u>	<u>294</u>



ORDINANCE NO. 2015-008

**AN ORDINANCE OF THE TOWN OF THOMPSON'S STATION,
TENNESSEE, TO AMEND TITLE 19 OF THE MUNICIPAL CODE
REGARDING CABLE AND TELECOMMUNICATION SERVICES
WITHIN THE TOWN.**

WHEREAS, the Town's current cable franchise with Crystal Clear Technologies, LLC ("Crystal Clear") is set to expire; and

WHEREAS, the Town has notified Crystal Clear that it will not renew the current franchise agreement; and

WHEREAS, the Board of Mayor and Aldermen have determined that it is in the best interest of the Town to adopt comprehensive regulations for the use of its rights of way for cable and telecommunication service providers in accordance with state and federal law.

NOW, THEREFORE, BE IT ORDAINED by the Town of Thompson's Station as follows:

Section 1. That Title 19 of the Municipal Code is hereby titled **Cable, Telecommunications, Utilities, Etc.** and as is amended by adding the following new Chapters:

- Chapter 1. General (Exhibit A)
- Chapter 2. Cable (Exhibit B)
- Chapter 3. Telecommunications (Exhibit C)

The text of all of the above chapters are attached hereto incorporated herein by reference.

Section 2. All Prior Conflicting Ordinances Repealed; Interpretation. That upon the effective date of this ordinance, all prior ordinances and resolutions in conflict herewith be repealed. In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall be controlling.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 4. Effective date; applicability. This ordinance shall take effect upon publication in a newspaper of general circulation within the Town after final reading, the public welfare requiring.

Duly approved and adopted by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee.

Corey Napier, Mayor

ATTEST:

~~Chandra Broughton~~, Town Recorder
Jennifer Jones

Passed First Reading: 9/8/2015

Passed Second Reading: _____

Submitted to Public Hearing on the 13th day of October 2015, at 7:00 p.m., after being advertised in the *Williamson AM* Newspaper on the _____ day of _____, 2015.

APPROVED AS TO FORM AND LEGALITY:

Todd Moore, Town Attorney

ARTICLE I. - GENERAL

- Sec. 19-101. - Purpose of chapter.
- Sec. 19-102. - Definitions.
- Sec. 19-103. - Penalty for violation of chapter.
- Sec. 19-104. - Other remedies.
- Sec. 19-105. - Rights reserved.

Sec. 19-101. - Purpose of chapter.

The purpose and intent of this chapter is to:

- (1) Establish a local policy concerning telecommunications carriers and services and cable service providers and cable service and establish clear local guidelines, standards and time frames for the exercise of local authority with respect to the regulation of telecommunications carriers and services and cable service providers and cable service;
- (2) Promote competition in telecommunications and cable services;
- (3) Encourage the provision of advanced and competitive telecommunications services on the widest possible basis to the businesses, institutions and residents of the Town;
- (4) Permit and manage reasonable access to the streets of the Town for cable or telecommunications purposes on a competitively neutral basis;
- (5) Conserve the limited physical capacity of the streets held in public trust by the Town;
- (6) Ensure that the Town's current and ongoing costs of granting and regulating private access to and use of the streets are fully paid by the persons seeking such access and causing such costs;
- (7) Secure fair and reasonable compensation to the Town and the residents of the Town for permitting private use of the streets;
- (8) Ensure that all cable and telecommunications carriers providing facilities or services within the Town comply with the ordinances, rules and regulations of the Town; ensure that the Town can continue to fairly and responsibly protect the public health, safety and welfare; ~~and~~
- (9) Enable the Town to discharge its public trust consistent with rapidly evolving federal and state regulatory policies, industry competition and technological development; ~~and~~
- (10) Establish reasonable rules and regulations to protect customers receiving cable and telecommunication services within the Town.

Sec. 19-102. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Affiliate means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with another person.

FCC means the Federal Communications Commission and any legally appointed, designated or elected agent or successor.

Force majeure means a strike, acts of nature, acts of public enemies, orders of any kind of a government of the United States of America, riots, epidemics, landslides, lightning, earthquakes, fires, tornadoes, storms, floods, civil disturbances, explosions, partial or entire failure of utilities or any other cause or event not reasonably within the control of the disabled party, but only to the extent the disabled party notifies the other party as soon as practicable regarding such force majeure.

Person means and includes corporations, companies, associations, joint stock companies or associations, firms, partnerships, limited liability companies and individuals and includes their lessors, trustees and receivers.

Town means the Town of Thompson's Station, Tennessee, the grantor of rights under this article.

Town property means all real property owned by the Town, other than public streets and utility easements as those terms are defined in this section, and all property held in a proprietary capacity by the Town, which are not subject to right-of-way franchising as provided in this chapter.

Sec. 19-103. - Penalty for violation of chapter.

Any person found guilty of violating, disobeying, omitting, neglecting or refusing to comply with any of the provisions of this chapter shall be fined not more than \$50.00 for each offense. A separate and distinct offense shall be deemed committed each day on which a violation occurs or continues.

Sec. 19-104. - Other remedies.

Nothing in this chapter shall be construed as limiting any judicial remedies that the Town may have, at law or in equity, for enforcement of this chapter. All franchise agreements approved by the Town shall provide that if it is necessary for the Town to file suit against the franchisee to enforce the provisions of this ordinance or the franchise agreement, and if the Town is the prevailing party in such suit, then the franchisee shall be required to reimburse the Town for all costs of enforcement, including reasonable attorneys' fees.

Sec. 19-105. - Rights reserved.

The Town hereby expressly reserves the following rights which shall not be deemed to be waived or abrogated by any franchise granted pursuant to this chapter:

- (1) Exercise its governmental powers, now or hereafter, to the full extent that such powers may be vested in or granted to the Town.
- (2) Adopt, in addition to the provisions contained in this chapter and in a franchise, issued by the Town or the state, or license and in any existing applicable ordinance, such additional regulations as it shall find necessary in the exercise of its police power.
- (3) Amend this chapter or any franchise granted pursuant to this chapter to require reasonable and appropriate modifications in a franchise of a nature that would not result in effectively terminating such franchise.
- (4) Renegotiate any franchise granted pursuant to this chapter should substantial sections of this chapter be rendered void by subsequent changes in applicable federal or state laws.
- (5) Waive portions of this chapter if the Town determines such waiver is in the public interest.

In furtherance of these reserved rights and the purposes of this chapter, the provisions contained herein shall be minimum requirements and to the extent permitted by law, the Town may establish additional terms and conditions as a part of any franchise agreement.

ARTICLE II. - CABLE

- Sec. 19-201. - Definitions.
- Sec. 19-202. - Rights and privileges of company.
- Sec. 19-203. - Binding effect.
- Sec. 19-204. - Franchise territory.
- Sec. 19-205. - Duration and acceptance of franchise.
- Sec. 19-206. - Franchise renewal.
- Sec. 19-207. - Police powers.
- Sec. 19-208. - Cable television franchise.
- Sec. 19-209. - Use of company facilities.
- Sec. 19-210. - Costs.
- Sec. 19-211. - Notices.
- Sec. 19-212. - Letter of credit/security deposit.
- Sec. 19-213. - Performance bond.
- Sec. 19-214. - Liability and insurance.
- Sec. 19-215. - Indemnification.
- Sec. 19-216. - Rights of individuals.
- Sec. 19-217. - Public notice.
- Sec. 19-218. - Service availability and record request.
- Sec. 19-219. - System construction, improvement or extension requirements.
- Sec. 19-220. - Construction and technical standards.
- Sec. 19-221. - Use of streets.
- Sec. 19-222. - Operational standards.
- Sec. 19-223. - Continuity of service mandatory.
- Sec. 19-224. - Complaint procedure.†
- Sec. 19-225. - Company rules and regulations.
- Sec. 19-226. - Franchise fee
- Sec. 19-227. - Capital contribution.
- Sec. 19-228. - Transfer of ownership or control.
- Sec. 19-229. - Availability of books and records.
- Sec. 19-230. - Other petitions and applications.
- Sec. 19-231. - Fiscal reports.
- Sec. 19-232. - Removal of cable system.
- Sec. 19-233. - Required services and facilities.
- Sec. 19-234. - Rules and regulations.
- Sec. 19-235. - Performance evaluation sessions.
- Sec. 19-236. - Rate change procedures.
- Sec. 19-237. - Forfeiture and termination.
- Sec. 19-238. - Foreclosure.
- Sec. 19-239. - Approval of transfer and right of acquisition by the Town.
- Sec. 19-240. - Receivership.
- Sec. 19-241. - Compliance with state and federal laws.
- Sec. 19-242. - Landlord/tenant.
- Sec. 19-243. - Initial application.
- Sec. 19-244. - Financial, contractual, shareholder and system disclosure in initial application.

Sec. 19-245. - Theft of services and tampering.
Sec. 19-246. - Penalties.
Sec. 19-247. - Force majeure.

Sec. 19-201. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Basic service means that service tier which includes the retransmission of local television broadcast signals and any community, educational and government access channel requirements under this article. The term "basic service" does not include optional program and satellite service tiers, a la carte services, per channel, per program or auxiliary services for which a separate charge is made. However, a company may include other satellite signals on the basic service.

Cable service means the one-way transmission, via a cable system, to subscribers of video programming, or other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service.

Cable system or system means a facility, consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within the Town, but such term does not include:

- (1) A facility that serves only to retransmit the television signals of one or more television broadcast stations;
- (2) A facility that serves subscribers, unless such facility or facilities uses directly, as licensee, or otherwise, any public right-of-way;
- (3) A facility of a common carrier which is subject, in whole or in part, to the provisions of title 11 of the Cable Television Consumer Protection and Competition Act of 1992 (the act), except that such facility shall be considered a cable system (other than for purposes of section 621(c) of the act) to the extent such facility is used in the transmission of video programming directly to subscribers; or
- (4) Any facilities of any electric utility used solely for operating its electric utility systems.

Class IV channel means a signaling path provided by a cable system to transmit signals of any type from a subscriber terminal to another point in the cable system.

Company means a grantee of rights under this article by means of an award of a franchise, or a grantee of rights in a state-issued franchise (state issued certificate of franchise authority) pursuant to the Competitive Cable and Video Services Act by means of an award of a franchise, or its permitted successor, transferee or assignee, or an applicant therefor.

Converter means an electronic device which converts signals to a frequency not susceptible to interference within the television receiver of a subscriber, and by an appropriate channel

selector also permits a subscriber to view more than 12 channels delivered by the system at designated converter dial locations.

Franchise means the right of a company to operate a cable system within the Town for a limited term and in a manner in agreement with this article and, if the franchise is a state-issued franchise, the Competitive Cable and Video Services Act as well.

Gross revenues means all revenue received directly or indirectly by a company from cable system operations within the Town including, but not limited to, subscriber service monthly fees, pay cable fees, installation and reconnection fees, leased channel fees, converter rentals, studio rental, production equipment, personnel fees, late fees, downgrade fees, home shopping service commissions and advertising commissions; provided, however, that such shall not include any taxes on services furnished by a company imposed directly upon any subscriber or user by the state, local or other governmental unit and collected by the company on behalf of the governmental unit.

Initial application means the document setting forth the proposed terms for a franchise to be awarded by the Town to a company for a new franchise as opposed to the renewal of a franchise.

Installation means the connection of the system from feeder cable to subscribers' terminals. The term shall include all procedures required to complete service standards, including underground installation of service lines and restoration of lawn areas.

Monitoring means observing a communications signal, or the absence of a signal, where the observer is neither the subscriber nor the programmer, whether the signal is observed by visual or electronic means, for any purpose whatsoever; provided, however, that monitoring shall not include system wide, nonindividually addressed sweeps of the system for purposes of verifying system integrity, controlling return paths transmissions, or billing for pay services.

Normal business hours, (as applied to the company), means those hours during which similar businesses in the Town are open to serve customers. In all cases, normal business hours means that a company will be open for subscriber transactions Monday through Friday from 8:00 a.m. to 5:00 p.m., unless there is a need to modify those hours to fit more appropriately the needs of the Town or the subscribers. A company will establish supplemental hours on weekdays and weekends if it would fit the needs of the Town or the subscribers.

Normal operating conditions means those service conditions which are within the control of the company. Those conditions which are not within the control of the company include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the company include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.

PEG facility means the public, educational and governmental access facility maintained by the Town.

Renewal proposal means a document setting forth the proposed terms for the renewal of an existing franchise to a company already functioning as an operator of a cable system for the Town.

Street means the surface of all rights-of-way and the space above and below, of any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the Town for the purpose of public travel, and shall also mean other easements or rights-of-way as shall be now held or hereafter held by the Town which shall within their proper use and meaning, entitle a company to the use thereof for the purposes of installing poles, wires, cable, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable system.

Service interruption means the loss of picture or sound on one or more channels.

Subscriber means any person, firm, company, corporation or association lawfully receiving basic service and/or additional service from the company.

State-issued franchise (state issued certificate of franchise authority) means a franchise applied for and granted by the State of Tennessee pursuant to the Competitive Cable and Video Services Act, T.C.A. § 7-59-301, et seq., as may be amended

User means a party utilizing a cable system channel for purposes of production or transmission of material to subscribers, as contrasted with receipt thereof in a subscriber capacity.

Sec. 19-202. - Rights and privileges of company.

- (a) A franchise granted by the Town pursuant to this article or a state-issued franchise shall grant to a company the nonexclusive right and privilege to erect, construct, operate and maintain in, upon, and along, across, above, over and under the streets, now in existence and as may be created or established during the term hereof, any poles, wires, cable, underground conduits, manholes and other television conductors and fixtures necessary for the maintenance and operation of a system for the interception, sale, transmission and distribution of cable service and other audiovisual and data signals and the right to transmit the same to the inhabitants of the Town on the terms and conditions set forth in this section.
- (b) It is understood that there may be from time to time within the Town various streets which the Town does not have the unqualified right to authorize a company to use because of reservations in favor of the dedicators or because of other legal impediments; therefore, in making this grant, the Town does not warrant or represent as to any particular street or portion of a street that it has the right to authorize a company to install or maintain portions of its system therein, and in each case the burden and responsibility for making such determination in advance of the installation shall be upon a company.
- (c) The right to use the streets, easements and rights-of-way granted in this section or in a state-issued franchise is subject to all ordinances in the Town addressing access and use of streets, easements and rights-of-way, the terms of all rights or franchises heretofore granted by the Town, and to the terms of all rights or franchises hereafter granted by the Town or by the state to companies with a franchise granted pursuant hereto or by the state and/or other companies primarily engaged in the rendering of public utilities service.

- (d) Nothing in this section shall vest a company any property rights in the Town-owned property, nor shall the Town be compelled to maintain any of its property any longer than or in any fashion other than in the Town's judgment its own business or needs may require.

Sec. 19-203. - Binding effect.

- (a) Upon grant of a franchise pursuant hereto or by the state and acceptance thereof by a company, a company will be bound by all the terms and conditions contained in this article except, in the case of a state-issued franchise, should there be a direct and clear conflict with this article and the applicable state law, such state law would control.
- (b) Upon grant and acceptance of a franchise issued by the Town, a company and the Town shall agree, either in the franchise agreement itself or in a separate document, as to all financial obligations of the company to the Town associated with the franchise.

Sec. 19-204. - Franchise territory.

A franchise granted by the Town or a state-issued franchise is for the present territorial limits of the Town and for any area henceforth added thereto during the term of the franchise.

Sec. 19-205. - Duration and acceptance of franchise.

A franchise and the rights, privileges and authority hereby granted shall take effect and be in force from and after final grant and acceptance thereof by a company for the term specified in an initial proposal or renewal proposal as the case may be or for the term set forth in the state-issued franchise, which term may be for not more than 20 years; provided, however, that by appropriate agreement certain obligations may be deemed to commence from a date prior to the final grant and acceptance of a franchise. Acceptance by a company of a franchise shall constitute a representation or warranty that it accepts the franchise willingly and without coercion, undue influence and duress, that it has not misrepresented or omitted material facts, has not accepted the franchise with intent to act contrary to the provisions of this article, and that, so long as it operates the cable system, it will be bound by the terms and conditions of this franchise, subject to applicable state and federal law.

Sec. 19-206. - Franchise renewal.

- (a) A franchise may be renewed by the Town in accordance with the procedures delineated in 47 USC 546 or other applicable statutory requirements.
- (b) In the absence of statutory requirements:
- (1) At least 24 months prior to the expiration of its franchise, a company shall inform the Town in writing of its intent to seek renewal of the franchise.
 - (2) Such company shall submit a renewal proposal which demonstrates that:

- a. It has been and continues to be in substantial compliance with the terms, conditions and limitations of this article and its franchise;
 - b. Its system has been installed, constructed, maintained and operated in accordance with the accepted standards of the industry, and this article and its franchise;
 - c. It has the legal, technical, financial and other qualifications to continue to maintain and operate its system, and to improve the same as the state of art progresses so as to ensure its subscribers high quality service; and
 - d. It has made a good faith effort to provide services and facilities which accommodate and will accommodate the demonstrated needs of the Town and its residents as may be reasonably ascertained by the Town.
- (3) After giving public notice, as defined in section 19-217, the Town shall proceed to determine whether the company has met the requirements of section 19-205. In making this determination, the Town shall consider technical developments and performance of the system, programming and other services offered, cost of services, and any other particular requirements set out in this article. Also, the Town shall consider a company's reports made to the Town and the FCC; may require a company to make available specified records, documents and information for this purpose; and may inquire specifically whether a company will supply services sufficient to meet community needs and interests. Industry performance on a national basis shall also be considered. Provision shall be made for public comment.
- (4) The Town shall then adopt any amendments to this article that it considers necessary.
- (5) If the Town finds the company's performance satisfies the renewal requirements as set out in statutory requirements or, in lieu thereof, satisfies the four criteria outlined above in subsection (b)(2) of this section, a new franchise shall be granted pursuant to this article, as amended.
- (6) If a company is determined by the Town not to have satisfied the criteria described at subsection (b)(2) of this section, new applicants shall be sought and evaluated and a franchise award shall be granted by the Town according to this article.

Sec. 19-207. - Police powers.

- (a) In accepting a franchise issued by the Town or the state, a company acknowledges that its rights under this article are subject to the police power of the Town to adopt and enforce general ordinances necessary to the safety and welfare of the public; and it agrees to comply with all applicable general laws and ordinances enacted by the Town pursuant to such power.
- (b) Any conflict between the provisions of this article and/or a franchise and any other present or future lawful exercise of the Town's police powers shall be resolved in favor of the latter, except that any such exercise that is not of general application in the Town or which applies exclusively to a company or cable systems and which contains provisions inconsistent with this article and/or a franchise, shall prevail only if upon such exercise the Town finds an

emergency exists constituting a danger to health, safety, property or such exercise is mandated by law.

- (c) The right is hereby reserved to the Town to adopt, in addition to the provisions contained in this article and in existing applicable ordinances, such additional regulations as it shall find necessary in the exercise of the police power. Nothing in this article or in any agreement under this article awarding a franchise or in any franchise granted by the state shall be construed as an abrogation by the Town of its police power.

Sec. 19-208. - Cable television franchise.

Any person or entity who desires to construct, install, operate, maintain, lease or otherwise locate or continue to locate, a cable system in any street of the Town for the purpose of providing cable service to persons in the Town shall obtain a cable franchise from the Town pursuant to article II of this chapter or a state-issued franchise pursuant to the Competitive Cable or Video Services Act, T.C.A. § 7-59-301, et seq., as may be amended.

Sec. 19-209. - Use of company facilities.

The Town shall have the right, during the term of any franchise, whether issued by the Town or the state, to install and maintain free of charge upon the poles of a company or on or within any easements or facilities owned or used by a company, any wire, pole or other fixtures that do not unreasonably interfere with the cable system operations of such company.

Sec. 19-210. - Costs.

A company shall bear the following costs: all reasonable and justifiable charges or costs incidental to the awarding, renewal or enforcement of a franchise including, but not limited to, payments for bonds, security funds, letters of credit, insurance, indemnification, penalties or liquidated damages.

Sec. 19-211. - Notices.

All notices from a company to the Town shall be addressed to the Town Administrator at Town Hall. Company shall maintain with the Town, throughout the term of its franchise, an address for service of notices by mail.

Sec. 19-212. - Letter of credit/security deposit.

- (a) Within 15 days after the award of a franchise whether by the Town or the state, a company shall deposit with the Town either a letter of credit from a federally insured financial

institution, or a security deposit in such an institution, in immediately available funds in the amount of \$50,000.00. The sole condition of the letter of credit shall be written notice by the Town to the issuer that a company is in default under the franchise. The security deposit must be available for draw by the Town without condition. The form, issuer and content of such letter of credit or security deposit shall be approved by the Town. These instruments shall be used to ensure the faithful performance of a company of all provisions of its franchise, compliance with all orders, permits and directions of any agency, commission, board, department, division or office of the Town having jurisdiction over its acts or defaults under its franchise and the payment by a company of any claims, liens and taxes due the Town which arise by reason of the construction, operation or maintenance of the system.

- (b) The letter of credit or security deposit shall be maintained at the amount of \$50,000.00 for the entire term of a franchise even if sums are withdrawn therefrom pursuant to subsections (a) or (c) of this section.
- (c) If a company fails to pay to the Town any sum due under its franchise within the time required; or fails after 15-days' notice to pay to the Town any taxes due and unpaid; or fails to repay the Town within 15 days, any damages, costs or expenses which the Town is compelled to pay by reason of any act or default of a company in connection with its franchise; or fails, after 15-days' notice of such default to comply with any provision of its franchise which the Town reasonably determines can be remedied, the Town may immediately demand payment of the amount thereof, with interest and any penalties, from the issuer of the letter of credit or the holder of such security deposit. Upon such demand for payment, the Town shall notify the company of the amount and date thereof.
- (d) The rights reserved to the Town with respect to the letter of credit and security deposit are in addition to all other rights of the Town, and no action, proceeding or exercise of a right with respect to such letter of credit or security deposit shall affect any other right the Town may have.
- (e) The letter of credit shall contain the following endorsement: "It is hereby understood and agreed that this letter of credit may not be canceled or not renewed until 30 days after receipt by the Town, by certified mail, of a written notice of such intention to cancel or not to renew."
- (f) Upon receipt of such 30-day notice, such shall be construed as a default granting the Town the right to call for payment of either the security deposit or letter of credit.
- (g) Notwithstanding the foregoing provisions of this section, if a company makes application to the Town to be relieved from furnishing a letter of credit, the Town Administrator may waive the requirement for such bond or reduce the required amount thereof if the Town Administrator determines that, for state-issued franchises, that compliance with T.C.A. § 7-59-305(c)(6) as to financial qualifications of a cable service provider has been complied with and, for Town-issued franchises, that:
 - (1) Such company has a net worth of not less than \$50,000,000.00 as reflected by its most current audited financial statement; and
 - (2) The performance of such company of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the Town and with respect to other

parties with which such company has had obligations of construction or improvements to cable systems.

Sec. 19-213. - Performance bond.

- (a) Thirty days prior to commencing any construction, whether such construction consists of improvements to the existing system or construction of a new system, a company shall file with the Town a performance bond and payment bond in the amount of not less than 50 percent of the costs necessary to perform such construction. This bond shall be maintained throughout the construction period and thereafter until such time as determined by the Town. The form and content of such bond shall be approved by the Town.
- (b) If a company fails to comply with any law, ordinance or resolution governing its franchise or fails to well and truly observe, fulfill and perform each term and condition of its franchise, as it relates to the conditions relative the construction of the system, there shall be recoverable jointly and severally, from the principal and surety of the bond, any damages or loss suffered by the Town as a result, including the full amount of any compensation, indemnification, or costs of removal or abandonment of any property of the company, plus a reasonable allowance for attorney's fees, including the Town's legal staff, and costs, up to the full amount of the bond. This section shall be an additional remedy for any and all violations outlined in section 19-43.
- (c) The Town will, upon completion of construction, waive further maintenance of such bonds. However, the Town may require a like bond to be posted by a company for any construction subsequent to the completion of any improvements or construction of a new system.
- (d) Notwithstanding the foregoing provisions of this section, if a company makes application to the Town to be relieved from furnishing a performance and payment bond relative to construction of a system or improvements thereto, the Town Administrator may waive the requirement for such bond or reduce the required amount thereof if the Town Administrator determines, for state-issued franchises, that compliance with T.C.A. § 7-59-305(c)(6) as to financial qualifications of a cable service provider has been complied with and, for Town-issued franchises that:
 - (1) Such company has a net worth of not less than \$50,000,000.00 as reflected by its most current audited financial statement; and
 - (2) The performance of such company of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the Town and with respect to other parties with which such company has had obligations of construction or improvements to cable systems.

Sec. 19-214. - Liability and insurance.

- (a) A company shall maintain and by its acceptance of a franchise specifically agrees that it will maintain, throughout the term of its franchise, liability insurance insuring the Town and the company in the minimum amounts of:

- (1) One million dollars for property damage due to any one person;
 - (2) One million dollars for property damage due to any one accident;
 - (3) One million dollars for personal injury due to any one person; and
 - (4) One million dollars for personal injury due to any one accident.
- (b) In order to comply with this section, the insurance policy must be obtained by a company from an insurance company licensed to do business in the state and rated not less than A- by Best or a comparable insurance rating service. Certificates of insurance, along with written evidence of payment of required premiums, shall be filed and maintained with the Town during the term of a franchise and may be changed from time to time to reflect changing liability limits. The company shall immediately advise the Town of any litigation that may develop that would affect this insurance.
- (c) Nothing contained in this section or in any franchise document shall limit the liability of a company to the Town.
- (d) All insurance policies maintained pursuant to a franchise shall contain the following endorsement: "It is hereby understood and agreed that this insurance policy may not be canceled or not renewed until 30 days after receipt by the Town, by certified mail, of a written notice of such intention to cancel or not to renew."

Sec. 19-215. - Indemnification.

- (a) A company shall, at its sole cost and expense, fully indemnify, defend and hold harmless the Town, its officers, boards, commissions and employees, against any and all claims, defense of suits, actions, and any liability and judgments for damages including, but not limited to, expenses for reasonable legal fees and disbursements and liabilities assumed by the Town in connection therewith:
- (1) To persons or property, in any way arising out of or through the acts or omissions of a company, its servants, agents or employees, or to which a company's negligence shall in any way contribute;
 - (2) Arising out of any claim for invasion of the right of privacy, for defamation of any person, firm or corporation, or the violation or infringement of any copyright, trademark, trade name, service mark or patent, or of any other right of any person, firm or corporation (excluding claims arising out of or relating to Town programming); and
 - (3) Arising out of a company's failure to comply with the provisions of any federal, state or local statute, ordinance or regulation applicable to a company in its business under this article.
- (b) The indemnity described in subsection (a) of this section is conditioned upon the following: The Town shall give a company prompt notice of the making of any claim or the commencement of any action, suit or other proceeding covered by the provisions of this section. Nothing in this section shall be deemed to prevent the Town from cooperating with a company and participating in the defense of any litigation by its own counsel at its sole cost and expense. The company shall fully control the defense to any claim or action and

any settlement or compromise thereof. No recovery by the Town of any sum by reason of the letter of credit or security deposit required in section 19-43 shall be any limitation upon the liability of a company to the Town under the terms of this section, except that any sum so received by the Town shall be deducted from any recovery which the Town might have against the company under the terms of this section.

Sec. 19-216. - Rights of individuals.

- (a) A company shall not deny service, deny access or otherwise discriminate against subscribers, channel users or other citizens on the basis of race, color, religion, national origin, income or sex. A company shall comply at all times with all other applicable federal, state and local laws and regulations and all executive and administrative orders relating to nondiscrimination which are hereby incorporated and made part of this article by reference.
- (b) A company shall strictly adhere to the equal employment opportunity requirements of the FCC and similar state and local laws, ordinances and regulations, as amended from time to time.
- (c) A company shall at all times comply with applicable state and federal law with respect to privacy rights of subscribers, as such laws may change from time to time.
- (d) A company may not enter into or attempt to enforce the terms of any exclusive bulk service agreement, or any other non-competitive agreement, that violates state or federal law, including FCC rules, rulings or regulations.
- (e) A company, or any of its agents or employees, shall not invoice, threaten to sue or otherwise attempt to require any person or entity within the Town to pay for telecommunications services for which they have not individually and directly entered into a contract to receive.
- (f) A company may not enter into an agreement with any customer which extends beyond the term of its franchise agreement with the Town.
- (g) A company, or any of its agents or employees, shall not, without specifically providing notice to subscribers, such notice allowing each subscriber to prohibit the inclusion of his name, sell or otherwise make available to any party:
 - (1) Lists of the names and addresses of such subscribers; or
 - (2) Any list which identifies the viewing habits of subscribers.

Sec. 19-217. - Public notice.

A company shall give minimum public notice of any public meeting relating to its franchise by publication at least once in a local newspaper of general circulation at least ten (10) days prior to the meeting, posting at the Town Hall, and on the Town website for five (5) consecutive days prior to the meeting.

Sec. 19-218. - Service availability and record request.

A company shall provide cable service throughout the Town pursuant to the provisions of its franchise and shall keep a record for at least three years of all requests for service received by such company. This record shall be available for public inspection at the local office of such company during normal business hours.

Sec. 19-219. - System construction, improvement or extension requirements.

- (a) The specifics for a timetable for system construction, extension or improvement (construction) shall be agreed to by the Town and a company in writing. When determining the specifics of a timetable, the following shall be considered:
 - (1) The areas of the Town currently being served with cable service;
 - (2) The need to provide cable service to residents in new developments in the Town in a timely and feasible manner;
 - (3) The equitable treatment of all of the Town's residents;
 - (4) The need to foster competition between all companies providing cable service to the Town to ensure the highest quality cable service to the Town; and
 - (5) Such other matters presented due to the then existing circumstances.
- (b) In addition to the specifics of any construction timetable agreed to by the Town and a company, the following requirements shall apply:
 - (1) No subscriber shall be refused cable service arbitrarily.
 - (2) Any construction delay beyond any terms of an agreed construction timetable, unless specifically approved by the Town, will be considered a violation of this article and the applicable franchise.
 - (3) In isolated areas of the Town not being provided cable service pursuant to the terms of an agreement for a franchise, a company shall provide, upon the request of a resident desiring cable service, an estimate of the costs required to extend cable service to the potential subscriber. A company shall then extend cable service upon request of the resident and such resident's agreement to pay such costs. A company may require advance payment or assurance of payment satisfactory to such company. Notwithstanding the foregoing, a resident will not be required to contribute toward the costs required to extend cable service to such resident if the connection to the isolated resident would require no more than a standard 150-foot aerial drop line.
 - (4) In cases of new construction or property development where utilities are to be placed underground, the developer or property owner shall give a company reasonable notice of such construction or development, and of the particular date on which open trenching will be available for a company's installation of conduit, pedestals and/or vaults, and laterals to be provided at the company's expense. A company shall also provide specifications as needed for trenching. Costs of trenching and easements required to bring cable service to the development shall be borne by the developer or property

owner; except that if the company fails to install its conduit, pedestals and/or vaults, and laterals within five working days of the date the trenches are available, as designated in the notice given by the developer or property owner, then should the trenches be closed after the five-day period, the cost of new trenching is to be borne by the company. Except for the notice of the particular date on which trenching will be available to a company, any notice provided to a company by the Town of a preliminary plat request shall satisfy the requirement of reasonable notice if sent to the local general manager or system engineer of a company prior to approval of the preliminary plat request.

Sec. 19-220. - Construction and technical standards.

- (a) A company shall construct, install, operate and maintain its system in a manner consistent with all laws, ordinances, construction standards, governmental requirements, FCC technical standards and detailed standards submitted by a company as part of its initial application or renewal proposal, which standards are incorporated by reference in this section. In addition, a company shall provide the Town, upon request, with a written report of the results of a company's annual proof of performance tests conducted pursuant to FCC standards and requirements.
- (b) Additional specifications:
- (1) Construction, installation and maintenance of the cable system shall be performed in an orderly and workmanlike manner. All cables and wires shall be installed, where possible, parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations.
 - (2) A company shall at all times comply with:
 - a. National Electrical Safety Code (National Bureau of Standards);
 - b. National Electrical Code (National Bureau of Fire Underwriters);
 - c. Bell System Code of Pole Line Construction; and
 - d. Applicable FCC or other federal, state and local regulations.
 - (3) In any event, the system shall not endanger or interfere with the safety of persons or property in the Town or other areas where a company may have equipment located.
 - (4) Any antenna structure used in the system shall comply with construction, marking and lighting of antenna structure required by the United States Department of Transportation.
 - (5) All working facilities and conditions used during construction, installation and maintenance of the cable system shall comply with the standards of the Occupational Safety and Health Administration and/or any legally appointed, designated or elected agent or successor. "
 - (6) RF leakage shall be checked at reception locations for emergency radio services to prove no interference signal combinations are possible. Stray radiation shall be measured adjacent to any proposed aeronautical navigation radio sites to prove no

interference to airborne navigational reception in the normal flight patterns. FCC rules and regulations shall govern.

- (7) A company shall maintain equipment capable of providing standby power for head end, transportation and trunk amplifiers for a minimum of two hours or equivalent standby power to maintain an acceptable signal.
- (8) In all areas of the Town where the cables, wires and other like facilities of public utilities are placed underground, a company shall place its cables, wires or other like facilities underground. When public utilities relocate their facilities from pole to underground, a company must concurrently do so.

Sec. 19-221. - Use of streets.

- (a) A company's system, poles, wires and appurtenances shall be located, erected and maintained so that none of its facilities shall endanger or interfere with the lives of persons or interfere with the rights or reasonable convenience of property owners who adjoin any of the streets, or interfere with any improvements the Town may deem proper to make, or unnecessarily hinder or obstruct the free use of the streets.
- (b) In case of any disturbance of any street, pavement, sidewalk, driveway or other surfacing, grass or landscaping, a company shall, at its own cost and expense and in a manner approved by the Town, replace and restore such places so disturbed, in as good condition as before the work was commenced and in accordance with standards for such work set by the Town.
- (c) Erection, removal and common uses of poles:
 - (1) No poles or other wire-holding structures shall be erected by a company without prior approval of the Town with regard to location, height, types and any other pertinent aspect. However, no location of any pole or wire-holding structure of a company shall be a vested interest and such poles or structures shall be removed or modified by a company at its own expense whenever the Town determines that the public convenience would be enhanced thereby.
 - (2) Where poles or other wire-holding structures already existing for use in serving the Town are available for use by a company, but it does not make arrangements for such use, the Town may require a company to use such poles and structures if it determines that the public convenience would be enhanced thereby and the terms of the use available to a company are just and reasonable.
 - (3) Where the Town or a public utility serving the Town desires to make use of the poles or other wire-holding structures of a company, but agreement thereof with a company cannot be reached, the Town may require a company to permit such use for such consideration and upon such terms as the Town shall determine to be just and reasonable, if the Town determines that the use would enhance the public convenience and would not unduly interfere with a company's operations.

- (4) No aerial cable shall be installed so that it interferes with the view of traffic control devices including traffic signal heads or similar apparatus. If, in the opinion of the Town, a cable is installed in such a manner so as to interfere with the unobstructed view of a traffic control device, then in the interest of public safety, the installer shall relocate or adjust the cable immediately upon receipt of notice from the Town of such interference at such company's expense.
- (d) If, at any time during the period of a franchise, the Town shall lawfully elect to alter, or change the grade of any street, a company, upon reasonable notice by the Town, shall remove or relocate as necessary its poles, wires, cables, underground conduits, manholes and other fixtures at its own expense. No location of any underground or aboveground facility or structure of any company shall be a vested interest, and such poles or structures shall be removed or modified by a company at its own expense whenever the Town determines that the public convenience would be enhanced thereby. Notwithstanding anything to the contrary foregoing in this section, if any utility is compensated for removing or relocating its facilities, then a company shall be similarly compensated.
- (e) A company shall, on the request of any person holding a building moving permit issued by the Town or another governmental entity, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal, raising or lowering of wires shall be paid by the person requesting the same, and a company shall have the authority to require such payment in advance. A company shall be given not less than 48-hours' advance notice to arrange for such temporary wire changes.
- (f) A company shall not remove any tree or trim any portion, either above, at or below ground level, of any tree within any public place without the prior consent of the Town. The Town shall have the right to do the trimming requested by a company at the cost to a company. Regardless of who performs the work requested by a company, a company shall be responsible, shall defend and hold Town harmless for any and all damages to any tree as a result of trimming or to the land surrounding any tree, whether such tree is trimmed or removed, as well as for any and all injuries to persons.
- (g) A company shall comply with T.C.A. §§ 65-31-101—65-31-112 regarding utility location requests. Service interruptions occurring as a result of failure to comply with locator requests shall be cause for a penalty as set forth in this ordinance.

Sec. 19-222. - Operational standards.

- (a) A company shall put, keep and maintain all parts of the system in good condition throughout its entire franchise.
- (b) Temporary service drops:
- (1) A company will put forth every effort to bury temporary drops within ten working days after placement. Any delays for any other reason than listed will be communicated to the Town. These delays will be found understandable and within the course of doing business by the Town: weather, ground conditions, street bores, system redesign

requirements and any other unusual obstacle such as obstructive landscaping that is created by the customer.

- (2) The company will provide monthly reports to the Town, in care of the cable advisory commission, or its successor, on the number of drops pending.
- (c) A company shall render efficient service, make repairs promptly, and interrupt cable service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.
- (d) A company shall not allow its cable system or other operations to interfere with television reception of persons not served by a company, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents within the confines of the Town.
- (e) A company shall have knowledgeable, qualified company representatives available to respond to subscriber telephone inquiries Monday through Friday between the hours of 8:00 a.m. and 6:00 p.m., and on Saturday between the hours of 9:00 a.m. and 5:00 p.m.
- (f) Under normal operating conditions, telephone answer time, including wait time and the time required to transfer the call, shall not exceed 30 seconds. This standard shall be met no less than 90 percent of the time, as measured on an annual basis.
- (g) Under normal operating conditions, the subscriber will receive a busy signal less than three percent of the total time that the office is open for business, as measured on an annual basis.
- (h) A customer service center in the Town will be open for subscriber transactions Monday through Friday from 8:00 a.m. to 5:00 p.m., unless there is a need to modify those hours to more appropriately fit the needs of the Town or the subscribers. A company will seek other locations to arrange for one or more payment agents within the Town where subscribers can pay bills.
- (i) Under normal operating conditions, each of the following standards will be met no less than 95 percent of the time as measured on an annual basis:
 - (1) Standard installations will be performed within seven business days after an order has been placed. A standard installation is one that is within 150 feet of the existing cable system.
 - (2) Excluding those situations which are beyond the control of the cable system, a company will respond to any cable service interruption (area or neighborhood outage affecting two or more customers) promptly and in no event later than 24 hours from the time of initial notification. All other regular service requests will be responded to within 36 hours during the normal workweek for the company. The appointment window alternatives for installations, service calls and other installation activities will be morning, afternoon and all day, during normal business hours for the company. A company will schedule supplemental hours during which appointments can be scheduled based on the needs of the Town, the subscribers and other residents in the community. If at any time an installer or technician is running late, an attempt to contact the subscriber will be made and the appointment rescheduled as necessary at a time that is convenient to the subscriber.

- (3) A company shall maintain a written log for all cable service interruptions, including trunk and feeder line outages, and the record shall be kept for a period of three years.
- (j) Upon interruption of a subscriber's cable service, if notice of such interruption has been provided by such subscriber to the company and the subscriber has requested the credit provided for, the following shall apply:
- (1) For service interruptions of over four consecutive hours and up to seven days, a company shall provide a credit of 1/30 of one month's fees for affected services for each 24-hour period service is interrupted for four or more consecutive hours for any single subscriber, with the exception of subscribers disconnected because of nonpayment or excessive signal leakage.
 - (2) For interruptions of seven days or more in one month, a company shall provide a full month's credit for affected services for all affected subscribers.
 - (3) Nothing in this subsection (j) limits a company from applying a rebate policy more liberal than the requirements of this subsection.
- (k) The company will provide written information in each of the following areas at the time of installation and at any future time upon the request of a subscriber:
- (1) Product and services offered;
 - (2) Prices and service options;
 - (3) Installation and service policies; and
 - (4) How to use the cable services.
- (l) Bills will be clear, concise and understandable.
- (m) Refund checks will be issued promptly, but no later than a subscriber's next billing cycle following the resolution of the request and the return of the equipment by a customer if cable service has been terminated.
- (n) Subscribers will be notified a minimum of 30 days in advance of any rate or channel change, provided that the change is within the control of a company.
- (o) A company shall maintain and operate its network in accordance with the rules and regulations as are incorporated in this article or may be promulgated by the FCC, the United States Congress or the state.
- (p) A company shall, throughout the term of its franchise, maintain high quality service.
- (q) A company shall, within seven days after receiving a written request from the Town, send a written report to the Town with respect to any particular subscriber complaint. The report shall provide a full explanation of the investigation, findings and corrective steps taken by a company.
- (r) All field employees of a company shall carry identification indicating their employment with a company.
- (s) A company, via its computer system, will maintain a service log which will indicate the nature of each subscriber service problem, the remedy to the problem, and the order and resolution time and date for one year.

Sec. 19-223. - Continuity of service mandatory.

- (a) It shall be the right of all subscribers to continue receiving service insofar as their financial and other obligations to a company are honored. If a company elects to overbuild, rebuild, modify or sell its system, or the Town gives notice of intent to terminate or fails to renew a franchise, such company shall act so as to ensure that all subscribers receive continuous, uninterrupted cable service regardless of the circumstances.
- (b) If a new operator acquires a system, a transferring company shall cooperate with the Town, and the new franchisee or operator in maintaining continuity of cable service to all subscribers. During such period, a transferring company shall be entitled to the revenues for any period during which it operates the system and shall be entitled to reasonable costs for its services until it no longer operates the system.
- (c) If a company fails to operate the system for seven consecutive days without prior approval of the Town or without just cause, the Town may, at its option, operate the system or designate an operator until such time as such company restores cable service under conditions acceptable to the Town or a permanent operator is selected. If the Town is required to fulfill this obligation for a company, such company shall reimburse the Town for all reasonable costs or damages in excess of revenues from the system received by the Town that are the result of such company's failure to perform.

Sec. 19-224. - Complaint procedure.†

- (a) The Town Administrator is designated as having primary responsibility for the continuing administration of all franchises and implementation of procedures for the reporting and resolution of complaints.
- (b) During the term of all franchises, and any renewal thereof, a company shall maintain a customer service center in the Town for the purpose of receiving and resolving all complaints regarding the quality of service, equipment malfunctions and similar matters. A company shall provide subscribers with a local, toll-free telephone number to receive complaints regarding the quality of service, equipment malfunctions and similar matters.
- (c) As subscribers are connected or reconnected to the system, the company shall, by appropriate means, such as a card or brochure, furnish information concerning the procedures for making inquiries or complaints, including the name, address and local telephone number of the employee or employees or agent to whom such inquiries or complaints are to be addressed, and furnish information concerning the Town office responsible for administration of all franchises with the address and telephone number of the office.
- (d) When there have been similar complaints made or where there exists other evidence which, in the judgment of the Town, casts doubt on the reliability or quality of cable service furnished by a company, the Town shall have the right and authority to require such company to test, analyze and report on the performance of its system. A company shall fully

cooperate with the Town in performing such testing and shall prepare results and a report, if requested, within 30 days after notice. Such report shall include the following information:

- (1) The nature of the complaints or problems which precipitated the special tests.
 - (2) What system component was tested.
 - (3) The equipment used and procedures employed in testing.
 - (4) The method, if any, in which such complaints or problems was resolved.
 - (5) Any other information pertinent to the tests and analysis which may be required.
- (e) The Town may require that tests be supervised, at a company's expense, by a licensed professional engineer not on the permanent staff of such company (outside engineer). The outside engineer shall sign all records of special tests and forward to the Town such records with a report interpreting the results of the tests and recommending actions to be taken. Notwithstanding the foregoing, if the outside engineer concludes in his report that the cable system provided by such company meets the FCC technical standards or that the cause of the problem to the cable system is not the fault of the company, then the expense of the outside engineer shall be borne by the Town.
- (f) The Town's right under this section shall be limited to requiring tests, analysis and reports covering specific subjects and characteristics based on complaints or other evidence when and under such circumstances as the Town has reasonable grounds to believe that the complaints or other evidence require that tests be performed to protect the public against substandard cable service.

†Complaint procedure for state-issued franchises is set forth at T.C.A. § 7-59-308.

Sec. 19-225. - Company rules and regulations.

A company shall have the authority to promulgate such rules, regulations, terms and conditions governing the conduct of its business as shall be reasonably necessary to enable such company to exercise its rights and perform its obligations under its franchise and to ensure uninterrupted service to each and all of its subscribers; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions of this article or applicable state and federal laws, rules and regulations.

Sec. 19-226. - Franchise fee.

- (a) For the reason that the streets of the Town to be used by a company in the operation of its system within the boundaries of the Town are valuable public properties acquired and maintained by the Town at great expense to its taxpayers, and that the grant, whether by the Town or the state, to a company to use the streets for the purpose of furnishing cable service is a valuable property right without which a company would be required to invest substantial

capital in right-of-way costs and acquisitions, a company shall pay to the Town an amount equal to five percent of the company's gross revenue (the franchise fee).

- (b) Such payment of a franchise fee shall be in addition to any other tax or payment owed to the Town by a company.
- (c) The franchise fee and any other costs or penalties assessed shall be payable on a quarterly basis to the Town, and a company shall pay the same and file a complete and accurate verified statement of all gross revenue within 45 days after each calendar quarter.
- (d) The Town shall have the right to inspect a company's income records and the right to audit and to recompute any amounts determined to be payable under this article; provided, however, that such audit shall take place within 36 months following the close of each of a company's fiscal years. Any additional amount due to the Town as a result of the audit (together with the cost of the audit unless the shortage is of a de minimus amount) shall be paid within 30 days following written notice to a company by the Town, which notice shall include a copy of the audit report. Notwithstanding the foregoing, an amount shall be deemed de minimus if such amount is equal to one percent or less of the amount paid by a company during the audited period.
- (e) If any franchise fee or recomputed amount, cost or penalty is not made on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the then legal maximum rate in the state, and a company shall reimburse the Town for any additional expenses and costs incurred by the Town by reason of the delinquent payments.
- (f) The franchise fee does not include any tax, fee or assessment of general applicability.

Sec. 19-227. - Capital contribution.

As outlined in section 19-226 for franchises granted by the Town or as outlined at T.C.A. § 7-59-309 for franchises granted by the state, any company granted a franchise, permit, license or other authorization to provide cable service is to provide access to certain channel capacity for public, educational or governmental use, and to assist in the providing of such access, provide funds to cover those capital costs incurred in providing such access. If more than one company or entity is granted a franchise, permit, license or other authorization to provide cable service, each company or entity is to share in the capital contribution necessary to provide such access, from and after the granting of such authorization, on a basis which shall be equitable to both the entity and the Town. The terms of such sharing shall be contained in the franchise or other agreements executed between the Town and such company or other entity.

Sec. 19-228. - Transfer of ownership or control.

- (a) A franchise shall not be sold, assigned or transferred (including through inheritance), either in whole or in part, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person or entity without full compliance with the procedure set forth in this section.

- (b) The provisions of this section shall apply to the sale or transfer of all or a majority of a company's assets or shares of stock, and to a merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation of the parent company, or sale or transfer of stock in a company so as to create a new controlling interest. The term "controlling interest" as used in this section is not limited to majority stock ownership but includes actual working control in whatever manner exercised, including the creation or transfer of decision-making authority to a new or different board of directors.
- (1) The parties to the sale or transfer shall make a written request to the Town for its approval of a sale or transfer. The written request shall be accompanied by all information required by FCC rules and shall be presented on a form as prescribed by FCC rules. ~~Thereafter, Except as provided below with respect to the Town's right of first refusal to purchase the cable system,~~ the Town shall have 120 days to act on the request or it shall be deemed granted subject to the provisions following. If the Town finds that the application is not complete, as required by FCC rules, it shall notify the parties within 60 days of the initial filing. Such notice shall stay the running of the 120 days until such time as the parties file a complete application in accordance with FCC rules. If the Town does not so notify the parties within the 60 days following the filing of an application, the application shall be deemed complete and the 120 days shall run from the date such application was filed. ~~The Town may request such additional information as it might reasonably determine to be necessary to act on the request. Such request shall not, however, extend the 120-day period unless mutually agreed to by all parties or such extension is expressly permitted by the FCC rules.~~
 - (2) The Town shall signify in writing, within the time described in subsection (b)(1) of this section, its approval of the request or its determination that a public hearing is necessary due to potential adverse effect on a company's subscribers.
 - (3) If a public hearing is deemed necessary pursuant to subsection (b)(2) of this section, such hearing shall be commenced within 30 days of such determination and notice of any such hearing shall be given 14 days prior to the hearing by publishing notice, as defined in section 19-211. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the Town.
 - (4) Within 30 days after the closing of the public hearing, the Town shall approve or deny in writing the sale or transfer request.
 - (5) Within 30 days of any transfer, a company shall file with the Town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by such company.
- (c) In reviewing a request for sale or transfer pursuant to subsection (a) of this section, the Town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and a company shall assist the Town in so inquiring. The Town may condition such transfer upon such terms and conditions as it deems reasonably appropriate to satisfy such qualifications; provided, however, that the Town shall not unreasonably withhold its approval. As a condition of approval of a transfer or assignment of ownership or control, the Town may require that the transferee become a signatory to the franchise agreement entered into by the Town and the predecessor of the transferee. In addition, to the

extent permitted by law at the time of transfer, the Town may require that the transferee provide open access to its facilities to all cable and telecommunication service providers, to the extent that such access will not negatively affect transferee's ability to provide service.

(d) The Town shall be entitled to a right of first refusal on any bona fide offer to purchase the cable system made to Company. "Bona fide offer" as used in this section means a written offer which has been accepted by Company subject to the Town's rights under the franchise. The price to be paid by the Town shall be the actual price which has been negotiated at arm's length between the parties. The Town shall notify Company of its intention to purchase within thirty (30) days of the Town's receipt from Company of a copy of the written bona fide offer. Payment shall be made upon closing in readily available funds within one hundred eighty (180) days of the Town's receipt from Company of a copy of the written bona fide offer.

(ed) A company shall notify the Town in writing of any change in administrative officials regarding its cable system within 14 days of the change.

(fe) Notwithstanding anything to the contrary in this article or a company's franchise, no prior consent by the Town shall be required for any transfer or assignment to any entity controlling, controlled by, or under the same common control of the transferring company. However, in such a transfer or assignment, the transferring company shall remain liable for all financial obligations as required pursuant to its franchise and this article, unless otherwise agreed to by the Town. Such agreement to release the transferring company shall not be withheld unreasonably and shall further be provided in all transfers or assignments where the transferee company has a net worth of not less than \$25,000,000.00 as reflected by its most current audited financial statement.

Sec. 19-229. - Availability of books and records.

- (a) A company shall fully cooperate in making available at reasonable times, and the Town shall have the right as it pertains to the enforcement of a franchise to inspect, the books, records, maps, plans and other like materials of a company applicable to a cable system, at any time during normal business hours. Where volume and convenience necessitate, a company may require inspection to take place on such company's premises.
- (b) The following records and/or reports are to be made available to the Town upon request:
- (1) There shall be a monthly review and resolution or progress report submitted by a company to the Town;
 - (2) Periodic preventive maintenance reports;
 - (3) Any copies of FCC Form 395-A (or successor form) or any supplemental forms related to equal opportunity or fair contracting policies;
 - (4) Reports filed with the FCC, SEC or any other federal or state agency that has a potential impact on the administration of a franchise;
 - (5) Subscriber inquiry/complaint resolution data and related documentation;

- (6) Periodic construction update reports including, where appropriate, the submission of as-built maps.

Sec. 19-230. - Other petitions and applications.

Copies of all petitions, applications, communications and reports submitted by a company to the FCC, Securities and Exchange Commission, or any other federal or state regulatory commission or agency having jurisdiction in respect to any matters affecting cable television operations authorized pursuant to its franchise, shall be provided to the Town when requested by the Town.

Sec. 19-231. - Fiscal reports.

- (a) A company shall file annually with the Town, no later than 120 days after the end of the company's fiscal year, a copy of a gross revenue report applicable to the cable system and its operations during the preceding 12-month period. Such report shall deal exclusively with the services rendered by the company under the franchise and shall be certified as correct by an authorized officer of such company.
- (b) A company shall file annually with the Town, no later than 120 days after the end of the company's fiscal year, a copy of financial statements, certified by a certified public accountant, of the income, expenses and financial standing of such company.

Sec. 19-232. - Removal of cable system.

At the expiration of the term for which a franchise is granted, whether by the Town or the state, and any denial of a renewal proposal or upon its termination as provided in this article, a company shall forthwith, if required by the Town but not otherwise, remove at its own expense all designated portions of the cable system from all streets and public property within the Town. If the company fails to do so, the Town may perform the work at such company's expense or elect to leave the same in place. A bond shall be furnished by the company in an amount sufficient to cover this expense.

Sec. 19-233. - Required services and facilities.

- (a) A cable system of a company granted a franchise hereunder shall have a minimum system capacity of at least 550 MHz or 77 full video channel equivalent and a minimum capacity no less than any other cable system franchise then held by such company or by any entity controlling it, controlled by it, or under the same common control as such company for any municipality within the county, or any unincorporated area of the county. Such system shall maintain a plant having the technical capacity for two-way communications.

- (b) A company or other entity granted a franchise, permit, license or other authorization to provide cable service shall maintain the following:
- (1) At least one specially designated, noncommercial public access channel available on a first-come, nondiscriminatory basis;
 - (2) At least one specially designated channel for educational access;
 - (3) At least one specially designated channel for local governmental uses; and
 - (4) Leased access made available in accordance with federal law. These uses may be combined on one or more channels until such time as additional channels become necessary in the opinion of the board of mayor and aldermen on the advice of the cable commission of the Town or its successor.
- (c) A company awarded a franchise shall maintain an institutional network (I-Net) of cable, optical, electrical or electronic equipment, including cable television systems, used for the purpose of transmitting cable signals interconnecting designated buildings or places to be determined by the Town and incorporated into a franchise.
- (d) A company or other provider of cable service shall incorporate into its cable system the capacity which will permit the Town, in times of emergency, to override, by remote control, the audio of all channels which a company or other provider of cable service may lawfully override simultaneously. The Town shall designate a channel used by the PEG facility for emergency broadcasts of both audio and video. A company shall cooperate with the Town in the use and operation of the emergency alert override system.
- (e) A company and any other providers of cable service may be required to interconnect its system with other systems. Such interconnection shall be made within the time limit established by the Town. Upon receiving the directive of the Town to interconnect, a company shall immediately initiate negotiations with the other affected systems in order that all costs may be shared equally among cable companies for both construction and operation of the interconnection link. A company or other provider of cable service may be granted reasonable extensions of time to interconnect or the Town may rescind its order to interconnect upon petition by a company or other provider of cable service to the Town. The Town shall grant the request if it finds that a company or other provider of cable service has negotiated in good faith and has failed to obtain an approval from the operator or franchising authority of a system to be interconnected, or the cost of the interconnection would cause an unreasonable or unacceptable increase in subscriber rates. A company or other provider of cable service shall cooperate with any interconnection corporation, regional interconnection authority or Town, county, state and federal regulatory agency which may be hereafter established for the purpose of regulating, financing or otherwise providing for the interconnection of cable systems beyond the boundaries of the Town.
- (1) Initial technical requirements to ensure future interconnection capability are as follows:
 - a. All companies or entities receiving franchises, licenses, permits, or other authorization to operate within the Town shall use the standard frequency allocations for television signals.
 - b. All companies or other entities are required to use in the cable systems signal processors at the head end for each television signal.

- c. The Town also urges a company or other provider of cable service to provide local origination equipment that is compatible throughout the area so that video cassettes or videotapes can be shared by various systems.

Sec. 19-234. - Rules and regulations.

- (a) In addition to the inherent powers of the Town to regulate and control a company, and those powers expressly reserved by the Town or agreed to and provided for in this article, the right and power is hereby reserved by the Town to promulgate such additional regulations as it shall find necessary in the exercise of its lawful powers and furtherance of the terms and conditions of this franchise; provided, however, that such rules, regulations, terms and conditions shall not be in conflict with the provisions of this article or applicable state and federal laws, rules and regulations or change a company's obligations or rights under this article.
- (b) The Town may also adopt such regulations as requested by a company upon application.

Sec. 19-235. - Performance evaluation sessions.

- (a) The Town and a company shall hold scheduled performance evaluation sessions every third year within 30 days of the anniversary date of a company's award or renewal of its franchise and as may be required by federal and state law. Notice, as defined in section 19-48, shall be provided for all such evaluation sessions, which shall be open to the public.
- (b) Special evaluation sessions may be held at any time during the term of the franchise at the request of the Town or a company.
- (c) Topics which may be discussed at any scheduled or special evaluation session may include, but shall not be limited to, service rate structures, franchise fee, penalties, free or discounted services, application of new technologies, system performance, services provided, programming offered, customer complaints, privacy, amendments to this article, judicial and FCC rulings, construction policies, and company or Town rules.
- (d) Members of the general public may add topics either by working through the negotiating parties or by presenting a petition. If such a petition bears the valid signatures of 50 or more residents of the Town, the proposed topic or topics shall be added to the list of topics to be discussed at the evaluation session.

Sec. 19-236. - Rate change procedures.

The Town may regulate basic service rates charged by a company as allowed pursuant to the Cable Television Consumer Protection and Competition Act of 1992 or any other law or regulation. Should federal or state law permit further rate regulation beyond the basic service, the Town may assume such rate regulation immediately and adopt appropriate procedures for such regulation.

Sec. 19-237. - Forfeiture and termination.

- (a) In addition to all other rights and powers retained by the Town under this article or otherwise, the Town reserves the right to forfeit and terminate a franchise and all rights and privileges of a company thereunder in the event of a substantial breach of its terms and conditions. A substantial breach by the company shall include, but shall not be limited to, the following:
- (1) Violation of any material provision of the franchise or any material violation of any rule, order, regulation or determination of the Town made pursuant to the franchise;
 - (2) Attempt to evade any material provision of the franchise or practice any fraud or deceit upon the Town or its subscribers;
 - (3) Failure to begin or complete system construction as provided under section 19-50 or in a company's franchise;
 - (4) Failure to restore service after 96 consecutive hours of interrupted service, except when approval of such interruption is obtained from the Town; or
 - (5) Material misrepresentation of fact in a proposal for or negotiation of a franchise.
- (b) The provisions of subsection (a) of this section shall not constitute a major breach if the violation occurs but is without fault of a company or occurs as a result of a force majeure. A company shall not be excused by mere economic hardship nor by misfeasance or malfeasance of its directors, officers or employees.
- (c) The Town may make a written demand that a company comply with any provision, rule, order or determination under or pursuant to this article. If the violation by a company continues for a period of 30 days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the Town may set a public hearing to decide the issue of termination of its franchise. The Town shall cause to be served upon a company, at least 20 days prior to the date of such hearing, a written notice of intent to request such termination, and establish the time and place of the hearing. Public notice as defined in section 19-49 shall be given of the hearing and the issues which will be addressed at the hearing.
- (d) The Town shall hear and consider the issues and shall hear any person interested therein (including the report of the cable commission or its successor) and shall determine in its discretion whether or not any violation by a company has occurred.
- (e) If the Town shall determine that a violation by a company was the fault of such company and within its control, the Town may, by resolution by its board of mayor and aldermen, declare that the franchise of such company shall be forfeited and terminated unless there is compliance within such period as the board may fix. Such period shall not be less than 60 days, provided that no opportunity for compliance need be granted for fraud or misrepresentation.
- (f) The issue of forfeiture and termination shall be placed upon the agenda of the board of mayor and aldermen at the expiration of the time set by it for compliance. The Town then

may terminate the franchise forthwith upon finding that a company has failed to achieve compliance or may further extend the period, in its discretion.

Sec. 19-238. - Foreclosure.

Upon the foreclosure or other judicial sale of all or a substantial part of the system, a company shall notify the Town of such fact, and such notification shall be treated as a notification that a change in control of such company has taken place, and the provisions of its franchise governing the consent of the Town to such change in control of the company shall apply.

Sec. 19-239. - Approval of transfer and right of acquisition by the Town.

- (a) At the expiration of a franchise, if it is not renewed, the Town may, in lawful manner and upon payment of fair market value, determined on the basis of the system valued as a going concern exclusive of any value attributable to the franchise itself, lawfully obtain, purchase, condemn, acquire, take over and hold the system
- (b) Upon the revocation of a franchise, the Town may in lawful manner and upon the payment of an equitable price lawfully obtain, purchase, condemn, acquire, take over and hold the system.

Sec. 19-240. - Receivership.

The Town shall have the right to cancel a franchise 120 days after the appointment of a receiver or trustee for a company to take over and conduct the business of the company, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of 120 days, or unless:

- (1) Within 120 days after his election or appointment, such receiver or trustee shall have fully complied with all the provisions of this article and a franchise issued pursuant hereto and remedied all defaults thereunder; and
- (2) Such receiver or trustee, within the 120 days, shall have executed an agreement, duly approved by the court having jurisdiction in the premises, whereby such receiver or trustee assumes and agrees to be bound by each and every provision of this article and the franchise granted to a company.

Sec. 19-241. - Compliance with state and federal laws.

- (a) Notwithstanding any other provisions of this article to the contrary, a company shall at all times comply with all laws and regulations of the state and federal government or any administrative agencies thereof; provided, however, that if any such state or federal law or

regulation shall require a company to perform any service, or shall permit a company to perform any service, or shall prohibit a company from performing any service, in conflict with the terms of this article or of any law or regulation of the Town, then as soon as possible following knowledge thereof, a company shall notify the Town of the point of conflict believed to exist between such regulation or law and the ordinances or regulations of the Town or its franchise.

- (b) If the Town determines that a material provision of this article is affected by any subsequent action of the state or federal government, the Town and a company shall have the right to negotiate a modification to any of the provisions of this article to such reasonable extent as may be necessary to carry out the full intent and purpose of this article and any franchise.

Sec. 19-242 - Landlord/tenant.

- (a) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall interfere with the right of any tenant or lawful resident thereof to receive cable service, cable installation or maintenance from a company.
- (b) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall ask, demand or receive any payment, service or gratuity in any form as a condition for permitting or cooperating with the installation of a cable service to the dwelling unit occupied by a tenant or resident requesting service.
- (c) Neither the owner of any multiple unit residential dwelling, nor his agent or representative, shall penalize, charge or surcharge a tenant or resident or forfeit or threaten to forfeit any right of such tenant or resident, or discriminate in any way against such tenant or resident who requests or receives cable service from a company.
- (d) No person shall resell, without the expressed written consent of both a company and the Town, any cable service, program or signal transmitted by a cable company.
- (e) Nothing in this article shall prohibit a person from requiring that the cable system conform to laws and regulations and reasonable conditions necessary to protect safety, function, appearance and value of premises or the convenience and safety of persons or property.
- (f) Nothing in this article shall prohibit a person from requiring a company to agree to indemnify the owner, or his agents or representatives, for damages or from liability for damages caused by the installation, operation, maintenance or removal of cable communication facilities.

Sec. 19-243. - Initial application.

- (a) All initial applications received by the Town from any applicants for a franchise to be granted to provide cable service will become the property of the Town.
- (b) The Town reserves the right to reject any and all initial applications and waive informalities and/or technicalities where the best interest of the Town may be served.

- (c) Before submitting an initial application, each and every applicant must:
 - (1) Examine this article and any required application documents thoroughly;
 - (2) Familiarize itself with local conditions that may in any manner affect its performance under a franchise;
 - (3) Familiarize itself with federal, state and local laws, ordinances, rules and regulations affecting its performance under a franchise; and
 - (4) Carefully correlate its observations with the requirements of this article and any and all application documents.
- (d) The Town may make such investigations as it deems necessary to determine the ability of the applicant to provide cable service and to fully perform under a franchise, and the applicant shall furnish to the Town all such information and data for this purpose as the Town may request. The Town reserves the right to reject any initial application if the evidence submitted by, or investigation of, such applicant fails to satisfy the Town that such applicant is properly qualified to carry out the obligations of this article or a franchise or if the plans of the applicant for construction of this cable system and/or its operation fail to satisfy the Town that it is in the best interests of its citizens to grant a franchise to the applicant.

Sec. 19-244. - Financial, contractual, shareholder and system disclosure in initial application.

- (a) No franchise will be granted pursuant to an initial application unless all requirements and demands of the Town regarding financial, contractual, shareholder and system disclosure have been met.
- (b) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent of the shares of stock of an applicant, shall fully disclose all agreements and undertakings, whether written or oral, or implied with any person, firm, group, association or corporation with respect to a franchise and the proposed cable system. This section shall include, but not be limited to, any agreements between local applicants and national companies.
- (c) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent of the shares of stock of an applicant, shall submit all requested information as provided by the terms of this article. The requested information must be complete and verified as true by the applicant.
- (d) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent of the shares of stock of an applicant, shall disclose the numbers of shares of stock, and the holders thereof, and shall include the amount of consideration for each share of stock and the nature of the consideration.
- (e) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent of the shares of stock of an applicant, shall disclose any information required by the Town regarding other cable systems in which they hold an interest of any nature including, but not limited to, the following:

- (1) Locations of all other franchises and the dates of award for each location;
 - (2) Estimated construction costs and estimated completion dates for each cable system;
 - (3) Estimated number of miles of construction and number of miles completed in each cable system as of the date of any initial application; and
 - (4) Date for completion of construction as promised in any initial application for each system.
- (f) Applicants, including all shareholders and parties with an interest equal to or greater than ten percent of the shares of stock of an applicant, shall disclose any information required by the Town regarding pending applications for other cable systems including, but not limited to, the following:
- (1) Location of other franchise applications and date of any application;
 - (2) Estimated dates of franchise awards;
 - (3) Estimated number of miles of construction; and
 - (4) Estimated construction costs.

Sec. 19-245. - Theft of services and tampering.

- (a) No person, whether or not a subscriber to the cable system, may intentionally or knowingly damage or cause to be damaged any wire, cable, conduit, equipment or apparatus of a company, or commit any act with intent to cause such damage, or tap, tamper with or otherwise connect any wire or device to a wire cable, conduit, equipment, apparatus or appurtenances of a company with the intent to obtain a signal or impulse from the cable system without authorization from or compensation to a company, or to obtain cable service with intent to cheat or defraud a company of any lawful charge to which it is entitled.
- (b) Any person convicted of violating any provision of this section is subject to a fine of not less than \$50.00 nor more than \$500.00 for each offense. Each four-days' violation of this section shall be considered a separate offense.

Sec. 19-246. - Penalties.

Whenever the Town finds that a company has allegedly violated one or more terms, conditions or provisions of its franchise or this article, a written notice shall be given to such company. The written notice shall describe in reasonable detail the alleged violation so as to afford a company an opportunity to remedy the violation. A company shall have 15 days after receipt of such notice to correct or present a plan of action to correct the violation before the Town may resort to the letter of credit or security deposit, as provided for in section 19-43. A company may, within 15 days of receipt of the notice, notify the Town that there is a dispute as to whether a violation or failure has, in fact, occurred. If notice of a dispute of a violation is provided, imposition of the penalties outlined in this section will be stayed until resolution of the dispute at a public hearing by the Town to address the violation and the dispute. Unless the Town

directs otherwise, a public hearing will be held within 15 days of the Town's receipt of a company's notice of dispute. Notice of the public hearing shall be provided pursuant to section 19-48. The hearing shall be before the Town Administrator or a person designated by him. After resolution of the dispute or if there is no dispute, penalties for violation as set out in this section shall be chargeable to the letter of credit or security deposit, as provided for in section 19-53, as follows, and the Town may determine the amount of the fine for other violations which are not specified in a sum not to exceed \$500.00 for each violation, with each day constituting a separate violation.

- (1) Failure to furnish, maintain or offer all cable services to any potential subscriber within the Town upon valid order of the Town: \$200.00 per day, per violation, for each day that such failure occurs or continues.
- (2) Failure to obtain or file evidence of required insurance, construction bond, performance bond or other required financial security: \$200.00 per day, per violation, for each day such failure occurs or continues.
- (3) Failure to provide access to data, documents, records or reports to the Town as required by this article: \$200.00 per day, per violation, for each day such failure occurs or continues.
- (4) Failure to comply with applicable construction, operation or maintenance standards: \$300.00 per day, per violation, for each day such failure occurs or continues.
- (5) Failure to comply with a rate decision or refund order: \$500.00 per day, per violation, for each day such a violation occurs or continues. The Town may impose any or all of the above-enumerated measures against a company, which shall be in addition to any and all other legal or equitable remedies it has under a franchise or under any applicable law.
- (6) For any violations for noncompliance with the customer service standards of sections 19-53 through 19-55, a company shall pay \$200.00 per day for each day, or part thereof, that such noncompliance continues.
- (7) Failure to comply with utility locator request in accordance with rules and procedures of the underground utility damage prevention law: \$50.00 per subscriber service interruption per day.
- (8) Any other violations of this article or a franchise, but not specifically noted in this section, shall not exceed \$500.00 per day, per violation.

Sec. 19-247. - Force majeure.

If by reason of a force majeure either party is unable, in whole or in part, to carry out its obligations under this article, that party shall not be deemed to, be in violation or default during the continuance of such inability.

ARTICLE III. - TELECOMMUNICATIONS

- Sec. 19-301. - Definitions.
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Sec. 19-301. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning.

Annual gross revenue means all revenue, as determined by generally accepted accounting principles, that is received directly or indirectly by a franchisee from the operation of a telecommunication system in the Town including, without limitation, all revenue received for the provision of services, installation, reconnection, sale of products, not including customer premises equipment and the imputed value of bartered service and the value of all goods and services received by the telecommunication carrier in exchange for telecommunications service including all payments received for the lease, rental or sale of time, band width or capacity on a telecommunications carriers system; provided, however, that no billings shall be imputed related to any services provided to the Town, or for services governed as interstate commerce.

Excess capacity means the volume or capacity in any existing or future duct, conduit, manhole, handhold or other utility facility within the public way that is or will be available for use for additional telecommunications facilities.

Franchise means the right of a telecommunications carrier to operate a telecommunications system in the Town for a limited term and in a manner in agreement with this chapter.

Franchisee means a grantee of rights under this chapter by means of an award or franchise or its permitted successor, transferee or an applicant thereof.

Overhead facilities means utility poles, utility facilities and telecommunications facilities located above the surface of the ground, including the underground supports and foundations for such facilities.

Street means the surface of all rights-of-way and the space, above and below, of any public street, road, highway, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive or easement now or hereafter held by the Town for the purpose of public travel, and shall also mean other easements or rights-of-way as shall be now held or hereafter held by the Town which shall, within their proper use and meaning, entitle a telecommunications carrier

to the use thereof for the purposes of installing plant facilities and equipment as may be ordinarily necessary and pertinent to a telecommunications system.

Surplus space means that portion of the usable space on a utility pole which has the necessary clearance from other pole users to allow its use by a telecommunications carrier for a pole attachment.

Telecommunications carrier means every person that directly or indirectly owns, controls, operates or manages telecommunications facilities within the Town, used or to be used for the purpose of offering telecommunications service.

Telecommunications facilities or facility means the plant, equipment and property including, but not limited to, cables, wires, conduits, ducts, pedestals, antennae, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

Telecommunications service or service means the providing or offering for rent, sale, resale or lease, or in exchange for other value received, of the transmittal of voice, video or data information between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities, with or without benefit of any closed transmission medium.

Telecommunications system or system. See Telecommunications facilities.

Underground facilities means utility and telecommunications facilities located under the surface of the ground, excluding the underground foundations or supports for overhead facilities.

Usable space means the total distance between the top of a utility pole and the lowest possible attachment point that provides the minimum allowable vertical clearance.

Utility easement or Public Utility Easement means any easement owned by the Town and acquired, established, dedicated or devoted for public utility purposes not inconsistent with telecommunications facilities.

Utility facilities means the plant, equipment and property including, but not limited to, the poles, pipes, mains, conduits, ducts, cables, wires, plant and equipment located under, on or above the surface of the ground within the streets of the Town and used or to be used for the purpose of providing utility or telecommunications services.

Sec. 19-302. - Registration.

All telecommunications carriers who would, by this chapter, require a franchise, shall register with the Town pursuant to this article on forms to be provided by the Town clerk, which shall include the following:

- (1) The identity and legal status of the registrant, including any affiliates.
- (2) The name, address and telephone number of the officer, agent or employee responsible for the accuracy of the registration statement.
- (3) A description of registrant's existing or proposed telecommunications facilities within the Town.

- (4) A description of the telecommunications service that the registrant intends to offer or provide, or is currently offering or providing, to persons, firms, businesses or institutions within the Town.
- (5) Information sufficient to determine whether the registrant is subject to telecommunications franchising under this chapter.
- (6) Information sufficient to determine whether the transmission, origination or receipt of the telecommunications services provided or to be provided by the registrant constitutes an occupation or privilege subject to any municipal telecommunications tax, utility message tax or other occupation tax imposed by the Town.
- (7) Information sufficient to determine that the applicant has applied for and received any construction permit, operating license or other approvals required by the Tennessee Regulatory Authority and/or the Federal Communications Commission to provide telecommunications services or facilities within the Town.
- (8) Such other information as the Town may reasonably require.

Sec. 19-303. - Fee.

Each application for registration as a telecommunications carrier shall be accompanied by a fee of \$25.00.

Sec. 19-304. - Purpose.

The purpose of registration under this article is to:

- (1) Provide the Town with accurate and current information concerning the telecommunications carriers who offer or provide telecommunications services within the Town or that own or operate telecommunication facilities within the Town.
- (2) Assist the Town in enforcement of this chapter.
- (3) Assist the Town in the collection and enforcement of any municipal taxes, franchise fees or charges that may be due the Town.
- (4) Assist the Town in monitoring compliance with local, state and federal laws.

Sec. 19-305. - Telecommunications franchise.

Any telecommunications carrier who desires to continue or begin to operate, use, maintain lease or otherwise locate or continue to locate telecommunications facilities in, under, over or across any street of the Town for the providing of a telecommunications service to persons or areas in the Town or leasing such telecommunication facilities, shall obtain a franchise from the Town pursuant to Article III of this chapter.

Sec. 19-306. - Franchise application.

Any person that desires a telecommunications franchise pursuant to this chapter shall file an application with the office of Town Administrator which shall include the following information:

- (1) The identity of the applicant, including all affiliates of the applicant.
- (2) A description of the telecommunications services that are or will be offered or provided by the applicant over its existing or proposed facilities.
- (3) A description of the transmission medium that will be used by the applicant to offer or provide such telecommunications services.
- (4) Preliminary engineering plans, specifications and a network map of the facilities to be located within the Town, all in sufficient detail to identify:
 - a. The location and route requested for the applicant's proposed telecommunications facilities.
 - b. The location of all overhead and underground public utility, telecommunication, cable, water, sewer drainage and other facilities in the public way along the proposed route.
 - c. The locations, if any, for interconnection with the telecommunications facilities of other telecommunications carriers.
 - d. The specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate.
- (5) If the applicant is proposing to install overhead facilities, evidence that surplus space is available for locating its telecommunications facilities on existing utility poles along the proposed route.
- (6) If the applicant is proposing an underground installation in existing ducts or conduits within the streets, information in sufficient detail to identify:
 - a. The excess capacity currently available in such ducts or conduits before installation of the applicant's telecommunications facilities; and
 - b. The excess capacity, if any, that will exist in such ducts or conduits after installation of the applicant's telecommunications facilities.
- (7) If the applicant is proposing an underground installation within new ducts or conduits to be constructed within the streets:
 - a. The location proposed for the new ducts or conduits; and
 - b. The excess capacity that will exist in such ducts or conduits after installation of the applicant's telecommunications facilities.
- (8) A preliminary construction schedule and completion dates.
- (9) Financial statements prepared in accordance with generally accepted accounting principles demonstrating the applicant's financial ability to construct, operate, maintain, relocate and remove the facilities.

- (10) Information in sufficient detail to establish the applicant's technical qualifications, experience and expertise regarding the telecommunications facilities and services described in the application.
- (11) Information to establish that the applicant has obtained all other governmental approvals and permits to construct and operate the facilities and to offer or provide the telecommunications services.
- (12) Whether the applicant intends to provide cable service, video dialtone service or other video programming service, whether directly or by re-transmission or resale of such service, and sufficient information to determine whether such service is subject to cable franchising.
- (13) An accurate map showing the location of any existing telecommunications facilities in the Town that the applicant intends to use or lease.
- (14) A description of the services or facilities that the applicant will offer or make available to the Town and other public, educational and governmental institutions.
- (15) A description of the applicant's access and line extension policies.
- (16) The areas of the Town the applicant desires to serve and a schedule for build-out to the entire franchise area.
- (17) A description of applicant's plans for emergency communications and redundancy.
- (18) All fees, deposits or charges required pursuant to Article III of this chapter.
- (19) Such other and further information as may be requested by the Town.

Sec. 19-307. - Determination by the Town.

Within 150 days after receiving a complete application under section 19-306, the Town shall issue a written determination granting or denying the application, in whole or in part, applying the following standards. If the application is denied, the written determination shall include the reasons for denial. Reasons for denial will include all those allowed under applicable law, which may include, but are not limited to:

- (1) The financial and technical ability of the applicant.
- (2) The legal ability of the applicant.
- (3) The capacity of the streets to accommodate the applicant's proposed facilities.
- (4) The capacity of the streets to accommodate additional utility and telecommunications facilities if the franchise is granted.
- (5) The damage or disruption, if any, of public or private facilities, improvements, services, travel or landscaping if the franchise is granted.
- (6) The public interest in minimizing the cost and disruption of construction within the streets.
- (7) The service that the applicant will provide to the community and region.

- (8) The effect, if any, on public health, safety and welfare if the franchise requested is granted.
- (9) The availability of alternate routes and/or locations for the proposed facilities.
- (10) Applicable federal and state telecommunications laws, regulations and policies.
- (11) Such other factors as may demonstrate that the franchise to use the streets will not serve the community interest.

Sec. 19-308. - Agreement.

No franchise shall be granted unless the applicant and the Town have executed a written agreement setting forth the particular terms and provisions under which the franchise to occupy and use the streets will be granted.

Sec. 19-309. - Nonexclusive grant.

No franchise granted under this chapter shall confer any exclusive right, privilege, franchise to occupy or use the streets or other easements or public rights of way of the Town for delivery of telecommunications services or any other purposes.

Sec. 19-310. - Term of grant.

Unless otherwise specified in a franchise agreement, a telecommunications franchise granted under this chapter shall be valid for a term of ten (10) years.

Sec. 19-311. - Rights granted.

No franchise granted under this chapter shall convey any right, ordinance or interest in the streets, but shall be deemed a grant only to use and occupy the streets for the limited purposes and term stated in the franchise agreement.

Sec. 19-312. - Franchise territory.

A telecommunications franchise granted under this chapter shall be limited to the specific geographic area of the Town to be served by the franchisee and the specific streets, easements and rights-of-way necessary to serve such areas.

Sec. 19-313. - Nondiscrimination; Consumer protection.

A franchisee shall make its telecommunications services available to any customer within its franchise area who shall request such service, without discrimination as to the terms, conditions, rates or charges for franchisee's services and in accordance with applicable law; provided, however, that nothing in this chapter shall prohibit a franchisee from making any reasonable classifications among differently situated customers.

A franchisee or any of its agents or employees, may not enter into or attempt to enforce the terms of any exclusive bulk service agreement, or any other non-competitive agreement, that violates state or federal law, including FCC rules, rulings or regulations.

A franchisee or any of its agents or employees shall not invoice, threaten to sue or otherwise attempt to require any person or entity to pay for telecommunications services for which they have not individually and directly entered into a contract to receive.

A franchisee may not enter into an agreement with any customer which extends beyond the term of its franchise agreement with the Town.

Sec. 19-314. - Service to the Town

A franchisee shall make its telecommunications services available to the Town at its most favorable rate for similarly situated users, unless otherwise directed by a state or federal regulatory agency having jurisdiction over telecommunication rates.

Sec. 19-315. - Amendment of franchise.

- (a) A new franchise application shall be required of any telecommunications carrier that desires to extend its franchise territory or to locate its telecommunications facilities in streets of the Town which are not included in a franchise previously granted under this chapter.
- (b) If ordered by the Town to locate or relocate its telecommunications facilities in streets not included in a previously granted franchise under this chapter, the Town shall grant a franchise amendment without further application.

Sec. 19-316. - Renewal applications.

A franchisee that desires to renew its franchise under this chapter shall, not more than 240 days, nor less than 150 days before expiration of the current franchise, file an application with the Town for renewal of its franchise which shall include the following information:

- (1) The information required pursuant to section 19-306.
- (2) Any information required pursuant to the franchise agreement between the Town and the franchisee.

Sec. 19-317. - Renewal determinations.

Within 150 days after receiving a complete renewal application under section 19-116, the Town shall issue a written determination granting or denying the renewal application, in whole or in part, applying the following standards. If the renewal application is denied, the written determination shall include the reasons for nonrenewal. Reasons for nonrenewal will include all those allowed under applicable law, but are not limited to:

- (1) The financial and technical ability of the applicant.
- (2) The legal ability of the applicant.
- (3) The continuing capacity of the streets to accommodate the applicant's existing facilities.
- (4) The applicant's compliance with the requirements of this chapter and the franchise agreement.
- (5) Applicable federal, state and local telecommunications laws, rules and policies.
- (6) Such other factors as may demonstrate that the continued grant to use the streets will serve the community interest.

Sec. 19-318. - Obligation to cure as a condition of renewal.

No franchise shall be renewed until any ongoing violations or defaults in the franchisee's performance of the franchise agreement, or of the requirements of this chapter, have been cured, or a plan detailing the corrective action to be taken by the franchisee has been approved by the Town.

Sec. 19-319. - Application and review fee.

- (a) Any applicant for a franchise pursuant to this article shall pay a fee of \$1,500.00.
- (b) The application and review fee of \$1,500.00 shall be deposited with the office of Town Administrator as part of the application filed pursuant to Article III of this chapter.
- (c) An applicant whose franchise application has been withdrawn, abandoned or denied shall, within 60 days of such event, be refunded, within 60 days of such written request, the balance of its deposit under this section, less all ascertainable costs and expenses incurred by the Town in connection with the application.

Sec. 19-320. - Other Town costs.

All franchisees shall, within 30 days after written demand therefor, reimburse the Town for all reasonable direct and indirect costs and expenses incurred by the Town in connection with any modification, amendment, renewal or transfer of the franchise or any franchise agreement.

Sec. 19-321. - Construction permit fee.

Prior to issuance of a construction permit, the franchisee shall pay a permit fee equal to one percent (1%) of the estimated cost of constructing the telecommunication facilities, as certified by the franchisee's engineer and approved by the Town engineer, to cover the Town costs for inspections, survey and mapping.

Sec. 19-322. - Franchise fees.

- (a) Each franchisee shall pay an annual franchise fee to the Town for use of the street and for costs associated with procurement, maintenance and oversight of the street for the public, current and future users. The amount of such annual franchise fee shall be established by resolution of the Town and the Town expressly reserves the right to review and/or modify any telecommunications franchise agreement every third year of the franchise.
- (b) The payment of a franchise fee shall be in addition to any tax or payment owed to the Town by a telecommunications carrier.
- (c) The franchise fee and any other costs or penalties assessed shall be payable on a quarterly basis to the Town, and a telecommunications carrier shall pay the same and file a complete and accurate verified statement of all gross revenue, as defined in this section, within 45 days after each calendar quarter.
- (d) The Town shall have the right to inspect a telecommunications carrier's income records and the right to audit and to recompute any amounts determined to be payable under this chapter; provided, however, that such audit shall take place within 36 months following the close of each of a telecommunications carriers fiscal years. Any additional amount due to the Town as a result of the audit (together with the cost of the audit unless the shortage is a *de minimus* amount) shall be paid within 30 days following written notice to a telecommunications carrier by the Town, which notice shall include a copy of the audit report. Notwithstanding the foregoing, an amount shall be deemed *de minimus* if such amount is equal to one percent or less of the amount paid by a telecommunications carrier during the audited period.
- (e) If any franchise fee or recomputed amount, cost or penalty is not paid on or before the applicable dates heretofore specified, interest shall be charged daily from such date at the then legal maximum rate in the state, and a telecommunications carrier shall reimburse the Town for any additional expenses and costs incurred by the Town by reason of the delinquent payments.
- (f) The franchise fee does not include any tax, fee or assessment of general applicability.

Sec. 19-323. - Regulatory fees and compensation not a tax.

The regulatory fees and costs provided for in this chapter, and any compensation charged and paid for the streets provided for in sections 19-103, 19-119, 19-120, 19-121, and 19-122 are separate from, and additional to, any and all federal, state, local and Town taxes as may be

levied, imposed or due from a telecommunications carrier, its customers or subscribers, or on account of the lease, sale, delivery or transmission of telecommunications services.

Sec. 19-324. - Location of facilities.

All facilities shall be constructed, installed and located in accordance with the following terms and conditions, unless otherwise specified in a franchise agreement:

- (1) A franchisee shall install its telecommunications facilities within an existing underground duct or conduit whenever excess capacity exists.
- (2) A franchisee with permission to install overhead facilities shall install its telecommunications facilities on pole attachments to existing utility poles only, and then only if surplus space is available. The Town Administrator must review and approve the use of overhead facilities and when appropriate may refer such installation plans to the Town planning commission for review.
- (3) Whenever any existing electric utilities, cable system or telecommunications facilities are located underground within a street of the Town, a franchisee with permission to occupy the same street must also locate its telecommunications facilities underground.
- (4) Whenever any new or existing electric utilities, cable system or telecommunications facilities are located, or relocated, underground within a street of the Town, a franchisee that currently occupies the same street shall relocate its facilities underground within a reasonable period of time, which shall not be later than the end of the franchise term. Absent extraordinary circumstances or undue hardship as determined by the Town engineer, such relocation shall be made concurrently to minimize the disruption of the streets.
- (5) Whenever new telecommunications facilities will exhaust the capacity of a street or utility easement to reasonably accommodate future telecommunications carriers or facilities, the franchisee shall provide additional ducts, conduits, manholes and other facilities for nondiscriminatory access to future telecommunications carriers.

Sec. 19-325. - Compliance with joint trenching rules.

All franchisees shall, before commencing any construction in the streets, comply with all regulations of utility joint trenching rules, including the provisions set forth for Tenn. Code Ann. § 7-59-310(b) or as provided by regulation or ordinance of the Town, either of which as may be amended from time to time.

Sec. 19-326. - Construction permits.

All franchisees are required to obtain construction permits for telecommunications facilities as required in Article III of this chapter. However, nothing in this chapter shall prohibit the Town and a franchisee from agreeing to alternative plan review, permit and construction procedures in

a franchise agreement, provided such alternative procedures provide substantially equivalent safeguards for responsible construction practices.

Sec. 19-327. - Interference with the streets.

No franchisee may locate or maintain its telecommunications facilities so as to unreasonably interfere with the use of the streets by the Town, by the general public or by other persons authorized to use or be present in or upon the streets, including other cable and telecommunication service providers. All such facilities shall be moved by the franchisee, temporarily or permanently, as determined by the Town engineer.

Sec. 19-328. - Damage to property.

No franchisee nor any person acting on a franchisee's behalf shall take any action or permit any action to be done which may impair or damage any Town property, streets of the Town or other permanent property located in, on or adjacent thereto.

Sec. 19-329. - Notice of work.

Unless otherwise provided in a franchise agreement, no franchisee, nor any person acting on the franchisee's behalf, shall commence any nonemergency work in or about the streets of the Town without ten working days' advance notice to the Town.

Sec. 19-330. - Repair and emergency work.

In the event of an unscheduled repair or emergency, a franchisee may commence such repair and emergency response work as required under the circumstances, provided that the franchisee shall notify the Town as promptly as possible before such repair or emergency work is commenced, or as soon thereafter as possible if advance notice is not practical.

Sec. 19-331. - Maintenance of facilities.

Each franchisee shall maintain its facilities in good and safe condition and in a manner that complies with all applicable federal, state and local requirements.

Sec. 19-332. - Relocation or removal of facilities.

Within 30 days following written notice from the Town, a franchisee shall, at its own expense, temporarily or permanently remove, relocate, change or alter the position of any

telecommunications facilities within the streets whenever the Town shall have determined that such removal, relocation, change or alteration is reasonably necessary for:

- (1) The construction, repair, maintenance or installation of any Town or other public improvement in or upon the streets.
- (2) The operations of the Town or other governmental entity in or upon the streets.

Sec. 19-333. - Removal of unauthorized telecommunications facilities.

Within 30 days following written notice from the Town, any telecommunications carrier that owns, controls or maintains any unauthorized telecommunications system, telecommunications facility or related appurtenances within the streets of the Town shall, at its own expense, remove such telecommunications facilities or appurtenances from the streets of the Town. A telecommunications system or facility is unauthorized and subject to removal in the following circumstances:

- (1) Upon expiration or termination of the franchisee's telecommunications franchise.
- (2) Upon abandonment of a facility within the streets of the Town.
- (3) If the system or facility was constructed or installed without the prior grant of a telecommunications franchise.
- (4) If the system or facility was constructed or installed without the prior issuance of a required construction permit.
- (5) If the system or facility was constructed or installed at a location not permitted by the telecommunications franchise.

Sec. 19-334. - Emergency removal or relocation of facilities.

The Town retains the right and privilege to cut or move any telecommunications facilities located within the streets of the Town as the Town may determine to be necessary, appropriate or useful in response to any public health or safety emergency. The Town, where feasible, shall attempt to contact franchisee prior to cutting or removing facilities from the streets.

Sec. 19-335. - Damage to franchisee's facilities.

The Town shall not be liable for any damage to or loss of any telecommunications facility within the streets of the Town as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling or work of any kind in the streets by or on behalf of the Town.

Sec. 19-336. - Restoration of streets and Town property.

- (a) When a franchisee, or any person acting on its behalf, does any work in or affecting any streets or Town property, it shall, at its own expense, promptly remove any obstructions therefrom and restore such streets or property to as good a condition as existed before the work was undertaken, unless otherwise directed by the Town.
- (b) If weather or other conditions do not permit the complete restoration required by this section, the franchisee shall temporarily restore the affected ways or property. Such temporary restoration shall be at the franchisee's sole expense, and the franchisee shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration.
- (c) A franchisee or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property.

Sec. 19-337. - Facilities maps.

Each franchisee shall provide the Town with an accurate map certifying the location of all telecommunications facilities within the streets. Each franchisee shall provide updated maps annually.

Sec. 19-338. - Duty to provide information.

Within ten days of a written request from the Town, each franchisee shall furnish the Town with information sufficient to demonstrate that:

- (1) The franchisee has complied with all requirements of this chapter.
- (2) All municipal sales, message and/or telecommunications taxes due the Town in connection with the telecommunications services and facilities provided by the franchisee have been properly collected and paid by the franchisee.
- (3) All books, records, maps and other documents maintained by the franchisee with respect to its facilities within the streets shall be made available for inspection by the Town at reasonable times and intervals.

Sec. 19-339. - Leased capacity.

A franchisee shall have the right, without prior Town approval, to offer or provide capacity or band width to other providers of telecommunications service, provided that:

- (1) The franchisee shall furnish the Town with a copy of any such lease or agreement with other telecommunication service.
- (2) The telecommunications service provider has complied, to the extent applicable, with the requirements of this chapter or other applicable Town ordinances.

Sec. 19-340. - Franchisee insurance.

Unless otherwise provided in a franchise agreement, each franchisee shall, as a condition of the grant, secure and maintain the following liability insurance policies insuring the franchisee and the Town, and its elected and appointed officers, officials agents and employees as coinsureds:

- (1) Comprehensive general liability insurance with limits not less than:
 - a. Two million dollars for bodily injury or death to each person;
 - b. Two million dollars for property damage resulting from any one accident; and
 - c. Two million dollars for all other types of liability.
- (2) Automobile liability for owned, nonowned and hired vehicles with a limit of \$1,000,000.00 for each person and \$3,000,000.00 for each accident.
- (3) Worker's compensation within statutory limits and employer's liability insurance with limits of not less than \$1,000,000.00.
- (4) Comprehensive form premises-operations, explosions and collapse hazard, underground hazard and products complete hazard with limits of not less than \$3,000,000.00.
- (5) Umbrella liability with limits of not less than \$5,000,000.00.
- (6) The liability insurance policies required by this section shall be maintained by the franchisee throughout the term of the telecommunications franchise and such other period of time during which the franchisee is operating without a franchise hereunder or is engaged in the removal of its telecommunications facilities. Each such insurance policy shall contain the following endorsement:

"It is hereby understood and agreed that this policy may not be canceled nor the intention not to renew be stated until 90 days after receipt by the Town, by registered mail, of a written notice addressed to the Town Administrator of such intent to cancel or not to renew."

- (7) Within 60 days after receipt by the Town of such notice, and in no event later than 30 days prior to such cancellation, the franchisee shall obtain and furnish to the Town replacement insurance policies meeting the requirements of this section.

Sec. 19-341. - General indemnification.

Each franchise agreement shall include, to the extent permitted by law, the franchisee's express undertaking to defend, indemnify and hold the Town and its officers, employees, agents and representatives harmless from and against any and all damages, losses and expenses, including reasonable attorney's fees and costs of suit or defense, arising out of, resulting from or alleged to arise out of or result from the negligent, careless or wrongful acts, omissions, failures to act or misconduct of the franchisee or its affiliates, officers, employees, agents, contractors or subcontractors in the construction, operation, maintenance, repair or removal of its

telecommunications facilities and in providing or offering telecommunications' services over the facilities or network, whether such acts or omissions are authorized, allowed or prohibited by this chapter or by a franchise agreement made or entered into pursuant to this chapter.

Sec. 19-342. - Performance and construction surety.

Before a franchise granted pursuant to this chapter is effective, and as necessary thereafter, the franchisee shall provide and deposit such monies, bonds, letters of credit or other instruments in form and substance acceptable to the Town as may be required by this chapter or by an applicable franchise agreement.

Sec. 19-343. - Security fund.

- (a) Each franchisee shall establish a permanent security fund with the Town by depositing the amount of \$50,000.00 with the Town in cash, an unconditional letter of credit or other instrument acceptable to the Town, which fund shall be maintained at the sole expense of the franchisee so long as any of the franchisee's telecommunications facilities are located within the streets of the Town.
- (b) The fund shall serve as security for the full and complete performance of this chapter, including any costs, expenses, damages or loss the Town pays or incurs because of any failure attributable to the franchisee to comply with the codes, ordinances, rules, regulations or permits of the Town.
- (c) Before any sums are withdrawn from the security fund, the Town shall give written notice to the franchisee:
 - (1) Describing the act, default or failure to be remedied, or the damages, cost or expenses which the Town has incurred by reason of the franchisee's act or default.
 - (2) Providing a reasonable opportunity for the franchisee to first remedy the existing or ongoing default or failure, if applicable.
 - (3) Providing a reasonable opportunity for franchisee to pay any monies due the Town before the Town withdraws the amount thereof from the security fund, if applicable.
 - (4) That the franchisee will be given an opportunity to review the act, default or failure described in the notice with the Town Administrator or his designee.
- (d) A franchisee shall replenish the security fund within 14 days after written notice from the Town that there is a deficiency in the amount of the fund.

Sec. 19-344. - Construction and completion bond.

- (a) Unless otherwise provided in a franchise agreement, a performance bond written by a corporate surety acceptable to the Town equal to at least 50 percent of the estimated cost of

constructing the franchisee's telecommunications facilities within the streets of the Town shall be deposited before construction is commenced.

- (b) Notwithstanding the provisions of this subsection (a) of this section, if a franchisee makes application to the Town to be relieved from furnishing a performance and payment bond relative to construction of a system or improvements thereto, the Town may waive the requirement for such bond or reduce the required amount thereof if the Town determines that:
 - (1) Such franchisee has a net worth of not less than \$50,000,000.00 as reflected by its most current financial statement; and
 - (2) The performance of such franchisee of its obligations generally, whether financial or otherwise, has been satisfactory with respect to the Town and with respect to other parties with which such company has had obligations of construction or improvements to telecommunication systems.
- (c) The construction bond shall remain in force until 60 days after substantial completion of the work, as determined by the Town engineer, including restoration of streets and other property affected by the construction.
- (d) The construction bond shall guarantee, to the satisfaction of the Town:
 - (1) Timely completion of construction;
 - (2) Construction in compliance with applicable plans, permits, technical codes and standards;
 - (3) Proper location of the facilities as specified by the Town;
 - (4) Restoration of the streets and other property affected by the construction;
 - (5) The submission of as-built drawings after completion of the work as required by this chapter; and
 - (6) Timely payment and satisfaction of all claims, demands or liens for labor, material or services provided in connection with the work.

Sec. 19-345. - Coordination of construction activities.

- (a) Any and all franchisees are required to cooperate with the Town and with each other.
- (b) Each franchisee shall meet with the Town, other franchisees and users of the streets annually or periodically, as determined by the Town, to schedule and coordinate construction in the streets.
- (c) All construction locations, activities and schedules shall be coordinated, as ordered by the Town engineer, to minimize public inconvenience, disruption or damages.

Sec. 19-346. - Transfer of ownership or control.

- (a) A franchise shall not be sold, assigned or transferred (including through inheritance), either in whole or in part, nor shall title thereto, either legal or equitable, or any right or interest therein, pass to or vest in any person or entity without full compliance with the procedure set forth in this section.
- (b) The provisions of this section shall apply to the sale or transfer of all or a share of a telecommunications carrier's assets or shares of stock, and to a merger (including any parent and its subsidiary corporation), consolidation, creation of a subsidiary corporation of the parent company, or sale or transfer of stock in a company so as to create a new controlling interest. The term "controlling interest" as used in this section is not limited to majority stock ownership, but includes actual working control in whatever manner exercised, including the creation or transfer of decision-making authority to a new or different board of directors.
- (1) The parties to the sale or transfer shall make a written request to the Town for its approval of a sale or transfer. The written request shall be accompanied by all information required by FCC rules and shall be presented on a form as prescribed by FCC rules. Thereafter, the Town shall have 120 days to act on the request, or it shall be deemed granted subject to the provisions following. If the Town finds that the application is not complete, as required by FCC rules, it shall notify the parties within 60 days of the initial filing. Such notice shall stay the running of the 120 days until such time as the parties file a complete application in accordance with FCC rules. If the Town does not so notify the parties within the 60 days following the filing of an application, the application shall be deemed complete and the 120 days shall run from the date such application was filed. The Town may request such additional information as it might reasonably determine to be necessary to act on the request. Such request shall not, however, extend the 120-day period unless mutually agreed to by all parties or such extension is expressly permitted by the FCC rules.
 - (2) The Town shall signify in writing within the time aforesaid its approval of the request or its determination that a public hearing is necessary due to potential adverse effect on a company's subscribers.
 - (3) If a public hearing is deemed necessary pursuant to subsection (b)(2) of this section, such hearing shall be commenced within 30 days of such determination, and notice of any such hearing shall be given 14 days prior to the hearing by publishing a notice. The notice shall contain the date, time and place of the hearing and shall briefly state the substance of the action to be considered by the Town.
 - (4) Within 30 days after the closing of the public hearing, the Town shall approve or deny in writing the sale or transfer request.
 - (5) Within 30 days of any transfer, a company shall file with the Town a copy of the deed, agreement, mortgage, lease or other written instrument evidencing such sale, transfer of ownership or control or lease, certified and sworn to as correct by such company.
- (c) In reviewing a request for sale or transfer pursuant to subsection (a) of this section, the Town may inquire into the legal, technical and financial qualifications of the prospective controlling party, and a franchisee shall assist the Town in so inquiring. The Town may condition such transfer upon such terms and conditions as it deems reasonably appropriate to

satisfy such qualifications; provided, however, that the Town shall not unreasonably withhold its approval. As a condition of approval of a transfer or assignment of ownership or control, the Town may require that the transferee become a signatory to the franchise agreement entered into by the Town and the predecessor of the transferee.

- (d) A franchisee shall notify the Town in writing of any change in administrative officials regarding its telecommunications system within 14 days of the change.
- (e) Notwithstanding anything to the contrary in this chapter or a franchise agreement, no prior consent by the Town shall be required for any transfer or assignment to any entity controlling, controlled by, or under the same common control of the transferring party. However, in such a transfer or assignment, such transferring party shall remain liable for all financial obligations as required pursuant to its franchise and this chapter, unless otherwise agreed to by the Town. Such agreement to release the transferring company shall not be withheld unreasonably and shall further be provided in all transfers or assignments where the transferee party has a net worth of not less than \$25,000,000.00 as reflected by its most current audited financial statement.

Sec. 19-347. - Transactions affecting control of franchise.

Any transactions which singularly or collectively result in a change of ten percent or more of the ownership or working control of the franchisee, of the ownership or working control of a telecommunications franchise, of the ownership or working control of affiliated entities having ownership or working control of the franchisee or of a telecommunications system or of control of the capacity or band width of franchisee's telecommunication system, facilities or substantial parts thereof, shall be considered an assignment or transfer requiring Town approval pursuant to section 19-146.

Sec. 19-348. - Revocation or termination of franchise.

A franchise granted by the Town to use or occupy streets of the Town may be revoked for the following reasons:

- (1) Construction or operation in the Town or in the streets of the Town without a franchise.
- (2) Construction or operation at an unauthorized location.
- (3) Unauthorized substantial transfer of control of the franchisee.
- (4) Unauthorized assignment of a franchise.
- (5) Unauthorized sale, assignment or transfer of franchise or assets, or a substantial interest therein.
- (6) Misrepresentation or lack of candor by or on behalf of a franchisee in any application to the Town.
- (7) Abandonment of telecommunications facilities in the streets.

- (8) Failure to relocate or remove facilities as required in this chapter.
- (9) Failure to pay taxes, compensation, fees or costs when and as due the Town.
- (10) Insolvency or bankruptcy of the franchisee.
- (11) Violation of material provisions of this chapter.
- (12) Violation of the material terms of a franchise agreement.

Sec. 19-349. - Notice and duty to cure.

If the Town Administrator or his designee believes that grounds exist for revocation of a franchise, he or his designee shall give the franchisee written notice of the apparent violation or noncompliance, providing a short and concise statement of the nature and general facts of the violation or noncompliance, and providing the franchisee a reasonable period of time not exceeding 30 days to furnish evidence that:

- (1) Corrective action has been, or is being actively and expeditiously pursued, to remedy the violation or noncompliance.
- (2) Rebutts the alleged violation or noncompliance.
- (3) It would be in the public interest to impose some penalty or sanction less than revocation.

Sec. 19-350. - Hearing.

If a franchisee fails to provide evidence reasonably satisfactory to the Town Administrator, the Town Administrator shall refer the apparent violation or noncompliance to the board of mayor and aldermen. The board of mayor and aldermen shall provide the franchisee with notice and a reasonable opportunity to be heard concerning the matter.

Sec. 19-351. - Standards for revocation or lesser sanctions.

If persuaded that the franchisee has violated or failed to comply with material provisions of this chapter, or of a franchise, the board of mayor and aldermen shall determine whether to revoke the franchise, or to establish some lesser sanction and cure, considering the nature, circumstances, extent and gravity of the violation as reflected by one or more of the following factors:

- (1) The misconduct was egregious.
- (2) Substantial harm resulted.
- (3) The violation was intentional.
- (4) There is a history of prior violations of the same or other requirements.

- (5) There is a history of overall compliance.
- (6) The violation was voluntarily disclosed, admitted or cured.

Sec. 19-352. - General.

No person shall commence or continue with the construction, installation or operation of telecommunications facilities within the Town except as provided in this article.

Sec. 19-353. - Construction codes.

Telecommunications facilities shall be constructed, installed, operated and maintained in accordance with all applicable federal, state and local codes, rules and regulations including the National Electrical Safety Code.

Sec. 19-354. - Construction permits.

No person shall construct or install any telecommunications facilities within the Town without first obtaining a construction permit therefor, provided, however, that:

- (1) No permit shall be issued for the construction or installation of telecommunications facilities within the Town unless the telecommunications carrier has filed a registration statement with the Town pursuant to article III of this chapter.
- (2) No permit shall be issued for the construction or installation of telecommunications facilities in the streets unless the telecommunications carrier has applied for and received a franchise pursuant to Article III of this chapter.
- (3) No permit shall be issued for the construction or installation of telecommunications facilities without payment of the construction permit fee established in section 19-121.

Sec. 19-355. - Applications.

Applications for permits to construct telecommunications facilities shall be submitted upon forms to be provided by the Town and shall be accompanied by drawings, plans and specifications in sufficient detail to demonstrate:

- (1) That the facilities will be constructed in accordance with all applicable codes, rules and regulations.
- (2) The location and route of all facilities to be installed on existing utility poles.
- (3) The location and route of all facilities to be located under the surface of the ground, including the line and grade proposed for the burial at all points along the route which are within the streets.

- (4) The location of all existing underground utilities, conduits, ducts, pipes, mains and installations which are within the streets along the underground route proposed by the applicant.
- (5) The location of all other facilities to be constructed within the Town, but not within the streets.
- (6) The construction methods to be employed for protection of existing structures, fixtures and facilities within or adjacent to the streets.
- (7) The location, dimension and types of all trees within or adjacent to the streets along the route proposed by the applicant, together with a landscape plan for protecting, trimming, removing, replacing and restoring any trees or areas to be disturbed during construction.

Sec. 19-356. - Engineer's certification.

All permit applications shall be accompanied by the certification of a registered professional engineer that the drawings, plans and specifications submitted with the application comply with applicable technical codes, rules and regulations.

Sec. 19-357. - Traffic control plan.

All permit applications which involve work on, in, under, across or along any streets shall be accompanied by a traffic control plan demonstrating the protective measures and devices that will be employed, consistent with Uniform Manual of Traffic Control Devices, to prevent injury or damage to persons or property and to minimize disruptions to efficient pedestrian and vehicular traffic.

Sec. 19-358. - Issuance of permit.

Within 45 days after submission of all plans and documents required of the applicant and payment of the permit fees required by this chapter, the Town engineer, if satisfied that the applications, plans and document comply with all requirements of this chapter, shall issue a permit authorizing construction of the facilities, subject to such further conditions, restrictions or regulations affecting the time, place and manner of performing the work as he may deem necessary or appropriate.

Sec. 19-359. - Construction schedule.

The franchisee shall submit a written construction schedule to the Town engineer ten working days before commencing any work in or about the streets. The franchisee shall further

notify the Town engineer not less than two working days in advance of any excavation or work in the streets.

Sec. 19-360. - Compliance with permit.

All construction practices and activities shall be in accordance with the permit and approved final plans and specifications for the facilities. The Town engineer and his representatives shall be provided access to the work and such further information as he may require to ensure compliance with such requirements.

Sec. 19-361. - Display of permit.

The franchisee shall maintain a copy of the construction permit and approved plans at the construction site, which shall be displayed and made available for inspection by the Town engineer or his representatives at all times when construction work is occurring.

Sec. 19-362. - Survey of underground facilities.

If the construction permit specifies the location of facilities by depth, line, grade, proximity to other facilities or other standard, the franchisee shall cause the location of such facilities to be verified by a registered state land surveyor. The franchisee shall relocate any facilities which are not located in compliance with permit requirements.

Sec. 19-363. - Noncomplying work.

Upon order of the Town engineer, all work which does not comply with the permit, the approved plans and specifications for the work, or the requirements of this chapter, shall be removed.

Sec. 19-364. - Completion of construction.

The franchisee shall promptly complete all construction activities so as to minimize disruption of the streets and other public and private property. All construction work authorized by a permit within the streets, including restoration, must be completed within 120 days of the date of issuance.

Sec. 19-365. - As-built drawings.

Within 60 days after completion of construction, the franchisee shall furnish the Town with two complete sets of plans, drawn to scale and certified to the Town as accurately depicting the location of all telecommunications facilities constructed pursuant to the permit.

Sec. 19-366. - Construction surety.

Prior to issuance of a construction permit, the franchisee shall provide a construction and completion bond.

Sec. 19-367. - Exceptions.

Unless otherwise provided in a franchise agreement, all telecommunications carriers are subject to the requirements of this chapter.

Sec. 19-368. - Responsibility of owner.

The owner of the facilities to be constructed and, if different, the franchisee, are responsible for performance of and compliance with all provisions of this chapter.

ORDINANCE NO. 2015-009

**AN ORDINANCE OF THE TOWN OF THOMPSON'S STATION,
TENNESSEE, TO AMEND TITLE 20, CHAPTER 1 OF THE MUNICIPAL
CODE REGARDING HOMEOWNER ASSOCIATIONS AND EXCLUSIVE
BULK SERVICE AGREEMENTS WITHIN THE TOWN.**

WHEREAS, the Board of Mayor and Aldermen finds that a large percentage of residents of the Town live in subdivisions that have established homeowners' associations; and

WHEREAS, developer controlled homeowners' associations have entered into long-term exclusive bulk agreements for cable, internet and other telecommunication services that require residents to pay for services that they may not want or need and limit competition for these services within the Town; and

WHEREAS, it is anticipated that new residential developments within the Town may also create Homeowners' Associations; and

WHEREAS, the Board of Mayor and Aldermen has determined that it is in the best interest of the Town to regulate homeowners' associations to encourage residents' freedom to choose services and encourage competition.

NOW, THEREFORE, BE IT ORDAINED by the Town of Thompson's Station as follows:

Section 1. That Title 20 of the Municipal Code, Miscellaneous, is hereby amended by added a new Section 1, as set forth below:

HOMEOWNERS' ASSOCIATIONS AND EXCLUSIVE AGREEMENTS

SECTION

- 20-101. Creation authority, purpose, and title.
- 20-102. Definitions.
- 20-103. Exclusive Bulk Service Agreements.
- 20-104. Violations and enforcement.

20-101. Authority and purpose. This ordinance is adopted pursuant to the powers enumerated in Tenn. Code Ann. § 6-2-201 and the general police power of the Town. The purpose and intent of this ordinance is to establish reasonable regulations on Homeowners' Associations to protect against agreements and practices that are detrimental to the public health, safety, welfare and convenience.

20-102. Definitions. The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Common Expenses – expenditures made by, or financial liabilities of the HOA, together with any allocations to reserves.

Developer – person(s) or entity creating and filing the Declaration or identified as the Developer in the Declaration that retains rights in the Declaration not shared with other lot owners generally.

Developer-controlled HOA – a HOA where according to the terms of the Declaration or any other agreement the Developer or its successor retains preferential voting rights not shared with other property owners generally.

Exclusive Bulk Service Agreement – a contract that provides that a service provider of cable, video (including satellite television), broadband, internet, telephone or similar services may provide services within a Development to the effective exclusion of all other similar service providers.

HOA Board – the governing body or executive board of the HOA, whether appointed by the Developer or elected by the Property Owners.

Homeowner's Association ("HOA") – a corporate or unincorporated entity, the members of which hold legal title to lots or within a Development located in the corporate limits of the Town, is responsible for the maintenance of private areas of land, common facilities and/or amenities, and/or adopts or maintains covenants or restrictions on the use of lots within the Development.

Property owners – a person or entity owning a lot or lots within the Development.

20-103. Exclusive Bulk Right-of-Entry Agreements. (a) It is the intent of this section to ensure that residents within the Town shall not be required to pay for services for which they do not contract for and/or consent to if they do not wish to receive such services, and to provide for competition in the provision of cable, video (including satellite television), broadband, internet, telephone or similar services.

(b) Except as provided for herein, a HOA may enter into an exclusive bulk right-of-entry agreement for the provision of cable, video (including satellite television), broadband, internet, telephone or similar services, provided that: (1) any Property Owner shall have the right to discontinue receiving such services at any time, without penalty or additional charges, by giving written notice to the HOA; (2) any Property Owner that discontinues services shall not be required to pay a portion of the cost of such services either directly, as a part of the Common Expenses, or as a condition of receiving any other benefits or access to amenities available to all Property owners; and (3) the sole remedy against a Property Owner for any claims of unpaid bills for services provided under such agreement shall be to discontinue such services and for the

service provider to bring a collection action in the General Sessions Court of Williamson County. The HOA may not pursue an action against any Property Owner for delinquent or unpaid bills for services and may not levy any assessments or place a lien on any property for such delinquent or unpaid bills.

(c) In addition to the limitations set forth in subsection (b), the term of an exclusive bulk Service agreement entered into by a developer-controlled HOA may not extend beyond the time at which either the majority of the voting rights of the HOA passes to the individual Property owners and/or the Developer transfers such control to the HOA, whichever comes first.

(d) Nothing herein shall prevent or limit a Property owner from contracting directly with a service provider, and this section shall not affect the terms of such private contract.

(e) Nothing herein shall be construed to authorize or extend any agreements that are invalid, unenforceable or illegal under state or federal law or that have been determined to violate FCC or applicable state regulations.

20-104. Violations and enforcement. The violation of any provision of this ordinance shall be punished by a penalty not to exceed Fifty Dollars (\$50.00) for each separate violation. The developer of any developer-controlled HOA violating this ordinance shall be liable for all penalties and court costs assessed and may not pass on or levy such penalties and costs to the Property Owners within the Development.

Section 2. All Prior Conflicting Ordinances Repealed; Interpretation. That upon the effective date of this ordinance, all prior ordinances and resolutions in conflict herewith be repealed. In case of conflict between this ordinance or any part hereof, and the whole or part of any existing ordinance of the City, the provision that establishes the higher standard shall be controlling.

Section 3. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this ordinance.

Section 4. Effective date; applicability. This ordinance shall take effect upon publication in a newspaper of general circulation within the Town after final reading, the public welfare requiring. All HOAs created after the effective date and any agreement entered into by a HOA after the effective date shall comply with the provisions of this ordinance.

Duly approved and adopted by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee.

Corey Napier, Mayor

ATTEST:

Jennifer Jones, Town Recorder

Passed First Reading:

10/13/2015

Passed Second Reading: _____

Submitted to Public Hearing on the 10th day of November 2015, at 7:00 p.m.

APPROVED AS TO FORM AND LEGALITY:

Todd Moore, Town Attorney

RESOLUTION NO. 2015-013

A RESOLUTION OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO ANNEX CERTAIN PROPERTIES (TAX MAP 131, PARCEL 11.03, TAX MAP 119, PARCEL 1.0 AND TAX MAP 119, PARCEL 2.0) GENERALLY LOCATED NORTH OF I-840 AND NORTH AND SOUTH OF (AND INCLUDING THAT PORTION OF) WEST HARPETH ROAD INTO THE TOWN AND TO APPROVE THE PLAN OF SERVICES FOR SAID ANNEXATION

WHEREAS, the owner of the property described below has requested by petition that the Town of Thompson's Station, Tennessee, annex the following properties into the corporate limits of the Town:

Tax Map 131, Parcel 11.03, of approximately 151.02 acres, Tax Map 119, Parcel 1.0, 1112 acres, and Tax Map 119, Parcel 2.0, 331.82 acres, all of which is more particularly shown on Exhibit A attached hereto. In addition, the Town hereby annexes the portion of right of way of West Harpeth Road directly between Tax Map 119, Parcels 1.0 and 2.0 and as shown as being within the "Area to be Annexed" on Exhibit A; and

WHEREAS, the Thompson's Station Planning Commission voted on October 27, 2015 to recommend this annexation and the Plan of Services to the Board of Mayor and Aldermen; and

WHEREAS, the Board of Mayor and Aldermen held a public hearing on this annexation resolution and the Plan of Services on November 10, 2015; and

WHEREAS, the Board of Mayor and Aldermen has determined that it is in the best interest of the residents of the Town to annex the property described herein into the corporate limits of the Town as requested by the property owner.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the Town of Thompson's Station as follows:

That the territory described in this resolution shall be annexed into the Town and that the Plan of Services attached hereto as Exhibit B is approved for such annexed territory.

This resolution shall take effect immediately upon passage, the public welfare requiring it.

RESOLVED AND ADOPTED this ____ day of November, 2015.

Corey Napier, Mayor

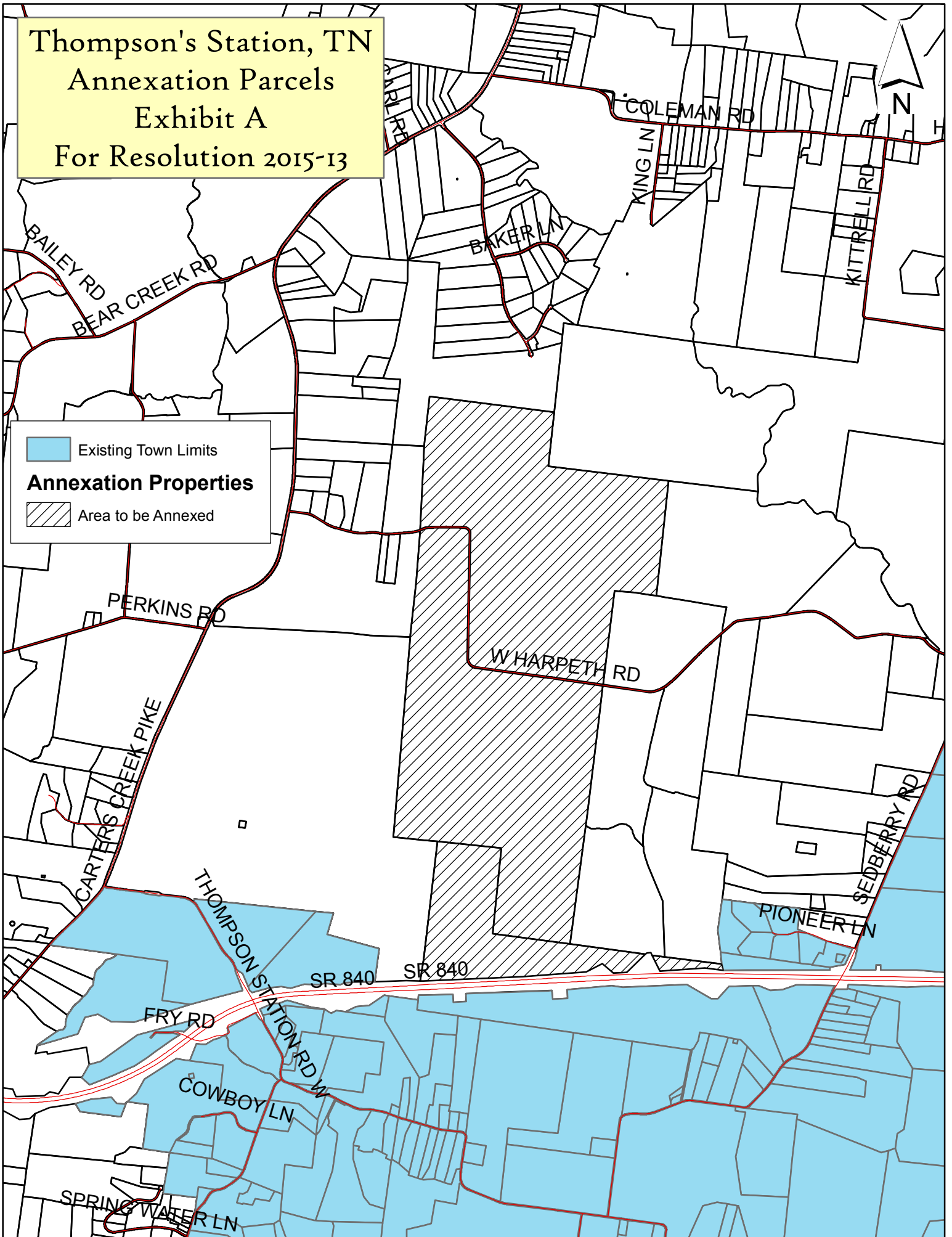
ATTEST:

Jennifer Jones, Town Recorder

APPROVED AS TO LEGALITY AND FORM:

Todd Moore, Town Attorney

Thompson's Station, TN
Annexation Parcels
Exhibit A
For Resolution 2015-13



Existing Town Limits
Annexation Properties
Area to be Annexed

BAILEY RD
BEAR CREEK RD

COLEMAN RD

KING LN

BAKER LN

KITTRELL RD

PERKINS RD

W HARPETH RD

CARTERS CREEK PIKE

THOMPSON STATION RD W

SR 840

SR 840

FRY RD

COWBOY LN

PIONEER LN

SEDBERRY RD

SPRING WATER LN

RESOLUTION 2015-13 - EXHIBIT B
THE TOWN OF THOMPSON'S STATION PLAN OF SERVICES

A. Police

1. The same regular police protection service now provided within the Town will be extended to the annexed area on the effective date of annexation. The Town has entered an interlocal agreement with the Williamson County Sheriff's Department for the provision of law enforcement services, including ordinance enforcement within the Town. Patrolling, radio responses to calls, and other routine police services, using present personnel and equipment, will be provided on the effective date of annexation. In addition, the property owner/developer has offered to dedicate land to the Town within the annexed area suitable for a public safety building to assist in the provision of police protection.
2. Traffic signs, traffic signals and other street (road) traffic control markings and devices will be installed as the need therefore is established by appropriate study and traffic standards.

B. Fire

The same regular fire protection service now provided within the Town will be extended to the annexed area on the effective date of annexation. The Town currently does not provide fire protection service but will assist the property owner/developer in working with the Williamson County Fire and Rescue Squad to coordinate the provision of fire protection service. In addition, the property owner/developer has offered to dedicate land to the Town within the annexed area suitable for a public safety building to assist in the provision of fire protection.

C. Water

The Town does not provide water. Water will be provided by HB&TS from existing service lines upon annexation and thereafter from new lines as extended or provided by the developer as development occurs, in accordance with current policies of the HB&TS.

D. Sewers

The property to be annexed is not currently served by sanitary sewers. The property owner/developer is required to provide infrastructure necessary to serve subsequent developments. All proposed sewer systems must be approved by the Town and State of Tennessee and the property owner/developer will complete construction of sanitary sewers in the area and upon completion dedicate such sewers to the Town. In addition, the property owner/developer has agreed to construct sewer infrastructure larger than what may be required for its development and to provide land suitable to accept reuse water from the Town. It is anticipated that the Town and the property owner/developer will enter into a cost recovery agreement for the larger system.

E. Power (Electric)

1. The Town does not provide electricity. The Middle Tennessee Electric Membership Corporation will be the service provider of electricity within the annexed area.

2. The Town will assume responsibility for any existing streetlights within the public right-of-way within the annexed area. The developer/property owner shall be responsible for the installation of future streetlights under the standards currently prevailing in the Town.

Natural Gas

The Town does not provide natural gas. Atmos Energy will be the service provider for natural gas within the annexed area in accordance with its franchise agreement with the Town.

Refuse Collection/Recycling

The Town does not currently provide refuse collection or recycling services. All ordinances regarding refuse collection and disposal shall be effective within the annexed area.

Streets

1. Emergency maintenance of streets (repair of chuckholes, measures necessary for traffic flow, etc.) within the annexed area will begin after the effective date of annexation.
2. Routine maintenance of existing roads and rights-of-way within the annexed area will begin after the effective date of annexation in accordance with the scheduling policy for paving. Due to the proposed development and anticipated construction traffic, paving of existing roads may be delayed. The developer/property owner shall be responsible for the construction and dedication of streets in accordance Town regulations and ordinances.
3. Street name signs and traffic control signs and devices on existing streets within the annexed area will be installed in accordance with the current policies of the Town. The developer/property owner shall be responsible for the initial installation of such signs and devices on newly constructed streets.
4. The Town will add existing and future streets to the Town's transportation plan and all necessary offsite traffic improvements necessary for development of a project on site will be the responsibility of the developer and will be coordinated with the Town of Thompson's Station and Williamson County.

Planning & Codes Services

1. All codes inspection services now provided by the Town will begin in the annexed area and apply to new construction and improvements after the effective date of annexation.
2. All planning services and the zoning jurisdiction of the Town will extend to the annexed area on the effective date of annexation.

Recreation/Trails

1. Residents of the annexed area and all future residents may utilize all existing municipal recreational facilities on the effective date of annexation under the same policies and guidelines governing current Town residents. The developer/property owner has offered to dedicate land to the Town suitable for a public park within the annexed area.
2. The Town will incorporate the annexed area into the Town's master plan for trails. The developer/property owner has agreed to dedicate land within the annexed area to allow for the future connection and extension of the Town's trail system to the developments.

Schools

The Town does not operate a public school system. Williamson County Schools will provide schools to the annexed area and written notice of the proposed annexation is being provided pursuant to Tenn. Code Ann. § 6-51-102. The developer/property owner has offered to dedicate land to the Town suitable for a public school that the Town may convey or lease to the Williamson County Schools.

Thompson's Station Board of Mayor and Aldermen
Staff Report – Items 4, 5 and 6
November 10, 2015
Annexation/Rezone for the Farms at Thompson's Station.

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A request to annex 1,961 acres north of State Route 840, south of Coleman Road is presented along with a request to zone 1,229 acres north of West Harpeth Road, south of Coleman Road to Transect Community (TC) and to zone 732 acres to T2 (Rural) zone.

BACKGROUND

The Planning Commission reviewed the request on October 27, 2015 and voted unanimously to move the annexation and rezoning request to the Board of Mayor and Aldermen for review.

ANALYSIS

The property owner has requested that the Town annex five properties totaling 1,961.17 acres. The property is adjacent to the existing corporate limits with three properties located within the Town's urban growth boundary (UGB) and the remaining two properties are located outside of the UGB.

A plan of services is necessary for the annexation of the property. Services that the Town currently provides will be extended to the annexed property or provided onsite. Police services will be provided by Williamson County through an existing interlocal agreement between the Town and the County. Any project that moves forward on the property will be required to build the necessary infrastructure for utilities and coordinate with the utility companies for expansion onto the site.

The plan of services should include a commitment by the applicant to install all necessary traffic improvements in coordination with the Town and Williamson County. In addition, the inclusion of a potential fire station and school site will be coordinated with Williamson County and has been incorporated into the plan of services and will be further specified in a development agreement.

GENERAL PLAN

The annexation of the land ensures that the Town will manage the sustainable and orderly growth of the area. The General Plan states in Goal 1 of the Land Use Element to “preserve the rural characteristics of the community while accommodating for future growth in an orderly and sustainable manner.” In addition, Goal 5 of the Land Use Element states to “encourage cluster development for preservation of natural and cultural resources. . .” By annexing this territory the Town can determine the appropriate amount and type of growth that is consistent with these policies in order to assign appropriate intensities for development, maintain a significant amount of open space and prevent the unnecessary sprawl of large lot estates without the preservation of land for conservation.

ZONING

On September 29, 2015, the Board of Mayor and Aldermen passed the ordinance adopting the new Land Development Ordinance (LDO). As part of the process, a new zoning map was adopted to identify appropriate zones throughout the Town. This proposed annexation is located

west of the CSX railroad, which is an area that is predominantly D1 and T2 zoning. Therefore, given its location, it would be appropriate and consistent for the land south of West Harpeth Road, north of State Route 840 be zoned T2 (Rural). The land located north of West Harpeth to Coleman Road with frontage along Carters Creek Pike should be located zoned TC (Transect Community).

RECOMMENDATION

The Planning Commission recommended that the Board of Mayor and Aldermen adopt Resolution 2015-13 and 2015-14 for the annexation which includes the plan of services and adopt Ordinance 2015-010 to zone the land north of West Harpeth Road, south of Coleman Road as Transect Community (TC) and the land south of West Harpeth Road, north of State Route 840 as T2 (Rural).

ATTACHMENTS

Resolution 2015-13 with Exhibit A
Resolution 2015-14 with Exhibit A
Ordinance 2015-010 with Exhibit A

RESOLUTION NO. 2015-014

A RESOLUTION OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO ANNEX CERTAIN PROPERTIES (TAX MAP 104, PARCEL 40.07 AND TAX MAP 104, PARCEL 39.04) GENERALLY LOCATED NORTH OF THE EXISTING TOWN LIMITS AND SOUTH OF COLEMAN ROAD INTO THE TOWN AND TO APPROVE THE PLAN OF SERVICES FOR SAID ANNEXATION

WHEREAS, the owner of the property described below has requested by petition that the Town of Thompson's Station, Tennessee, annex the following properties into the corporate limits of the Town:

Tax Map 104, Parcel 40.07, of approximately 205 acres, and Tax Map 104, Parcel 39.04, 155.26 acres, all of which is more particularly shown on Exhibit A attached hereto; and

WHEREAS, the above-described property is contiguous to property owned by the same property owner that was previously annexed into the Town by Resolution No 2015-13; and

WHEREAS, the Thompson's Station Planning Commission voted on October 27, 2015 to recommend this annexation and the Plan of Services to the Board of Mayor and Aldermen; and

WHEREAS, the Board of Mayor and Aldermen held a public hearing on this annexation resolution and the Plan of Services on November 10, 2015; and

WHEREAS, the Board of Mayor and Aldermen has determined that it is in the best interest of the residents of the Town to annex the property described herein into the corporate limits of the Town as requested by the property owner.

NOW, THEREFORE, BE IT RESOLVED by the Board of Mayor and Aldermen of the Town of Thompson's Station as follows:

That the territory described in this resolution shall be annexed into the Town and that the Plan of Services attached hereto as Exhibit B is approved for such annexed territory.

This resolution shall take effect immediately upon passage, the public welfare requiring it.

RESOLVED AND ADOPTED this _____ day of November, 2015.

Corey Napier, Mayor

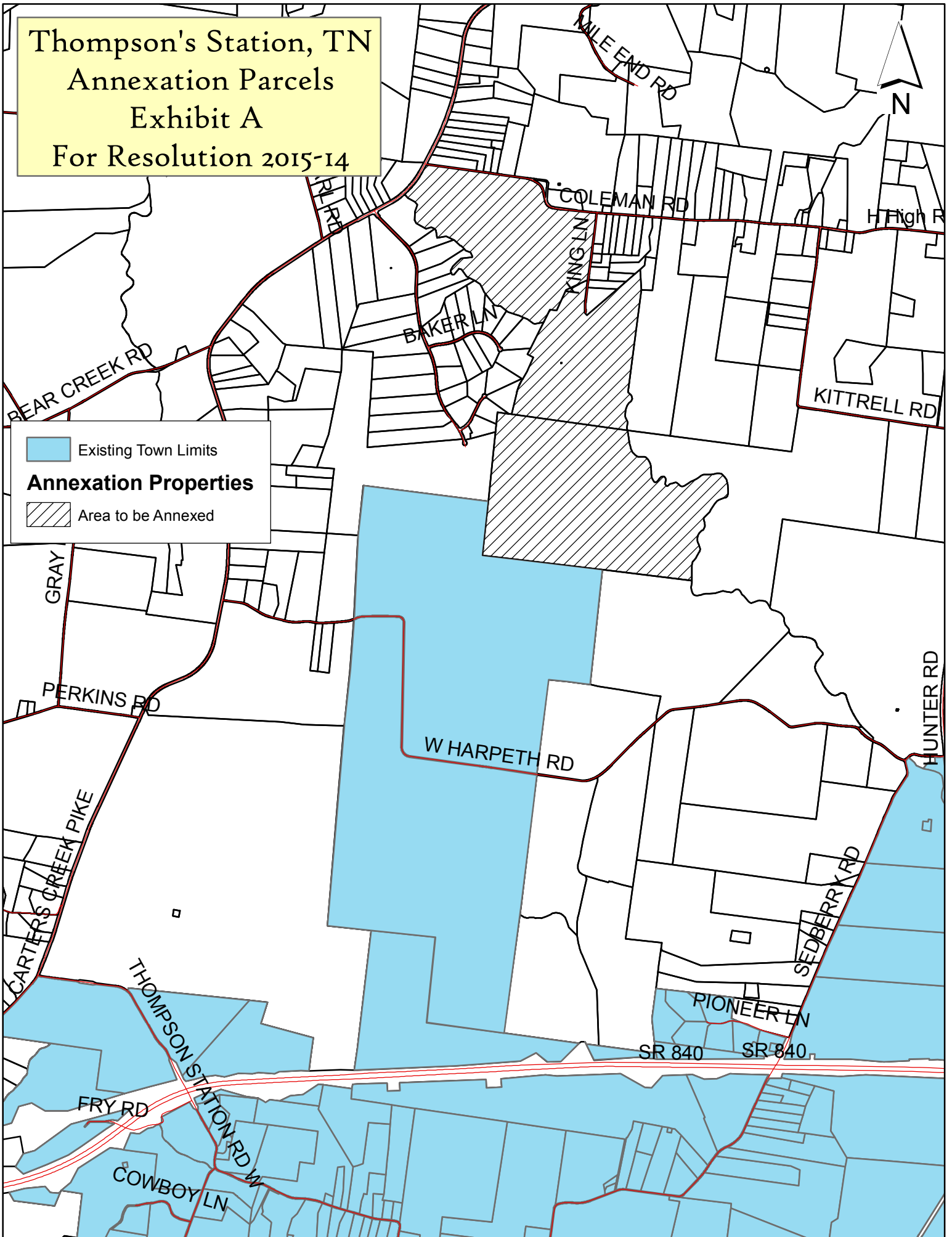
ATTEST:

Jennifer Jones, Town Recorder

APPROVED AS TO LEGALITY AND FORM:

Todd Moore, Town Attorney

Thompson's Station, TN
Annexation Parcels
Exhibit A
For Resolution 2015-14



RESOLUTION 2015-14 - EXHIBIT B
THE TOWN OF THOMPSON'S STATION PLAN OF SERVICES

A. Police

1. The same regular police protection service now provided within the Town will be extended to the annexed area on the effective date of annexation. The Town has entered an interlocal agreement with the Williamson County Sheriff's Department for the provision of law enforcement services, including ordinance enforcement within the Town. Patrolling, radio responses to calls, and other routine police services, using present personnel and equipment, will be provided on the effective date of annexation. In addition, the property owner/developer has offered to dedicate land to the Town within the annexed area suitable for a public safety building to assist in the provision of police protection.
2. Traffic signs, traffic signals and other street (road) traffic control markings and devices will be installed as the need therefore is established by appropriate study and traffic standards.

B. Fire

The same regular fire protection service now provided within the Town will be extended to the annexed area on the effective date of annexation. The Town currently does not provide fire protection service but will assist the property owner/developer in working with the Williamson County Fire and Rescue Squad to coordinate the provision of fire protection service. In addition, the property owner/developer has offered to dedicate land to the Town within the annexed area suitable for a public safety building to assist in the provision of fire protection.

C. Water

The Town does not provide water. Water will be provided by HB&TS from existing service lines upon annexation and thereafter from new lines as extended or provided by the developer as development occurs, in accordance with current policies of the HB&TS.

D. Sewers

The property to be annexed is not currently served by sanitary sewers. The property owner/developer is required to provide infrastructure necessary to serve subsequent developments. All proposed sewer systems must be approved by the Town and State of Tennessee and the property owner/developer will complete construction of sanitary sewers in the area and upon completion dedicate such sewers to the Town. In addition, the property owner/developer has agreed to construct sewer infrastructure larger than what may be required for its development and to provide land suitable to accept reuse water from the Town. It is anticipated that the Town and the property owner/developer will enter into a cost recovery agreement for the larger system.

E. Power (Electric)

1. The Town does not provide electricity. The Middle Tennessee Electric Membership Corporation will be the service provider of electricity within the annexed area.

2. The Town will assume responsibility for any existing streetlights within the public right-of-way within the annexed area. The developer/property owner shall be responsible for the installation of future streetlights under the standards currently prevailing in the Town.

Natural Gas

The Town does not provide natural gas. Atmos Energy will be the service provider for natural gas within the annexed area in accordance with its franchise agreement with the Town.

Refuse Collection/Recycling

The Town does not currently provide refuse collection or recycling services. All ordinances regarding refuse collection and disposal shall be effective within the annexed area.

Streets

1. Emergency maintenance of streets (repair of chuckholes, measures necessary for traffic flow, etc.) within the annexed area will begin after the effective date of annexation.
2. Routine maintenance of existing roads and rights-of-way within the annexed area will begin after the effective date of annexation in accordance with the scheduling policy for paving. Due to the proposed development and anticipated construction traffic, paving of existing roads may be delayed. The developer/property owner shall be responsible for the construction and dedication of streets in accordance Town regulations and ordinances.
3. Street name signs and traffic control signs and devices on existing streets within the annexed area will be installed in accordance with the current policies of the Town. The developer/property owner shall be responsible for the initial installation of such signs and devices on newly constructed streets.
4. The Town will add existing and future streets to the Town's transportation plan and all necessary offsite traffic improvements necessary for development of a project on site will be the responsibility of the developer and will be coordinated with the Town of Thompson's Station and Williamson County..

Planning & Codes Services

1. All codes inspection services now provided by the Town will begin in the annexed area and apply to new construction and improvements after the effective date of annexation.
2. All planning services and the zoning jurisdiction of the Town will extend to the annexed area on the effective date of annexation.

Recreation/Trails

1. Residents of the annexed area and all future residents may utilize all existing municipal recreational facilities on the effective date of annexation under the same policies and guidelines governing current Town residents. The developer/property owner has offered to dedicate land to the Town suitable for a public park within the annexed area.
2. The Town will incorporate the annexed area into the Town's master plan for trails. The developer/property owner has agreed to dedicate land within the annexed area to allow for the future connection and extension of the Town's trail system to the developments.

Schools

The Town does not operate a public school system. Williamson County Schools will provide schools to the annexed area and written notice of the proposed annexation is being provided pursuant to Tenn. Code Ann. § 6-51-102. The developer/property owner has offered to dedicate land to the Town suitable for a public school that the Town may convey or lease to the Williamson County Schools.

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BACKGROUND

The Planning Commission reviewed the request on October 27, 2015 and voted unanimously to move the annexation and rezoning request to the Board of Mayor and Aldermen for review.

ANALYSIS

The property owner has requested that the Town annex five properties totaling 1,961.17 acres. The property is adjacent to the existing corporate limits with three properties located within the Town's urban growth boundary (UGB) and the remaining two properties are located outside of the UGB.

A plan of services is necessary for the annexation of the property. Services that the Town currently provides will be extended to the annexed property or provided onsite. Police services will be provided by Williamson County through an existing interlocal agreement between the Town and the County. Any project that moves forward on the property will be required to build the necessary infrastructure for utilities and coordinate with the utility companies for expansion onto the site.

The plan of services should include a commitment by the applicant to install all necessary traffic improvements in coordination with the Town and Williamson County. In addition, the inclusion of a potential fire station and school site will be coordinated with Williamson County and has been incorporated into the plan of services and will be further specified in a development agreement.

GENERAL PLAN

The annexation of the land ensures that the Town will manage the sustainable and orderly growth of the area. The General Plan states in Goal 1 of the Land Use Element to “preserve the rural characteristics of the community while accommodating for future growth in an orderly and sustainable manner.” In addition, Goal 5 of the Land Use Element states to “encourage cluster development for preservation of natural and cultural resources. . .” By annexing this territory the Town can determine the appropriate amount and type of growth that is consistent with these policies in order to assign appropriate intensities for development, maintain a significant amount of open space and prevent the unnecessary sprawl of large lot estates without the preservation of land for conservation.

ZONING

On September 29, 2015, the Board of Mayor and Aldermen passed the ordinance adopting the new Land Development Ordinance (LDO). As part of the process, a new zoning map was adopted to identify appropriate zones throughout the Town. This proposed annexation is located

west of the CSX railroad, which is an area that is predominantly D1 and T2 zoning. Therefore, given its location, it would be appropriate and consistent for the land south of West Harpeth Road, north of State Route 840 be zoned T2 (Rural). The land located north of West Harpeth to Coleman Road with frontage along Carters Creek Pike should be located zoned TC (Transect Community).

RECOMMENDATION

The Planning Commission recommended that the Board of Mayor and Aldermen adopt Resolution 2015-13 and 2015-14 for the annexation which includes the plan of services and adopt Ordinance 2015-010 to zone the land north of West Harpeth Road, south of Coleman Road as Transect Community (TC) and the land south of West Harpeth Road, north of State Route 840 as T2 (Rural).

ATTACHMENTS

Resolution 2015-13 with Exhibit A
Resolution 2015-14 with Exhibit A
Ordinance 2015-010 with Exhibit A

ORDINANCE NO. 2015-010

AN ORDINANCE OF THE BOARD OF MAYOR AND ALDERMEN OF THE TOWN OF THOMPSON'S STATION, TENNESSEE TO AMEND TO THE TOWN'S ZONING MAP BY ZONING NEWLY ANNEXED TERRITORY (MAP 104, PARCEL 40.07; MAP 104, PARCEL 39.04; MAP 119, PARCEL 2.00 AND A PORTION OF MAP 119, PARCEL 1.00) AS TRANSECT COMMUNITY (TC) AND THE REMAINING NEWLY ANNEXED TERRITORY (PORTION OF MAP 119, PARCEL 1.00; MAP 131, PARCEL 11.03) AS T2 – RURAL AS SHOWN ON THE ATTACHED MAP

WHEREAS, the Town has adopted Resolutions 2015-13 and 2015-14 to annex certain territory into the Town at the request of the property owner; and

WHEREAS, the property owner has requested that the Map 104, Parcel 40.07; Map 104, Parcel 39.04; Map 119, Parcel 2.00; and a portion of Map 119, Parcel 1.00 of the annexed territory be zoned as a Transect Community (TC) under the Town's Land Development Ordinance; and

WHEREAS, the Town's Planning Commission has recommended that this territory be zoned as a Transect Community (TC); and

WHEREAS, the Planning Commission recommends that the remaining portion of Map 119, Parcel 1.00; and Map 131, Parcel 11.03 of the annexed territory be zoned as T2 - Rural under the Town's Land Development Ordinance; and

WHEREAS, the Board of Mayor and Aldermen of the Town of Thompson's Station has determined that the proposed zoning is consistent with the General Plan and will not have a deleterious effect on surrounding properties or the Town as a whole.

NOW, THEREFORE, BE IT ORDAINED by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee, as follows:

Section 1. That the Zoning Map of the Town of Thompson's Station, Tennessee is here by amended by adding the territory annexed by Resolutions 2015-13 and 2015-14 and zoning said territory as a Transect Community (TC) and T2- Rural; said territory being more particularly described in the above-referenced resolutions and on the map attached hereto as Exhibit A.

Section 2. This ordinance shall take effect immediately upon the publication of its caption in a newspaper of general circulation after final reading by the Board of Mayor and Aldermen, the public welfare requiring it.

Duly approved and adopted by the Board of Mayor and Aldermen of the Town of Thompson's Station, Tennessee, on the ____ day of _____, 2015.

Corey Napier, Mayor

ATTEST:

Jennifer Jones, Town Recorder

Passed First Reading: _____

Passed Second Reading: _____

Submitted to Public Hearing on the ____ day of _____, 2015, at 7:00 p.m., after being advertised in the *Williamson AM* Newspaper on the ____ day of _____, 2015.

Recommended for approval by the Planning Commission on the 27th day of October, 2015.

APPROVED AS TO FORM AND LEGALITY:

Todd Moore, Town Attorney

Thompson's Station, TN
Exhibit A for Ord 2015-010

[Symbol]	TC
[Symbol]	T5
[Symbol]	T40
[Symbol]	T4
[Symbol]	T3
[Symbol]	T2
[Symbol]	T1
[Symbol]	D1
[Symbol]	D2
[Symbol]	D3
[Symbol]	C
[Symbol]	NC
[Symbol]	PN
[Symbol]	SP
[Symbol]	L
[Symbol]	MF



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RECOMMENDATION

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