



**ROCKY MOUNT TOWN COUNCIL**  
**AGENDA**  
**REGULAR COUNCIL MEETING**  
TO BE HELD IN COUNCIL CHAMBERS  
ROCKY MOUNT MUNICIPAL BUILDING  
345 DONALD AVENUE  
ROCKY MOUNT, VIRGINIA  
**JANUARY 09, 2017**  
**AT 7:00 P.M.**

When speaking before Town Council, please come to the podium and give your name and address for the record. Please address the Council and not the audience. If you provide Council with any documentation, please also give a copy to the town clerk prior to speaking.

◆  
**All cellular phones must be turned off during the Council Meeting.**  
◆

The Town of Rocky Mount is pleased to offer assistive listening devices for meeting attendees with special hearing needs. Please ask any staff member or the town clerk for assistance.

- I. Roll Call
- II. Pledge of Allegiance
- III. Approval of Agenda
- IV. Special Items (*none at this time*)
- V. Public Hearing (*none at this time*)
- VI. Approval of Draft Minutes
  - December 12, 2016 - regular meeting minutes
  - December 30, 2016 - special meeting minutes
- VII. Approval of Consent Agenda
  - Miscellaneous Action (*none at this time*)
  - Miscellaneous Resolutions/Proclamations
    1. Appointment of Lester H. Hutchinson, Jr., to the Rocky Mount Economic Development Authority
  - Departmental Monthly Reports
    - Community Development Department
    - Finance Department (Report not available at time of publication but will be forwarded to you as soon as possible.)
    - Fire Department
    - Police Department
    - Public Works Department
    - Wastewater Department
    - Water Department
- VIII. Hearing of Citizens
- IX. Old Business
  1. Review and Consideration on Adoption of Cable Franchise and Cable Television Ordinance
  2. Review and Consideration of Municipal Building Security Improvements
- X. New Business
  1. Review and Consideration for YMCA Y Resolve 5k/10k event on January 21, 2017
  2. Review and Consideration for Franklin County Parks & Recreation Chug for the Jug

5K, Kids Fun Run and Carilion Health Walk on April 29, 2017

3. Review and Consideration for 2018 Budget Calendar
4. Review and Consideration for Town of Rocky Mount Parking and Street Regulations

XI. Committee Reports

1. Public Utilities Committee Meeting on January 4, 2017

XII. Other Matters, Concerns and Rise 'N Shine Appearances

XIII. Closed Meeting and Action

XIV. Adjournment

Copies of the agenda packet are available for review at the Town Clerk's Office located at the Rocky Mount Municipal Building, 345 Donald Avenue, Rocky Mount, Virginia, Monday through Friday, during normal working hours (8 a.m. to 5 p.m.), or by going to Town of Rocky Mount website: [www.rockymountva.org](http://www.rockymountva.org).

◆  
Notice of intent to comply with Americans With Disabilities Act: Special assistance is available for disabled persons addressing Town Council. Efforts will be made to provide adaptations or accommodations based on individual needs of qualified individuals with disability, provided that reasonable advance notification has been received by the Town Clerk's Office. For assistance, please contact the Town Clerk's Office, Town of Rocky Mount, 345 Donald Avenue, Rocky Mount, VA 24151, or by calling (540) 483-7660.

◆  
Thank you for taking the time to participate in your Town Council meeting. The Mayor and members of Council invite and encourage you to attend whenever possible because good government depends on the interest and involvement of citizens.

**ROCKY MOUNT TOWN COUNCIL  
REGULAR MEETING MINUTES  
DECEMBER 12, 2016**

The December 12, 2016 Regular Council Meeting of the Rocky Mount Town Council (hereafter referred to as "Council") was held in the Council Chambers of the Rocky Mount Municipal Building located at 345 Donald Avenue, Rocky Mount, Virginia, at 7:00 p.m. with Mayor Steven C. Angle presiding.

The following members of Council were present:

- Mayor Steven C. Angle
- Vice Mayor Gregory B. Walker
- Bobby M. Cundiff
- Robert L. Moyer
- Mark H. Newbill
- Jon W. Snead
- Billie W. Stockton

The following staff members were also present:

- John Boitnott, Town Attorney
- Tim Burton, Waste Water Superintendent
- Ken Criner, Chief of Police
- Robert Deitrich, Water Plant Superintendent
- Rebecca H. Dillon, Executive Administrative Assistant
- C. James Ervin, Town Manager
- Josh Gibson, Town Planner
- Matthew Hankins, Assistant Town Manager
- Brian Schofield, Public Works Superintendent
- Linda P. Woody, Finance Director

The meeting was called to order by Mayor Steven C. Angle.

**PLEDGE OF ALLEGIANCE**

Mayor Angle led in saying the Pledge of Allegiance.

**APPROVAL OF AGENDA**

Agenda was amended to include transportation items. Item # 2 in New Business

**Motion:** To approve an amended agenda

**Motion By:** Council Member Snead

**Second:** Vice Mayor Walker

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Snead, Stockton, Walker, Newbill

**Nays: None**

**Action: Approved the amended agenda by a unanimous vote**

## **SPECIAL ITEMS**

Auditors Deanne Cox and Emily Byers from the accounting firm Robinson, Farmer and Cox were present to give a presentation of the FY ending June 30, 2016 to the Mayor and members of Council. Prior to the meeting Ms. Deanne Cox gave an informal presentation to the finance committee as well. Ms. Cox spoke to Council sharing that the Town had received an unmodified opinion or the overall results of the audit was good. This year a deficiency was found related to material adjustments that the auditors proposed. All else with the audit stayed much the same as in previous years. Mr. Ervin stated that the finance committee recommended that the full Council accept the audit as drafted.

**Motion: To accept the audit as presented for FY ending June 30, 2016**

**Motion By: Council Member Snead**

**Second: Vice Mayor Walker**

**Motion Discussion: None**

**Ayes: Cundiff, Moyer, Snead, Stockton, Walker, Newbill**

**Nays: None**

**Action: Audit was unanimously accepted by the full Council, for FY ending June 30, 2016**

## **PUBLIC HEARING**

Mr. Ervin spoke regarding the renewal of the Shentel franchise agreement. The Town is in the process of advertising the renewal of Shentel to buy and sell cable television services in the Town of Rocky Mount. The services are governed by the Federal Communication Commission Code Section 42 and Virginia Code 12.2. The Town has held two essential public hearings to solicit citizens to come out and give the Town ideas of what should be in the agreement and give the Town guidance as to how to negotiate with Shentel. The first hearing was in February of 2016. The information was put into a proposed document. There are two documents that govern the Town's relationship with the provider. The first is a franchise which outlines the agreement and the second one is the ordinance that outlines the laws that govern the cable that is provided in town. The two documents were made available on the town's web site and for public review in the Municipal Building. The final step is to have a public hearing in which we listen to any comments regarding the Town and the provider.

The Mayor asked if anyone wanted to speak and no one came forward.

No action needed on this item this evening.

Shentel representatives will be here in January.

## **APPROVAL OF MINUTES**

Received by Council in their packet for this scheduled meeting were draft minutes for review and consideration of approval:

- November 14, 2016 regular meeting minutes

**Discussion:** None

**Motion:** To approve the draft minutes

**Motion By:** Council Member Stockton

**Second:** Council Member Cundiff

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Newbill, Snead, Stockton, Walker

**Nays:** None

**Action:** Approved the motion by a unanimous vote.

## **APPROVAL OF CONSENT AGENDA**

This month's consent agenda consists of the following items:

- (1) **Miscellaneous Action:** None at this time
- (2) **Miscellaneous Resolutions/Proclamations:** None at this time
- (3) **Department Monthly Reports**
  - Community Development Department
  - Finance Department
  - Fire Department
  - Police Department
  - Public Works Department
  - Wastewater Department
  - Water Department

**Discussion:** None

**Motion:** To approve the consent agenda as presented.

**Motion By:** Council Member Stockton

**Second:** Council Member Snead

**Motion Discussion:** None

**Ayes:** Cundiff, Newbill, Moyer, Snead, Stockton, Walker

**Nays:** None

**Action:** Approved the consent agenda as presented by a unanimous vote.

## **HEARING OF CITIZENS**

Mayor Angle opened the floor to any citizens wishing to speak.

Let the record show no one came forward.

## **OLD BUSINESS:**

Let the record show that there was one item of old business.

1. Review and Consideration for Comprehensive Economic Development Strategy (CEDS)

Mr. James Ervin spoke regarding the Comprehensive Development Strategy (CEDS). In addition to him speaking, there was an updated spreadsheet that the Town was required to keep updated and on file that was presented to Council as well.

**Discussion:** None

**Motion:** To submit the (CEDS) document

**Motion By:** Council Member Newbill

**Second:** Council Member Stockton

**Motion Discussion:** None

**Ayes:** Cundiff, Newbill, Moyer, Snead, Stockton, Walker

**Nays:** None

**Action:** Approved the (CEDS) document be submitted by a unanimous vote.

## **NEW BUSINESS**

1. Review and Consideration for Goodwill Industries of the Valleys Parade

Mr. Ervin spoke regarding the letter the Town received from Goodwill Industries requesting a parade. Lt. Lovern has met with Goodwill Industries and their route is the same as in past years.

**Discussion:** None

**Motion:** To approve the parade

**Motion By:** Council Member Snead

**Second:** Vice Mayor Walker

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Newbill, Snead, Stockton, Walker

**Nays:** None

**Action:** Approved the motion to approve the parade by a unanimous vote.

2. Review and Consideration for Transportation Items

Mr. Josh Gibson spoke regarding an amount of \$600,000 that was left over from a project on Veteran's Bridge from VDOT. Mr. Gibson advised that the Town could either do a ranking of projects or the Town could officially decide on what project to apply the money to but, the decision of what to do does need to be done soon so the Town would not lose the money. One stipulation is that what the money is applied to does have to be road construction or sidewalk construction because the money is federal dollars. At this time, it is preferred to be used for the Floyd Avenue Intersection Improvement or a sidewalk construction job such as the

Angle Bridge project. Mr. Gibson stated that of the two jobs, the Floyd Avenue Intersection Improvement was believed to be the better fit.

The Mayor spoke regarding the projects and expressed that the Floyd Avenue and Franklin Street Intersection Improvement would be well spent.

**Discussion:** None

**Motion:** To investigate Floyd Avenue and Franklin Street Intersection Improvement.

**Motion By:** Council Member Cundiff

**Second:** Council Member Walker

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Newbill, Snead, Stockton, Walker

**Nays:** None

**Action:** Approved the motion to investigate the Floyd Avenue and Franklin Street Intersection Improvement.

## **COMMITTEE REPORTS**

The Finance & Human Services Committee Meeting on December 12, 2016. The committee met just prior to the Council meeting for a presentation of the audit to the committee members.

## **OTHER MATTERS & CONCERNS**

Mr. Hankins was on Rise and Shine with Mr. Hagy.

## **CLOSED MEETING AND ACTION**

Enter Closed Meeting

**Motion:** To go into closed session under the Virginia Code Section cited below

**Time:** 7:30 p.m.

**Virginia Code Section:**

**Section 2.2-3711(A).3 - Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.**

**Section 2.2-3711(A).1 - Discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body. (Town Manager's Office)**

**Section 2.2-3711(A).1 - Discussion, consideration or interviews of prospective candidates for employment, assignment, appointment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or employees of any public body. (Economic Development Authority)**

**Motion By: Vice Mayor Walker**

**Second: Council Member Snead**

**Motion Discussion: None**

**Ayes: Cundiff, Moyer, Newbill, Snead, Stockton, Walker**

**Nays: None**

**Action: To go into a closed meeting**

**Certificate of Closed Meeting Discussion:**

**Council certified unanimously that nothing was discussed in the closed meeting other than what was stated in the motion to enter the closed meeting. No action was taken during the closed meeting.**

Whereas, the Rocky Mount Town Council has convened a closed meeting on Monday, March 14, 2016 pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia (1950), as amended, requires certification by this Council that such closed meeting was conducted in conformity with Virginia law;

Now, Therefore, Be It Resolved that the Rocky Mount Town Council hereby certifies that, to the best of each members' knowledge: (1) only public business matters lawfully exempted from open meeting requirements under this chapter; and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered in the meeting by the public body.

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Steven C. Angle, Mayor

**Motion: To amend the Town of Rocky Mount position and classification program as attached to the minutes in the minute book.**

**Motion By: Vice Mayor Walker**

**Second: Council Member Newbill**

**Motion Discussion: None**

**Ayes: Cundiff, Moyer, Newbill, Snead, Stockton, Walker**

**Nays: None**

**Action: Approved the motion by a unanimous vote**

**ADJOURNMENT**

**Motion:** To adjourn meeting

**Time:** 8:30 p.m.

**Motion By:** Council Member Stockton

**Second:** Council Member Snead

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Newbill, Snead, Stockton, Walker

**Nays:** None

**Action:** Adjourned by a unanimous vote

\_\_\_\_\_  
Steven C. Angle, Mayor

ATTEST:

\_\_\_\_\_  
Rebecca H. Dillon, Acting Town Clerk

**ROCKY MOUNT TOWN COUNCIL  
SPECIAL CALLED MEETING MINUTES  
DECEMBER 30, 2016**

The December 30, 2016 Special Called Meeting of the Rocky Mount Town Council (hereafter referred to as "Council") was held in the Council Chambers of the Rocky Mount Municipal Building located at 345 Donald Avenue, Rocky Mount, Virginia, at 4:00 p.m. with Mayor Steven C. Angle presiding.

The following members of Council were present:

- Mayor Steven C. Angle
- Vice Mayor Gregory B. Walker
- Bobby M. Cundiff
- Robert L. Moyer
- Mark H. Newbill
- Jon W. Snead
- Billie W. Stockton

The following staff members were also present:

- Rebecca H. Dillon, Executive Administrative Assistant
- Matthew Hankins, Assistant Town Manager

The meeting was called to order by Mayor Steven C. Angle.

**APPROVAL OF AGENDA**

**Motion:** To approve the agenda

**Motion By:** Council Member Moyer

**Second:** Vice Mayor Walker

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Snead, Stockton, Walker, Newbill

**Nays:** None

**Action:** Approved the agenda by a unanimous vote

**APPROVAL OF RESOLUTION EXTENDING LETTER OF CREDIT**

Mr. Matt Hankins spoke regarding the letter of credit that the Town had that was set to expire December 30, 2016. This meeting was to renew that letter for the line of credit to be extended to February 2, 2018.

**Motion:** To approve the letter of credit

**Motion By:** Vice Mayor Walker

**Second:** Council Member Moyer

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Snead, Stockton, Walker, Newbill

**Nays:** None

**Action:** Approved the letter of credit to be renewed

## **ADJOURNMENT**

**Motion:** To adjourn meeting

**Time:** 4:04 p.m.

**Motion By:** Vice Mayor Walker

**Second:** Council Member Moyer

**Motion Discussion:** None

**Ayes:** Cundiff, Moyer, Newbill, Snead, Stockton, Walker

**Nays:** None

**Action:** Meeting convened

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Steven C. Angle, Mayor

ATTEST:

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Rebecca H. Dillon, Acting Town Clerk

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens     Consent Item     Old Business     New Business  
 Committee Report     Other

FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	Matthew C. Hankins, Assistant Town Manager
BRIEF SUMMARY OF REQUEST:	Appointment of Lester H. Hutchinson, Jr., as member and chair of the Rocky Mount Economic Development Authority.
ACTION NEEDED:	Approval of appointment

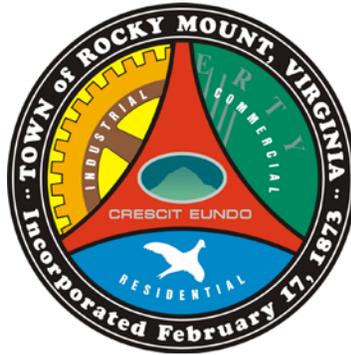
Attachment(s):

<p>FOLLOW-UP ACTION: (To be completed by Town Clerk)</p>
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TOWN OF ROCKY MOUNT  
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TOWN COUNCIL  
STEVEN C. ANGLE, *MAYOR*  
GREGORY B. WALKER, *VICE MAYOR*

BOBBY M. CUNDIFF                      BOBBY L. MOYER  
MARK H. NEWBILL                      JON W. SNEAD  
BILLIE W. STOCKTON

MATTHEW C. HANKINS  
*Assistant Town Manager*  
*Director, Community Development*

## RESOLUTION OF APPOINTMENT

**Whereas**, Lester H. Hutchinson, Jr., 1355 Scuffling Hill Road, Rocky Mount, is a resident of Rocky Mount who serves as a member and chair of the Rocky Mount Economic Development Authority; and

**Whereas**, Mr. Hutchinson's initial term of service has expired; and

**Whereas**, Mr. Hutchinson has indicated a desire to continue serving as a member of the Rocky Mount Economic Development Authority;

Now, therefore, be it resolved by the Town Council of the Town of Rocky Mount that Les Hutchinson is hereby reappointed to serve as a member of the Rocky Mount Economic Development Authority for a term and expiring September 30, 2020.

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Steven C. Angle, Mayor

Attest:

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Rebecca H. Dillon, Acting Town Clerk

**Community Development & Planning December 2016 Monthly Report**

<b>ARTS &amp; CULTURE</b>							
		<b>TOTAL: 0</b>					
AC FILE NUMBER	BUSINESS NAME	OWNER/OFFICER NAMES	GENERAL LOCATION	TAX MAP NUMBER	MAILING ADDRESS	CITY STATE ZIP	PHONE 1
<b>BANNER PERMITS</b>							
		<b>TOTAL: 0</b>					
Permit #	Applicant Name	Applicant Contact Info	Wording of Banner	Banner Location	Display Dates	Date Approved	
<b>SITE/PLAT FILES</b>							
		<b>TOTAL: 1</b>					
File Number	Property Owner	Action	TMPN	Date	Notes	Location	
P16-011	Benjamin & Abbie Pinkard	Boundary Line Vacation	2100028500	12/14/2016		Riverview Street	
<b>SIGN PERMITS</b>							
		<b>TOTAL: 2</b>					
Permit #	Applicant Name	Sign Location/TMPN	Zoning	Square Footage	Wording	Date Approved	Notes
S16-013	Walmart	550 Old Franklin TPKE	GB	<500	Various Walmart	12/9/2016	
S16-014	Catch A Tan 2	928 Tanyard	GB	21.25	Catch A Tan 2	12/16/2016	
<b>ZONING COMPLIANCE PERMITS</b>							
		<b>TOTAL: 7 Residential: 3 Commerical: 1 Public: 3</b>					
Permit #	Applicant Name	Property Owner	Property Address/TMPN	Zoning	Proposed Use	Type of Improvement	Date Approved
ZC16-075	Town of Rocky Mount	Beverly Wright	2070004300	RB	Residential	Demolish Shed for access to 100 Goodview	12/1/2016
ZC16-076	Town of Rocky Mount	Jesse Robertson/ Nancy Perdue	2070004400	M-1	Residential	Demolish 100 Goodview	12/1/2016
ZC16-077	Mack Investments, Inc	same	2130003500	R-1	Residential	Replace Oil Furnace with Propane/install HVAC	12/8/2016
ZC16-078	BLHRM LLC	same	2070057100	CBD	Commercial	Change staircase direction	12/14/2016
ZC16-079	Phillip Booth	Franklin Co. School Board	2010007000	POS	Public	Replace Fire Alarm Devices	12/22/2016
ZC16-080	Phillip Booth	Franklin Co. School Board	2040012902	C-1	Public	Replace Fire Alarm Devices	12/22/2016
ZC16-081	Phillip Booth	Franklin Co. School Board	2030002200	POS	Public	Replace Fire Alarm Devices	12/22/2016



## MONTHLY STAFF REPORT

<b>DATE:</b>	January 9, 2017
<b>TO:</b>	Rocky Mount Town Council
<b>FROM:</b>	Jeff Rakes
<b>DEPARTMENT:</b>	<b>Fire Department</b>
<b>MONTH:</b>	November 2016

The Rocky Mount Fire Department had a total of 44 calls for the month of November 2016.

There were 21 calls inside Town limits and 23 outside Town limits in the County.

The Fire Department vehicles traveled a total of 1207 miles answering all of these calls.

A total of 43 gallons of gasoline and 65 gallons of diesel fuel were used.

Of the 44 calls there was 2 structure fires, 11 woods and grass fires, 1 chimney fire, 1 dumpster fire, 13 motor vehicle accidents, 11 fire alarms, 1 service call, 2 oil spills, 1 debris in roadway, 2 smoke reports.

The Rocky Mount Fire Department trained for a total of 38 man hours during the month of November 2016.

The training was on the new radio system that is being changed over throughout the county. Proper radio traffic and techniques along with learning the new system and how it works.

## MONTHLY STAFF REPORT

<b>DATE:</b>	January 9, 2017
<b>TO:</b>	Rocky Mount Town Council
<b>FROM:</b>	Chief Ken E. Criner, Jr.
<b>DEPARTMENT:</b>	<b>Police Department</b>
<b>MONTH:</b>	December 2016

The Rocky Mount Police Department would like to welcome Manuel Mungaray to our department. Manuel started with us on December 3<sup>rd</sup>, 2016. Manuel started at Cardinal Criminal Justice Academy on January 2<sup>nd</sup>, 2017.

Our third annual Toy Drive for the Children's Hospital was a huge success again this year thanks to our Community Resource Officer Ryan King. Delivery was made on December 16<sup>th</sup> to the hospital with lots of happy children, parents and the nursing staff!

This year RMPD was able to help numerous families in local elementary schools with toys.

Regina Fralin Stanley along with the help of Community Resource Officer Ryan T. King headed up our 27<sup>th</sup> year annual needy family food drive. With generous donations from the public we were able to assist 40 individuals and families in the Town of Rocky Mount limits.

RMPD assisted and provided foot patrol and traffic control during the month of December for the following: Coming Home To A Franklin County Christmas, Christmas Parade and the Goodwill Parade on North Main Street.

**CHIEF CRINER AND PERSONNEL WOULD LIKE TO PERSONALLY THANK TOWN COUNCIL FOR OUR CHRISTMAS BONUS!**

ROCKY MOUNT POLICE DEPARTMENT  
MONTHLY REPORT TO COUNCIL

ADM #1

DATE: December 2016

October

November

December

	October	November	December
UNIFORM TRAFFIC SUMMONS ISSUED	77	79	110
TRAFFIC STOPS	173	162	180
SPEEDING TICKETS ISSUED	17	11	37
DUI	1	2	6
COLLISIONS INVESTIGATED (TREDS)	22	28	14
MOTORIST AIDES	64	61	57
CRIMINAL ARRESTS "MISDEMEANOR"	55	21	54
CRIMINAL ARRESTS "FELONY"	14	15	17
INCIDENTS ADDRESSED	2146	2176	2617
INCIDENTS, OFFENSES REPORTABLE IN "RMS"	90	78	81
GRAND LARCENY WARRANTS	3	6	4
BREAKING & ENTERING REPORTS	0	1	1
BREAKING & ENTERING WARRANTS	2	0	0
BOLO'S (Be On Look Out)	53	75	67
FOLLOW-UP'S	63	70	66
BUSINESSES, RESIDENCES CHECKED "FOOT PATROLS"	1328	1358	1799
SCHOOL CHECKS	46	72	75
ALARM RESPONSES	25	25	24
OPEN DOORS, WINDOWS, ETC. UNSECURED	18	7	4
COURT HOURS	27.5	39.25	33.5
TRAINING HOURS:	11	38.25	44.25
SPECIAL ASSIGNMENT HOURS:	167.5	30.25	94.5
HARVESTER HOURS WORKED:	66.5	56	64
ECO/TDO	3	5	1
ECO/TDO HOURS:	4	21.75	.5

## TRAFFIC ENFORCEMENT:

- ◇ Moving and stationary radar: throughout the Town, Bernard Road, Greenview Drive, North & South Main Street, Grassy Hill Road, Tanyard Road, Pell Avenue, State Street, Old Franklin Turnpike, Scuffling Hill Road, Glenwood Drive, Green Meadow Lane and Windy Lane.
- ◇ There were 14 reportable accidents with 9 of the accidents on our public streets.

## COMMUNITY OUTREACH:

- ◇ Residential Foot Patrols: Altice Mill Road, Anderson Street, Ann Sink Street, Avalon Street, Bernard Road, Bland Street, Booker T. Washington Highway, Brookshire Drive, Buckner Street, Bunny Lane, Byrd Lane, Candlewood Apartments, Cedar Street, Center Street, Circle Drive, Circle View Street, Claiborne Avenue, Cobb Street, Cornell Road, Cromwell Drive, Dent Street, Diamond Avenue, Donald Avenue, East Church Street, East Court Street, East Street, Edgemont Street, Fairlawn Drive, Friendly Street, Frontage Road, Glen Meadow Drive, Glenwood Drive, Goodview Street, Grayson Street, Grassy Hill Road, Green Meadow Lane, Greenview Avenue, Greer Lane, Hale Street, Harvey Street, Hatcher Street, Herbert Street, High Street, Highland Hills Road, Highview Terrace, Hillcrest Drive, Hilltop Drive, Jubal Pass, Knob Apartments, Knollwood Drive, Lakeview Drive, Law Street, Lawndale Drive, Leanor Street, Luke Street, Lynch Drive, Mamie Avenue, Maple Avenue, Mary Coger Lane, Maynor Street, Montview Avenue, Mountain View Drive, Musefield Road, Noel Street, Norris Street, North Main Street, Oak Street, Old Fort Road, Old Franklin Turnpike, Old Furnace Road, Orchard Avenue, Oxford Circle, Parker's Drive, Patterson Avenue, Pell Avenue, Pendleton Street, Perdue Lane, Randolph Street, Riverview Street, School Board Road, Scuffling Hill Road, Smithers Street, Spring Street, State Street, Summit Drive, Sycamore Street, Taliferro Street, Tanyard Village, Trail Drive, Walnut Street, Warren Street, West Church Street, West College Street, West Court Street, Whitten Street, Willow Avenue, Wilson Street, Windsor Drive, Windy Lane, Woodlawn Drive, Wrays Street and Wray's Chapel Road.
- ◇ Business Foot Patrols: Aaron's, ABC Store, Advance Auto, AEP, All American Car Wash, American National Bank, Ameristaff, Angle Hardware, Applebee's, Arby's, Arrington Sports Awards, Auto Zone, BB& T Bank, BFMS, Bojangles, Bootleggers Café, Brookside Swim Club, Burger King, Burt's Dentistry, C-Mart, Carter Bank & Trust, CATCE Center, China City, Christian Heritage Academy, Comfort Inn, Cook Out, Country Kids, CATCE Center, Center Stage Catering, Check Into Cash, China City, Christian Heritage Academy, Coast to Coast, Comfort Inn, Cook Out, Cox's, Crooked Stitch, Curves, CVS, Dairy Queen, Davenport Gas, Davis Law Firm, Department of Social Services, DMV, Dollar General, Dollar Tree, Domino's, Eagle Cinema, Edward Johnson Investment, El Rio, El Rodeo, Empire Foods, Enterprise Rent-A-Car, Essig Center, Family Dollar, Family Pharmacy, Farmer's Market, Fast Stop, Fast Tan, FCHS, First Baptist Church, Fisher Auto Parts, Fleetwood Homes, Flora Funeral Home, Flowers By Jones, Foley's Automotive, Food Lion, Francis of Assisi, Franklin Auto Glass, Franklin Center, Franklin Community Bank, Franklin County Dialysis, Franklin County Health Department, Franklin County Library, Franklin Dental Associates, Franklin Health Care, Franklin Heating & Air, Franklin Heights Baptist Church, Franklin Memorial Hospital, Franklin Outdoors, Frank's Pizza, Free Clinic, Furnace Creek Baptist Church, Get Ur Fix, Goodwill, The Grainery, Gusler's Alignment, H & R Block, Hair Fashions, Hardee's, Harper's Plumbing, Harvester Center, Haywood's Jewelry, Hema's, Highlander Laundry, Hodgesville Penicostal Holiness Church, Holiday Inn Express, Hollywood Beauty Salon, Hometown Rentals, Hub Restaurant, Hutchinson Insurance, Ideal Building Supply, Industrial Avenue, Ippys, J & J Fashions, Jackson Hewitt, Jammin Apparel, Kay's Corner, Kentucky Fried Chicken, Kids Corner, Kim's Nails, Kroger, Kupkavery, Lee M. Waid, Lesley Wray Photography, Little Ceasers, Long & Foster Realty, Los Tres Amigos, Lowe's, Lynch Park, Mary Bethune Park, Mary Elizabeth Park, McDonalds, Member One, Mod-U-Kraf, Moose Lodge, NAPA, National Guard Armory, Newbold, Nice Nails, Ntelos, Oasis Salon, Old's Cool, Olympia Sports, Papa Johns, Peebles, Pell Animal Clinic, Pet Clinic, Piedmont Community Services, Pizza Hut, Pizza King, Plygem, Prillaman's Auto Sales, Probation & Parole, Quiznos', Radio Shack, Real Estate Rentals, Rent-A-Center, Retail Merchants, Riverside Minute Market, Rocky Mount Auto Repair, Rocky Mount Bowling Center, Rocky Mount Christian Church, Rocky Mount Church of God, Rocky Mount Elementary, Rocky Mount Public Works, Rocky Mount Ready Mix, Rocky Mount United Methodist Church, Ron Ayers Motorworks, Roses, Schewel's, School Board Road, Sheetz, Shell Station, Shentel, Sherwin Williams, Shoe Show, State Farm, Step Inc., Subway, Sun Tan City, Sunoco, Suntrust Bank, Team Nurse, Trinity Missions, Trinity Packaging, Turner's Ready Mix, US Cellular, Union Bank, Valley Star Credit Union, Veteran's Park, Vintage Spa, Walgreens, Wal-Mart, Wendy's, Women's Shelter, Wood Grains, YMCA and The Zone.

**MISCELLANEOUS:**

- December 2<sup>nd</sup>, 2016 - Foot Patrol/Traffic Control provided for "Coming Home To A Franklin County Christmas"
- December 4<sup>th</sup>, 2016 - Traffic Control - Christmas Parade
- December 9<sup>th</sup>, 2016 - Open Door "Little Ceasar's Warehouse"
- December 9<sup>th</sup>, 2016 - Open Door "FCHS" x2
- December 15<sup>th</sup>, 2016 - Open Door "Ippy's"
- December 15<sup>th</sup>, 2016 - Delivered Toys to Local Elementary Schools
- December 16<sup>th</sup>, 2016 - Goodwill Parade
- December 16<sup>th</sup>, 2016- Delivered toys to "Children's Hospital"
- December 19<sup>th</sup>, 2016 - 2016 Needy Family Food Drive

**SPEEDING TICKETS ISSUED**

East Court Street (x 14)

Tanyard Road (x 9)

North Main Street (x 7)

South Main Street (x 2)

State Street

Donald Avenue

Hatcher Street

School Board Road

Booker T. Washington Highway

## CRIMINAL ARRESTS & LOCATIONS:

Possession of Schedule I or II Drug	Virgil H. Goode Highway
Possession of Marijuana	Technology Drive (x 3)
Possession of Marijuana	Penny Lane (x 2)
Possession of Marijuana	Perdue Lane
Possession of Marijuana	Lakeview Drive
Possession of Marijuana	East Court Street
Possession of Drug Paraphernalia	Old Franklin Turnpike
Discharge a Firearm in Town Limits	West Church Street
Driving Under the Influence	North Main Street (x 2)
Driving Under the Influence	Virgil H. Goode Highway (x 2)
Driving Under the Influence	Franklin Street
Driving Under the Influence	Donald Avenue
Drunk In Public	Diamond Avenue (x 2)
Drunk In Public	East Court Street (x 2)
Drunk In Public	Trail Drive
Drunk In Public	West Church Street
Drunk In Public	Old Franklin Turnpike
Drunk In Public	Virgil H. Goode Highway
Refusal of Blood/Breath Test	North Main Street
Felony Shoplifting	Old Franklin Turnpike (x 3)
Shoplifting	Old Franklin Turnpike (x 5)
Grand Larceny	Middle School Road
Felony Bad Checks	Old Franklin Turnpike (x 7)
Domestic Assault	Edgemont Street

Simple Assault	Hatcher Street
Disorderly Conduct	Tanyard Road (x 3)
Obstruction of Justice	Lakeview Drive
Obstruction of Justice	Old Franklin Turnpike
Resisting Arrest	Tanyard Road
Destruction of Property	Edgemont Street
Contribute to the Delinquency of a Minor	South Main Street
Warrant Service (Felony)	Windy Lane
Warrant Service – (Felony)	East Court Street (x 4)
Warrant Service (PB-15)	Circle Drive
Warrant Service (Capias)	Windy Lane (x 2)
Warrant Service (Capias)	Tanyard Road
Warrant Service (Capias)	East Court Street
Warrant Service – (Misdemeanor)	East Court Street (x 4)
Warrant Service (Misdemeanor)	East Court Street
Warrant Service (Show Cause)	Bernard Road
Warrant Service (Failure to Appear)	North Main Street
Emergency Custody Order	Pendleton Street
Possession of Tobacco Underage	Lakeview Drive
Speeding 65/35	Virgil H. Goode Highway

## MONTHLY STAFF REPORT

<b>DATE:</b>	January 9, 2017
<b>TO:</b>	Rocky Mount Town Council
<b>FROM:</b>	Brian Schofield, Public Works Superintendent
<b>DEPARTMENT:</b>	<b>Public Works Department</b>
<b>MONTH:</b>	December 2016

1. Read meters (5 days)
2. Installed four 5/8" meters
3. Installed one 2" meter
4. Meter repairs: replaced touch pads, trimmed bushes, gasket leaks, and cleanouts
5. Meter cutoffs: 21
6. Clean-up 5 days
7. Swept streets
8. Repaired water line break on N. Main Street
9. Pickup leaves along streets, and Parks
10. Maintain Christmas decorations throughout town
11. Dug two graves in High Street Cemetery
12. Installed one new sewer
13. Repaired two different sewer laterals
14. Worked with Police department on the safety and road blocks for Christmas on Franklin Street and Christmas Parade.
15. Providing project management for Vet Park project

## MONTHLY STAFF REPORT

<b>DATE:</b>	January 3, 2017
<b>TO:</b>	Rocky Mount Town Council
<b>FROM:</b>	Tim Burton
<b>DEPARTMENT:</b>	<b>Waste Water Treatment Plant</b>
<b>MONTH:</b>	December

Average Daily Flow	.670 MGD
TSS Reduction	98.6 %
BOD Reduction	98.8 %
Leachate (F.C. Landfill)	126,000 gallons
VPDES Violations	None
Sludge (Land filled @ F.C.)	0 Tons
Rain Total      2.55 inches	Snow Total      0 inches

The WWTP had one afterhours alarm in December.

The Storm Water Pollution Prevention Plan was revised for consistency and compliance with our DEQ Permit.

The annual internal audit and management reviews for the laboratory were completed in December. There were no major findings, but the Standard Operating Procedures are being revised to add some new parts for more consistency with DCLS requirements.

Pump #3 was received back from the repair shop and was put back into service.

Joey Cerebe passed his Class II License Exam.

Respectfully Submitted,

Timothy Burton

## MONTHLY STAFF REPORT

<b>DATE:</b>	January 9, 2017
<b>TO:</b>	Rocky Mount Town Council
<b>FROM:</b>	Bob Deitrich, Water Plant Superintendent
<b>DEPARTMENT:</b>	<b>Water Department</b>
<b>MONTH:</b>	December 2016

### **Operation and Production Summary:**

The actual water production time (filtering of water) for the entire month averaged 8.9 hours per day which yielded approximately 690,000 gallons of water per day. Demand is down which is typical in December due to the holidays. Our reduced production numbers also indicate that the public works department has a handle on leak repair. It helps that we have not experienced a prolonged period of below freezing temperatures. Rainfall for the month was a moderate 4" as measured at the water treatment plant.

Total Raw Water Pumped:	22.55 million gallons
Total Drinking Water Produced:	21.24 million gallons
Average Daily Production:	690,000 gallons per day
Ave Percent of Production Capacity:	35%
Flushing of Hydrants/Tanks/FD Use:	75,000 gallons (hydrant flushers removed for cold weather)
Plant Process Water:	594,000 gallons (finished water used by the plant)
Bulk Water Sold @ WTP:	None

### **Testing:**

- All routine monthly bacteria samples were free of bacteria.

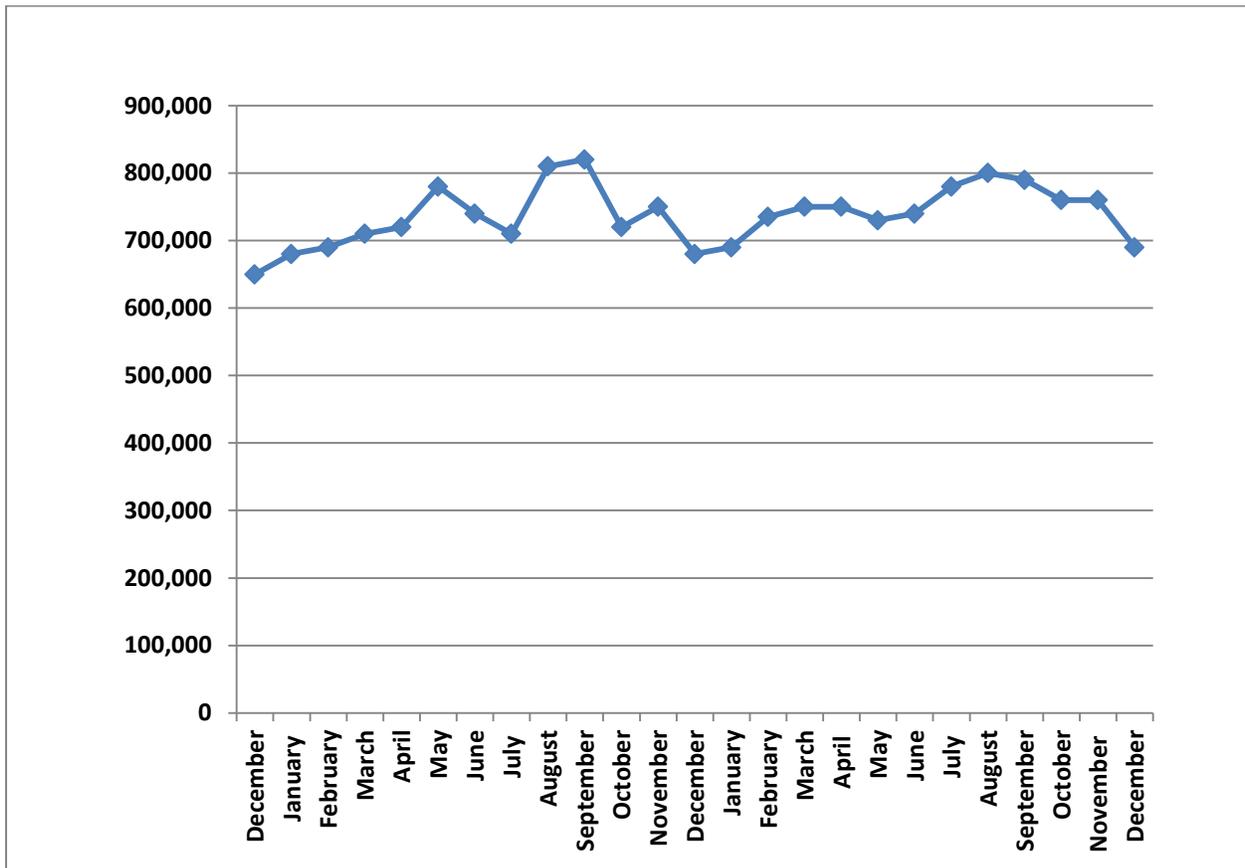
### **Activities / Maintenance / Improvements**

- Boiler replacement underway!
- Chlorine holding tank replaced (warranty work). Staff was able to transfer and feed chlorine from temporary containers to keep the plant running while the work was done by the contractor. Jon Coleman worked particularly hard to make this go smoothly.
- Pump station control panel malfunction (parts on order). The failure prevents alternation of the pumps to prevent uneven wear. This does not prevent normal filling of Grassy Hill Tank.

### **Upcoming**

- Pump station control repair
- VML Safety Inspection
- Raw Pump Station Cleaning

## Water Plant Production in Gallons Per Day (December 2014 to December 2016)



ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens   
 Consent Item   
 Old Business   
 New Business  
 Committee Report   
 Other

FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	<p>Shentel has asked the Town of Rocky Mount to renew its franchise to provide cable television services in Rocky Mount. The Federal Communications Commission and the State of Virginia (47 U.S.C. § 546 and Virginia § 12.2-2100) have established the process for a cable television franchise and two key items in that process are public hearings. The first was held on February 4, 2016 to solicit citizens input on what items should be included in the franchise and to hear from Rocky Mount citizens regarding your satisfaction with Shentel, their services and citizen ideas and input for how Shentel can meet the Cable Television needs of the Town in the next ten years.</p> <p>The Town's regulatory vehicle for Cable Television is comprised of two items, a Franchise (authorization to provided services in our community using the public's rights-of-way) and an Ordinance (our laws governing the delivery of Cable Television services in our community). After the initial public hearing the Town and Shentel spent ten months negotiating a revised Cable Television Franchise and Ordinance. These were made available to the public for review and a second public hearing was on December 12, 2016 for comment on the proposed Ordinance and Franchise.</p> <p>Notice was also given to other providers of cable television services that the Town intends to consider issuing a Cable Television Franchise for a period of ten years and that other providers wishing to be considered to receive a franchise are welcomed and encouraged to submit a proposal.</p> <p>After due public hearings and solicitation of other interested cable television providers, the revised Cable Television Franchise and Ordinance is submitted for your consideration. This Franchise is for a ten hear period from January of 2017 to January of 2027.</p>
ACTION NEEDED:	Approve or deny the Cable Television Franchise.

Attachment(s):

**FOLLOW-UP ACTION:**  
(To be completed by Town Clerk)

FRANCHISE AGREEMENT

BETWEEN

TOWN OF ROCKY MOUNT,  
VIRGINIA

AND

SHENANDOAH CABLE TELEVISION, LLC

January 9, 2017

CABLE TELEVISION

FRANCHISE AGREEMENT

THIS AGREEMENT is made and entered into as of this 9<sup>th</sup> day of January 2017, by and between the Town of Rocky Mount, Virginia, hereinafter referred to as "Town" and Shenandoah Cable Television, LLC, locally known as Shentel, hereinafter referred to as "Franchisee."

WHEREAS, the Town is authorized to grant one or more nonexclusive, revocable, franchises to construct, operate and maintain a cable television system within the Town;

WHEREAS, Franchisee's franchise will be renewed and Franchisee will continue to operate and maintain a cable television system as set forth herein;

WHEREAS, the Town, after due evaluation, has determined that it is in the best interest of the Town and its residents to grant a Franchise to Franchisee for a ten (10) year term.

NOW, THEREFORE, IN CONSIDERATION of the mutual promises and covenants contained herein, the parties do mutually agree as follows:

I. GRANTED TO SHENANDOAH CABLE TELEVISION, LLC  
LOCALLY KNOWN AS SHENTEL

A. Purpose. The purpose of this section is to award a Franchise to Franchisee for a cable television system to provide cable television services to residents of the Town. Franchisee shall use its best efforts to provide a cable television system and offer cable television services that meet industry standards.

B. Enactment. Franchisee is hereby granted a nonexclusive Franchise to operate a cable television system to provide cable services within the Town in accordance with the Town's Cable Television Ordinance ("Cable Ordinance") as specified in Section V, this Franchise, the rules and regulations adopted by the Town Council, all ordinances of the Town and all generally applicable rules and regulations of the Federal Communications Commission. The Town may from time to time amend the Cable Ordinance.

C. Effective Date. This Franchise Agreement shall become effective on March 13, 2017; provided, however, that the Franchisee has signed the Agreement prior to that time. Immediately upon the taking effect of this Franchise Agreement, the prior Franchise and any franchise agreement extensions granted to Franchisee shall be superseded and of no further force and effect; except for vested rights and issues relating to billings and the Town's rights to franchise fees or other taxes, fees, bonds or insurance.

D. Public Right of Way. For the purpose of operating and maintaining a cable television system in the Town, Franchisee may erect, in, over, under, or upon, across, and along the public right of way within the Town such wires, cables, fiber optics, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, pedestals, attachments, and other equipment as are necessary and appurtenant to the operation of the cable television system in the Town and in accordance with this Franchise Agreement and the Cable Ordinance.

## II. RIGHT OF TOWN TO ISSUE FRANCHISE

Franchisee acknowledges and accepts the legal right of the Town to issue this Franchise Agreement.

## III. TERM

The term of this Franchise Agreement shall be for a period of ten (10) years from the effective date, unless sooner revoked as provided for in the Cable Ordinance, at which time it shall expire and be of no further force and effect.

## IV. FRANCHISE NONEXCLUSIVE

This Franchise Agreement shall not be construed as any limitation upon the right of the Town to grant to other persons rights, privileges, or authorities similar to the rights, privileges, and authorities herein set forth, in the same or other streets, alleys, or other public ways or public places. The Town specifically reserves the right to grant at any time during the term of this Franchise Agreement or extension thereof, if any, such additional Franchises for a cable television system as it deems appropriate.

## V. INCORPORATION OF THE CABLE ORDINANCE BY REFERENCE AND RESOLUTION OF CONFLICTS

All terms, conditions and provisions of the Cable Ordinance shall be deemed to be embodied in this Franchise Agreement, and the express terms of said Cable Ordinance shall prevail over conflicting or inconsistent provisions of this Franchise Agreement. The Town and Franchisee warrant upon execution of the Ordinance and Franchise Agreement that no conflicting or inconsistent provisions exist between the Franchise Agreement and Ordinance as it exists on the effective date of the Franchise Agreement and that all provisions of the Franchise Agreement are consistent and enforceable. The Cable Ordinance may be amended by the Town, provided, however, that any amendment to the Cable Ordinance binding on the Franchisee shall be confined to changes which do not materially alter the rights and obligations of the Franchisee under this Franchise Agreement and the Cable Ordinance as it exists on the date of this Franchise Agreement, unless Franchisee agrees in writing to be bound by such amendment.

## VI. DEFINITIONS

A. All definitions set forth in the Cable Ordinance pertain to this Franchise Agreement and shall be relevant to the purposes and meaning of this Franchise Agreement. All terms used in this Franchise, unless otherwise defined, shall have the same meaning as set forth in Virginia Code § 15.2 Chapter 21. Franchises; Sale and Lease of Certain Municipal Public Property; Public Utilities and Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq. Such references to state and federal code shall include amendments thereto as are enacted from time-to-time

B. Subscriber Network – shall mean that portion of the cable system that is distributed from the Franchisee’s headend serving subscribers located within the Town of Rocky Mount, Virginia.

## VII. SERVICE AREA

A. Service Area. The service area of Franchisee shall be the entire corporate boundaries of the Town and include any areas annexed to the Town in the future. The Town shall provide Franchisee with at least ninety (90) days notice prior to an annexation.

B. Service to Residents. Franchisee shall make cable television service available to all residents of the Town as it exists on the effective date of this Agreement. Additional areas will be constructed as specified below.

Franchisee shall extend service within thirty (30) days of a request to all new dwelling units that are passed by the existing cable system and require a standard one hundred and fifty foot (150') drop. New dwelling units requesting service that are passed by the existing cable system and requiring a non-standard drop will be served within fourteen (14) days of a request; provided, however, that all non-wired dwelling units which require plant extensions in areas annexed after the effective date of their Agreement will be served within thirty (30) days, weather permitting, following the later of: 1) a request for services by a subscriber; or 2) completion of any necessary pole or trench permitting process and following procurement of all necessary easements and/or access from developer. Franchisee shall use its best efforts to provide service as soon as possible and Franchisee shall request all permits, easements, and/or access in a timely manner. Franchisee shall construct the cable system, at its cost, to all areas annexed after the effective date of this agreement that have thirty (30) dwelling units per mile.

C. Subscriber Drops. Franchisee agrees to provide subscribers with a standard drop of one hundred and fifty feet (150'). Service in excess of one hundred fifty feet (150') shall be charged to the customer only for the costs which exceed the normal cost of a standard drop. Upon request, Cable Service shall be made available to new residents within thirty (30) days after occupancy. Town shall use reasonable efforts to notify Franchisee of new developments. Franchisee shall use its best efforts to construct in new developments at the same time as the utilities.

D. Commercial Service. Franchisee shall, upon request by commercial/industrial establishment, make service available to all commercial/industrial establishments that are located within one hundred and fifty feet (150') of the system at Franchisee's standard aerial installation rate expense. For commercial/industrial establishments served underground or for aerial extensions beyond one hundred and fifty feet (150'), Franchisee shall, upon request of a commercial/industrial establishment, make service available on the basis of a capital contribution in aid of construction from the requesting establishment, including cost of material, labor, and easements.

E. House Moving. Franchisee shall, upon the request of the Town, move and replace its facilities to accommodate house moves conducted on behalf of the Town, free of charge to the Town. Franchisee, within fourteen (14) business days of receipt of the written request of a Town permit holder or property owner, shall move and replace its facilities to accommodate house moves or other structural changes at a reasonable cost to the property owner or permit holder.

## VIII. SYSTEM AND CAPACITY

A. System. Franchisee shall operate its cable system with a bandwidth capacity of at least 860 MHz, utilizing a fiber to the node design. New materials shall be utilized in the cable television system where existing cable does not meet manufacturers' specifications. The interconnections from the headend to the hubs and from the hubs to the nodes shall use fiber optics. Any loose lashings shall be repaired when identified and unused plant shall be removed in a timely manner, but in no event later than six (6) months after such section of the facilities is unused. The Franchisee's cable television system shall only be placed in public right-of-way or be placed on private or public property where a duly authorized easement has been obtained or is allowed by law prior to construction on the property.

B. Construction Oversight. During any future upgrade or rebuild, Franchisee or its agents shall inspect one hundred percent (100%) of all fiber and coaxial cable to insure it meets specifications

of the Cable Ordinance, this Franchise Agreement, and the rules and regulations of the FCC. During any construction, upgrade or rebuild Franchisee shall designate an employee to act as a company representative by responding to complaints on a daily basis and provide the Town with the person's name and telephone number. Franchisee shall use its best efforts to minimize traffic disruption during any construction, upgrade or rebuild and coordinate scheduling the Town.

C. Construction Schedule and Subscriber Notification. The Franchisee shall provide the Town with a timetable for any upgrade or rebuild three months prior to initiating construction. After the initiation of construction, the Franchisee shall provide monthly updated of the timetable to the Town. Franchisee shall notify subscribers of construction affecting them through appropriate media and door hangers.

D. Compliance with Applicable Law. In constructing, operating and maintaining the system, Franchisee shall at all times comply with this Franchise, the Cable Ordinance, the rules and regulations of the FCC and all applicable laws and regulations.

E. Drop Audit. All Franchise's drops shall meet National Electric Code and the National Electric Safety Code. Drops not meeting such standards shall be replaced when found to be substandard. Franchisee shall check subscriber drops for compliance with this section during repair calls. Upon request, Franchisee shall check to ensure that a subscriber's tap meets the appropriate signal strength level.

F. Equipment Quality. Equipment used for the distribution system, headend and reception facilities shall be of good and durable quality and be serviced and repaired on a regular basis and shall at all times be of equal or better quality than the equipment in place upon the effective date of this Franchise.

G. Emergency Alert. Franchisee shall comply with the requirements of the Federal emergency alert system as specified by the FCC (47 CFR Part 11.1, et seq.). Franchisee will provide a telephone contact list whereby the Town may call Franchisee to

activate a local Emergency Alert to be initiated by the Town and activated by Franchisee within ten minutes. The person(s) responsible for activating the alert on behalf of the Town shall be provided to Franchisee in writing, which may be changed by written notice from time to time by Town.

H. Parental Control Devices. Franchisee shall provide to subscribers, upon request, parental control devices that allow any channel or channels to be locked out. Such devices shall block both the video and the audio portion of such channels to the extent that both are unintelligible. In accordance with the Cable Act [47 U.S. C. Section 569], Franchisee agrees to block the video and audio portions of all primarily adult programming services.

I. Performance Testing.

1. Franchisee shall perform all system tests and maintenance procedures as required by and in accordance with the FCC Technical Standards, applicable law and Franchisee's standards of good operating practice. Upon request by the Town in advance of any test(s), Franchisee shall notify the Town, at least three (3) working days prior to the date of the test(s), of the time and place of the test(s) so that the Town may arrange for the presence of consultant at the test(s). Franchisee shall provide the results of all such tests to the Town no later than sixty (60) days of the Town's written request.

2. Whenever requested by the Town, due to subscriber complaints, Franchisee shall test, analyze, and report on the performance of its cable television system at specific sites within the Town that the Town has identified as having service quality problems. Franchisee shall take corrective action on any problems found through the testing within twenty-four (24) hours and shall use its best efforts to correct the problem in forty-eight (48) hours. The Town may require additional tests, full or partial repeat tests, different test procedures, or tests involving a specific subscriber's terminal. Reports on such tests shall be delivered to the Town no later than ten (10) business days after the Town notifies Franchisee to perform the test(s). The Town or its designees shall have the right to observe said testing and Franchisee's employees shall actually perform work on the cable system. The report shall include the following

information: the nature of the complaints which precipitated the special tests; what cable television system component was tested; the equipment used and procedures employed in said testing; the results of such tests; and the methods by which said complaints were resolved. Said tests and analyses shall be conducted by a qualified technician who shall sign all records of the special tests and forward same to the Town with a report interpreting the results of the tests and recommending what actions should be taken. If requested by the Town, Franchisee shall have a qualified engineer employed by the Franchisee to review such test results. All such tests shall be at the expense of Franchisee.

J. Technical Standards. The cable television system permitted to be operated hereunder shall be installed and operated in conformance with the Cable Ordinance as specified in Section V, this Franchise Agreement and FCC rules and regulations. Any FCC technical standards or guidelines related to the cable television system and facilities shall be deemed to be regulations under this Franchise Agreement.

K. Employee Identification. Franchisee shall provide a standard photographic identification document to all employees, including employees of subcontractors, who shall be in contact with the public. Such documents shall include a telephone number that can be used to verify identification. In addition, Franchisee shall use its best efforts to identify all field personnel and vehicles that are operating under the authority of Franchisee or its agents.

L. Stereo and Embedded Signals. The system shall have the capability and shall pass Broadcast Television Systems Committee (BTSC) stereo signals or other stereo signals for those broadcast, satellite, and locally originated services that transmit them.

M. Outage Reports. Upon written or electronic request, Franchisee shall provide reports to the Town of service outages, persistent maintenance problems, and customer complaint resolution. Franchisee shall notify the Town if there are any systems or service interruption problems that involve a node outage or affect fifteen percent (15%) or more of the subscribers in service area.

N. Cable Services. Franchisee shall be required to offer in the Town the same cable and telecommunications packages that are offered on other systems owned by the Franchisee, its parent company or affiliates, with the same or up to 30% smaller numbers of subscribers in the State of Virginia, except for cable services offered on a test or experimental basis. At such time as Franchisee, its parent company or affiliates has less than four communities with headends serving similar numbers of subscribers, then the comparison communities shall be drawn from the next communities closest subscriber count by the Town from other systems owned by the Franchisee, its parent company or affiliates in the State of Virginia. Franchisee shall provide such packages to subscribers in the Town within a reasonable period of time and in no event longer than one (1) year from when such packages are being offered in systems as described above.

O. Technical Contact. Franchisee shall provide the Town on an on-going basis with the direct telephone number of a technician to call in case of emergency, other system problems, system operations or services. Such technician shall have the authority to respond to complaints indicated by the Town.

## IX. CONSTRUCTION

A. Construction Methods. Franchisee shall construct new components of the system in accordance with current industry standards, Franchisee's construction manual. (See Appendix A, "Construction Manual," which shall be available electronically by request). The Franchisee shall follow the permitting process as specified by the Town.

B. Underground Construction. Franchisee shall participate in and use Virginia Utility Protection Service (Miss Utility) and shall respond to locate requests in a timely manner ninety-five (95) percent of the time. Franchisee shall ensure that cable is buried at a depth of eighteen (18) inches unless there is rock under the surface or a subscriber has requested that a drop be hand buried. In such cases, the Franchisee shall use its best efforts to bury the cable at a depth of eighteen (18) inches, but, at a minimum, shall bury the cable at the depth of twelve (12) inches. Temporary drops shall be buried within

ten (10) business days of installation, weather permitting. Franchisee shall participate in the area's utility committee and use best efforts to send a representative to meet regularly with the committee to discuss issues related to utilities, rights of way and service coordination.

C. Consumer Compatibility. Franchisee shall comply with FCC consumer compatibility rules and guidelines and shall use its best efforts to provide subscriber friendly technology. .

D. Quality of Construction. Construction, installation, operation and maintenance of the cable television system shall be performed in an orderly and workmanlike manner, in accordance with then-current technological standards and the Cable Ordinance.

E. Right of Inspection of Construction. The Town shall have the right to inspect all construction or installation work performed subject to the provisions of this Franchise Agreement and the Cable Ordinance and to make such tests, upon reasonable notice, as it shall find necessary to ensure compliance with the terms of this Franchise Agreement and the Cable Ordinance as specified in Section V and other pertinent provisions of law. The Town, or its agents, shall not have the right to perform work on the cable system without the written permission of the Franchisee.

F. Street Projects. Franchisee shall make best efforts to attend meetings called by the Town regarding street improvement projects and other construction related matters. Town shall provide Franchisee with reasonable notice of changes needed in the cable system for street improvement projects. Franchisee shall make any necessary changes to the cable system to accommodate street improvement projects at its own expense within the reasonable timeframe provided by the Town.

G. Joint Trenching. Franchisee shall use reasonable efforts to construct new underground areas of the cable system jointly with telephone and electric utilities.

## X. SYSTEM SERVICES

A. Residential Subscriber Services. Franchisee shall provide a similar mix, level, and quality of programming as provided on the effective date of this Franchise Agreement.

B. Cable Drops and Monthly Service. Franchisee shall provide one free cable drop, converter, if necessary, and free, basic service, or its equivalent, to all k-12 public schools, Town owned or leased buildings, public library, police, fire and rescue facilities receiving such service on the effective date of this Franchise. Additional buildings, meeting the above criteria, will receive free drops up to one hundred and fifty feet (150') in length. For new drops in excess of one hundred and fifty feet (150'), the Town or the affected institution shall reimburse the Franchisee for the additional drop footage at the Franchisee's own cost of construction. Franchisee shall also provide, at no cost, any converters or other equipment necessary to view such services.

C. Internal Wiring. Franchisee shall connect its service to subscribers who have installed internal wiring not owned or installed by Franchisee, providing such wiring is compatible with the cable system and meets FCC standards.

## XI. ACCESS AND LOCAL ORIGINATION CHANNELS

In order to develop and promote access programming for the system, Franchisee hereby agrees to provide the following:

A. Access and Local Origination Channels. Franchisee shall upon the written request of the Town, provide access channels as specified below:

1. No less than one (1) downstream channel for educational access solely for the Franklin County Schools and other local educational institutions.

2. No less than one (1) dedicated downstream channel solely for government access solely for the Town.

3. No less than one (1) dedicated downstream channel for local origination solely to serve for the Town and Franklin County and as set forth in paragraph G of this Section.

B. Access Channels on Basic. All channels identified in paragraph A of this section shall be placed on the basic tier of service. The Franchisee shall use its best efforts to maintain the cable channel positions of the access and local origination channels throughout the term of this Franchise Agreement. Franchisee shall not move or otherwise relocate access and local origination channels without providing sixty (60) days prior written notice to the Town and reimburse the Town for reasonable and documented out of pocket expenses associated with the move not to exceed \$2,000 per channel.

C. Facilities and Equipment. The Town may initiate requests for capital equipment needed in relation to access channels and Franchisee will pass on the costs for this equipment to subscribers over a period agreed to by the Town and Franchisee.

D. Publicity. Franchisee agrees to provide the following publicity services at its own expense:

1. If the Franchisee offers an electronic or written guide to subscribers, then a generic listing of the type of access programming being provided will be listed free of charge throughout the term of the Franchise Agreement.

2. Franchisee shall include pamphlets provided Town about educational and government access programming and activities in its customer information materials given to new subscribers. The Town shall coordinate the size of such pamphlets with the cable system general manager.

E. Origination Sites. For each access channel provided for in Section A above, the Franchisee, at its own expense, has provided and will maintain uplink facilities to allow broadcast quality cablecasting of access and/or local origination programming at such time as video is being cablecast over the channel. Town and Franchisee agree that on the effective date of this Franchise

Agreement these uplink facilities are in place and that the Town or its designee are liable for the costs of relocation should these facilities move within the life of this agreement. Franchisee shall provide the necessary activation (e.g., lasers, transmitters) equipment needed for cablecasting from the origination sites.

F. Signal Quality. Franchisee shall cooperate with Town to respond to any signal quality problems on the access channels or origination line as soon as possible, but no later than twelve (12) hours from a request by the Town, understanding that the Town or access originator is responsible for the signal quality produced and the origination line transport to the demarcation point at Franchisee's headend. The signal quality from the origination sites specified in Section E above shall be tested upon request and the results shall be promptly provided to the Town or the schools.

G. Local Origination.

1. Franchisee shall continue carrying content from cable channel 12 in the same manner as provided on the effective date of this Franchise Agreement. Town agrees that Franchisee reserves the right to renegotiate the airing of Cable 12 content in the event that said content changes dramatically or violates the broadcast standards or ethics of Franchisee.

2. Franchisee, at its own expense, shall continue to provide the building and utilities for local origination Channel 12 in the Town throughout the term of the franchise and such facilities shall be the same or equal to the facilities provided for local origination Channel 12 on the effective date of this franchise.

H. High definition access channels.

Upon notification, Franchisee shall carry all components of the HD format Access Channel Signals provided by the access provider including, but not limited to, closed captioning, stereo audio and other elements associated with the programming. The access provider shall be responsible for providing the Access Channel signal in an HD format to the demarcation point at the Franchisee Headend location. Franchisee shall transport and distribute the Access programming

without material degradation in a manner similar to the distribution of other HD formatted signals but Franchisee shall not be required to carry the Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee.

Access provider shall be responsible for the cost of and shall provide all necessary equipment including HD encoders or its equivalent outside or inside the demarcation point at the access provider channel origination point, at Franchisee's Headend and hubs or similar distribution facilities necessary to deliver the Access Channel(s) in the HD format to Subscribers.

PEG channels shall be made available on Franchisee's channel lineup in the same manner as regular commercial channels. With respect to signal quality, Franchisee shall not be required to carry a PEG Access Channel in a higher quality format than that of the Channel signal delivered to Franchisee, but Franchisee shall distribute the Access Channel Signal without material degradation in a manner similar to the distribution of other channels.

The Town shall notify Franchisee in writing of its need to activate the HD format Access Channels under this Section and shall provide notice to Franchisee that the following criteria have been met:

1. At least 80% (eighty percent) of the basic service tier channels excluding PEG Access Channels are provided in HD format.
2. At least 80% (eighty percent) of the Access Programming carried on the SD format Channel, which the Town has identified as the Channel to be carried in a HD format Channel, has been produced in an HD format for any three-month time period prior to the notice provided under this Section.

The HD format Access Channels provided under this Section are in addition to the SD format of those Access Channels provided. Franchisee shall have no more than 120 days from the date of the written notice under this section to fully Activate the Access Channels from the access provider to Subscribers in the HD format. The Town acknowledges that receipt of HD format Access Channels may

require Subscribers to buy or lease special equipment, or pay additional HD charges applicable to HD services. Franchisee shall not be obligated to provide complimentary HD receiving equipment to institutional or courtesy accounts as a result of the obligations set forth in this section.

## XII. NON-DISCRIMINATION

Franchisee agrees that it shall not discriminate in providing service to the public or against any employee or applicant for employment because of race, color, creed, religion, sex, disability, national origin, age, or marital status. In the employment of persons, Franchisee shall fully comply with applicable local, state and federal law, and shall take appropriate action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, disability, national origin, age, or marital status.

## XIII. RATES

A. The Town shall have the ability to regulate in accordance with Federal law. The Town acknowledges that, on the effective date of this Franchise Agreement, the Franchisee is subject to Effective Competition as defined by federal law.

B. Franchisee will continue to offer subscribers currently receiving the senior discount (10%) the senior discount.

## XIV. FRANCHISE RENEWAL

Subject to Section 626 of the Cable Act [47 U.S.C. Section 546] as amended and Sections VIII M. and XX of this Franchise Agreement, this Franchise Agreement may or may not be renewed.

## XV. POLICE POWERS

In accepting this Franchise Agreement, Franchisee acknowledges that its rights hereunder are subject to the police powers of the Town to adopt and enforce ordinances necessary to the safety and welfare

of the public, and it agrees to comply with all applicable laws and ordinances enacted by the Town pursuant to such power.

## XVI. PAYMENTS AND PERFORMANCE BOND

A. Franchise Payments. The Franchisee shall comply with the Code of Virginia Chapter 6.2-Virginia Communications Sales and Use Tax, as such may be amended. For the purposes of compliance with Chapter 6.2-Virginia Communications Sales and Use Tax the Town of Rocky Mount Franchise fee was 5% on January 1, 2007. A report prepared by a representative of Shentel showing the basis for the payment shall be provided upon request of the Town.

B. Bonds. Franchisee shall furnish construction bonds to Town as specified in the Cable Ordinance. Within thirty (30) days of the effective date of this Franchise Agreement. Franchisee shall furnish a performance bond of \$25,000 dollars. The performance bond shall be replenished within ten (10) days of use by the Town. The performance bond shall be maintained during the life of the Franchise, to guarantee the faithful performance of all its obligations under this Franchise Agreement and the Cable Ordinance. Prior to upgrade or rebuild of the cable television system, the Franchisee shall obtain and maintain during the upgrade or rebuild, at its cost and expense, and file with the Town, a construction bond in the amount of twenty percent (20%) of the cost of construction to guarantee the faithful performance of the Franchise Agreement related to upgrade or rebuild of the cable television system. The construction bond shall be maintained throughout the period that the Franchisee performs the upgrade or rebuild and for such longer period as necessarily required for the Franchisee to correct any deficiencies, which deficiencies shall be identified to the Franchisee by the Town within one hundred and eighty (180) days following the Franchisee's written notice of completion to the Town. Such bond must be issued in a form acceptable to the Town.

## XVII. REGULATION AND REPORTS

A. Regulatory Authority. The Town shall exercise appropriate regulatory authority under the provisions of the Cable

Ordinance and this Franchise Agreement. Regulation may be exercised through the Town Manager or his designee.

B. Acceptance. Franchisee, by accepting the rights hereby granted, agrees that it shall perform and keep all acts and obligations imposed, represented or promised by the provisions of this Franchise Agreement, and the Cable Ordinance.

C. Town Council Meetings. Upon request, a representative of the Franchisee shall attend meetings of the Town Council.

D. Franchisee will provide the Town with copies of State of Virginia form CT-75 within 30 days of submittal as well as any other documents or reports that the Town may request from time to time.

E. Insurance and Indemnification. Franchisee shall maintain insurance and provide indemnification as provided for in the Cable Ordinance.

F. Standards. Franchisee shall meet the FCC's Customer Service Obligations [47 C.F.R. 76.309]. Upon request, Franchisee shall provide to the Town quarterly management data, including data from any service centers used by the Franchisee related to compliance with the customer service standards of this Franchise Agreement, the Cable Ordinance and the FCC's Customer Service Standards. Such data shall be exclusive to this franchise. At such time as the FCC no longer promulgates consumer service obligations, the FCC standard in effect on the effective date of this Franchise Agreement will remain in force.

G. Franchisee Contacts. Within thirty days of the effective date of this Franchise Agreement, Franchisee shall provide in writing or via e-mail the Town with the Franchisee's e-mail address and contact persons and telephone numbers for Franchisee employees that the Town should notify regarding customer compliance, general performance and the emergency alert system. Franchisee shall keep the Town informed of any changes in the contact persons and telephone numbers.

H. Local Office. Franchisee shall maintain an office in the Town to receive payments and complaints and to exchange subscriber equipment. Such office shall be open during normal business hours and include some evening or weekend hours. A local manager for the cable system shall be in the Town office a minimum of one day per month. Such day shall be regularly scheduled and the schedule shall be provided to the Town. If the regional call center refers subscribers to a local office, Franchisee shall provide a local number to call and ensure that a staff person is available to take such calls.

## XVIII. REMEDIES

A. Schedule of Liquidated Damages. Because Franchisee's failure to comply with certain material provisions of this Agreement and the Cable Ordinance shall result in injury to the Town or to subscribers, and because it shall be difficult to estimate the extent of such injury, the Town and Franchisee hereby agree that the liquidated damages stated below represent both parties' best estimate of the damages resulting from the specified injury.

B. Violations. For the material violation of any of the following, the Town shall notify Franchisee in writing, certified mail-return receipt requested of the violation. The Town shall provide Franchisee with a detailed written notice of any Franchise violation upon which it proposes to take action, and there shall be a sixty (60) day period within which Franchisee may demonstrate that a violation does not exist or cure an alleged violation or, if the violation cannot be corrected in sixty (60) days, submit a plan satisfactory to the Town to correct the violation. If an alleged violation exists, and the violation was not cured or action on a plan acceptable to the Town has been received by the Town within sixty (60) days, such liquidated damages may be imposed and if imposed shall be chargeable to the performance bond, if not tendered by Franchisee within thirty (30) days, unless the Franchisee appeals to the Town Council or governmental agency with appropriate jurisdiction. Franchisee may petition the Town Council for relief from any assessed damages and challenge any assessment in court. The imposition of liquidated damages shall not preclude the Town from exercising the other enforcement provisions of the Cable Ordinance, including revocation,

or other statutory or judicially imposed penalties and Franchisee by entering into this Franchise is not waiving any provision of and rules promulgated under the Cable Act, federal law or state law. Liquidated damages may be imposed as follows:

1. For a material violation of the Franchise Agreement not specified below: \$50/day for each day after the expiration of the notice and cure period;

2. For material failure to comply with the requirements to carry access and local origination: \$100/day for each day the violation continues;

3. For material failure to submit reports: \$75/day for each day the violation continues after the expiration of the notice and cure period;

4. For material violation of quarterly customer service standards required FCC regulation: \$100/day for each day the violation continues after the expiration of the notice and cure period.

## XIX. COOPERATION AND EQUAL PROTECTION

A. The parties recognize that it is within their mutual best interest for the cable television system to be operated as efficiently as possible in accordance with the requirements set forth in this Franchise Agreement. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of this Franchise Agreement. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the person or agents specified herein. The person or agent thus notified shall use its best effort to facilitate the particular action requested.

B. The Town agrees that any grant of additional franchises or lawful authorization by the Town to any other entity to provide Cable Services using the public rights of way, shall require that service be provided for the same territorial area of the Town as

required by this Franchise and shall not be on terms and conditions (including, without limitation, the franchise payment obligations) more favorable or less burdensome to the Franchisee of any such additional franchise than those which are set forth herein.

Additionally, if another provider of Cable Services is franchised or otherwise lawfully authorized by any other governmental entity to provide such services using the public rights of way of the Town (the "Competing Provider") and the Competing Provider activates facilities within the Town municipal boundaries Such modification(s) shall be effective on the date that the modification is requested.

## XX. WAIVER

The failure of the Town at any time to require performance by Franchisee of any provision hereof shall in no way affect the right of the Town thereafter to enforce the same. Nor shall the waiver by the Town of any breach of any provision hereof be taken to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

## XXI. CUMULATIVE PROVISION

The rights and remedies reserved to the Town by this Franchise Agreement are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the Town may have with respect to the subject matter of this Franchise Agreement, and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

## XXII. NOTICES

All notices, reports or demands required to be given under this Franchise shall be in writing and shall be deemed to be given upon delivery if delivered personally to the person designated below, or on the fifth day following mailing if sent in accordance with the notice requirement of this Section and deposited in the United States mail in a sealed envelope, with registered or certified mail postage prepaid thereon, or on the next business day if sent by express mail or

overnight air courier addressed to the party to which notice is being given, as follows:

If to the Town:

Town Manager  
Town of Rocky Mount  
345 Donald Avenue  
Rocky Mount, VA 24153

With a copy to:

Town Attorney  
Town of Rocky Mount  
345 Donald Avenue  
Rocky Mount, VA 24153

If to the Grantee:

VP of Industry Affairs and Regulatory  
Shenandoah Cable Television, LLC  
500 Shentel Way  
P.O. Box 459  
Edinburg, VA 22824

## XXII. CAPTIONS

Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of the Agreement. Such captions shall not affect the meaning or interpretation of the Agreement.

## XXIV. NO JOINT VENTURE

Nothing herein shall be deemed to create a joint venture or principal-agent relationship between the parties, and neither party is authorized to, nor shall either party act toward third persons or the public, in any manner that would indicate any such relationship with the other.

XXV. ENTIRE AGREEMENT

This Franchise Agreement and all attachments hereto, and the Cable Ordinance and other written agreements between the parties represent the entire understanding and agreement between the parties hereto with respect to the subject matter hereof, supersede all prior oral negotiations between the parties, and can be amended, supplemented, modified, or changed only as provided in said Ordinance and this Franchise.

XXVI. SEVERABILITY

If any section, subsection, sentence, clause, phrase, or portion of this Agreement is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions of this Agreement, except as provided for in the Cable Ordinance.

IN WITNESS WHEREFORE, the parties hereto have caused this Franchise Agreement to be executed as of the day and year first above written.

TOWN OF ROCKY MOUNT, VIRGINIA  
ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Acting Town Clerk

Shenandoah Cable Television, LLC

WITNESS

\_\_\_\_\_

Title

\_\_\_\_\_

Title

Seal

Approved as to form and correctness

\_\_\_\_\_

Town Attorney

CABLE TELEVISION ORDINANCE  
FOR  
TOWN OF ROCKY MOUNT, VIRGINIA

January 9, 2017

**CABLE TELEVISION ORDINANCE.**

**§1 DEFINITIONS.**

For the purposes of this Ordinance, the following terms, phrases, words and their derivation shall have meaning given herein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and the words in a singular number include the plural number. The word "shall" is always mandatory and not merely directory. All terms used in this ordinance, unless otherwise defined, shall have the same meaning as set forth in Virginia Code § 15.2 Chapter 21. Franchises; Sale and Lease of Certain Municipal Public Property; Public Utilities and Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq. Such references to state and federal code shall include amendments thereto as are enacted from time-to-time.

AFFILIATE - means each person who falls into one (1) or more of the following categories: each person having, directly or indirectly, control or a controlling interest in Franchisee; each person in which Franchisee has, directly or indirectly, control or a controlling interest; each office, director, general partner, joint venture or joint venture partner of Franchisee; and each person directly or indirectly controlling, controlled by or otherwise related to Franchisee by common ownership, common management or common control.

BASIC CABLE SERVICE - means a separately available basic service tier to which subscription is required for access to any other tier of service. Such basic service tier shall, at a minimum, consist of the following: all signals carried in fulfillment of the Cable Act, any educational access and governmental access and local origination programming included in this Ordinance or the franchise agreement; and any signal of any television broadcast station that is provided by the cable operator to any subscriber, except a signal which is secondarily transmitted by a satellite carrier beyond the local service area of such station. Additional signals may be added to the basic tier by Franchisee.

CABLE ACT - means the Cable Communications Policy Act of 1984, the Cable Television Consumer Protection and Competition Act of 1992, and the Telecommunications Act of 1996, codified at 47 U.S.C §521 *et. Seq.*, as it may be amended or succeeded.

CABLECASTING - means educational access, governmental access and local origination programming carried on a cable television system not under the exclusive control of the cable operator.

CABLE SERVICE - means (A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and (B) subscriber interaction, if any, which is required for the selection (or use) of such video programming or other programming service or as otherwise provided by law or regulation.

CABLE TELEVISION SYSTEM - also referred to as "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 a community, but such term does not include (A) a facility that serves only to retransmit the television signals of one or more television broadcast stations; (B) a facility that serves only subscribers without using any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provision of Title II of the Cable Act, except that such facility shall be considered a cable television system to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems. Cable television system, for the purpose of this Ordinance, shall include facilities owned or operated by a person providing cable service or multiple channels of video programming on private property that receive cable service or multiple channels of video programming in whole or in part via cable, fiber or other wires or lines that are within the public right of way regardless of whether the person providing cable

service or multiple channels of video programming on private property receives video programming transmission service, cable service, or other multiple channel video service from a common carrier pursuant to tariff or otherwise or other person that retains the ownership, control and responsibility for all facilities located outside of the private property line.

CHANNEL - means a portion of the electromagnetic frequency spectrum (or any other means of transmission, including, but not limited to optical fibers) which is discretely identified and capable of carrying full motion color video, mono or stereo audio, and may include other non-video subcarriers and digital information.

COMPLAINT - means any written communication by any person or any oral communication by a subscriber or potential subscriber reduced to writing, including to a computer form, expressing dissatisfaction with any non-programming or non-financial aspect of Franchisee's business or operation of the cable television system.

DAYS - means calendar days unless otherwise specified.

DROP - means a coaxial connection from the activated feeder cable of the cable television system to the subscriber's demarcation point as specified by the FCC.

EDUCATIONAL ACCESS CHANNEL - means any channel provided by Franchisee, which is designated by the Town for educational use.

FCC or THE FEDERAL COMMUNICATIONS COMMISSION - means the Federal administrative agency, or its lawful successor, authorized to regulate and oversee telecommunications carriers, services and providers on a national level.

FRANCHISE - means an initial authorization, extension or renewal thereof, including authorization granted under the Cable Act, by the Town providing for the

nonexclusive and revocable right to construct, operate and/or maintain a cable television system along any public right-of-way and/or to provide cable service within the franchise area. However, any such authorization, in whatever form granted, shall not include any license or permit required for the privilege of transacting or carrying on business within the Town, and Franchisee is required to comply with all applicable provisions of Town ordinances, including but not limited to zoning and subdivision and land development ordinances.

FRANCHISE AREA - means the entire corporate limits of the Town, or portions thereof, as said areas are specifically described in the franchise agreement, and any area annexed by the Town during the term of the franchise agreement.

FRANCHISE FEE - means the communications tax, as specified in the Code of Virginia Chapter 6.2-Virginia Communications Sales and Use Tax, paid in exchange for the rights granted pursuant to this Ordinance. For the purposes of compliance with Chapter 6.2-Virginia Communications Sales and Use Tax the Town of Rocky Mount Franchise fee was 5% on January 1, 2007.

FRANCHISEE - means any person or persons who have been legally granted a franchise by the Town and shall include the lawful successors, transferees or assignees of such Franchisee(s) which have been approved by the Town.

GOVERNMENT ACCESS CHANNEL - means any channel provided by Franchisee which is designated by the Town for government use.

GROSS REVENUES - means all amounts in accordance with Generally Accepted Accounting Principles, in whatever form and from all sources, actually received by Franchisee from the operation of Franchisee's cable television system within the Town with gross revenues being calculated according Virginia Code § 6.2-Virginia Communications Sales and Use Tax, as such may be amended.

INSTALLATION - means the connection of the cable

television system from feeder cable to subscribers' terminal(s).

LAWS AND REGULATIONS - means any and all applicable federal, State and local laws and regulations promulgated there under.

LEASED ACCESS CHANNEL LESSEE - means a non-affiliated third party leasing a cable channel for the presentation and distribution of local non-operator video/audio programs or other video/audio communications over a cable channel for a specified fee.

LEASED ACCESS CHANNEL - means a cable channel leased by the Franchisee to a non-affiliated third party to permit presentation and distribution of local non-operator video/audio programming or other video/audio communications to subscribers for a specified fee paid to the Franchisee.

LOCAL ORIGINATION - means programming, exclusive of broadcast signals, carried on a cable television system over one (1) or more channels.

OPEN VIDEO SYSTEM or OVS - means any channel or a facility consisting of a set of transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service, which includes video programming, which is provided to multiple subscribers within a community, and which the Federal Communications Commission or its successor has certified as compliant with Part 76 of the Rules of the Federal Communications Commission, 47 C.F.R. Part 76, as amended from time to time.

PERSON - means any individual, firm, partnership, association, corporation, company or organization of any kind.

PLANT MILE - means a linear mile of strand-bearing cable placed along the right of way.

PUBLIC RIGHT-OF-WAY - means the surface, the air space above the surface, and the area below the surface of any highway, street, alley, sidewalk, bridge, and/or

tunnel which the Town has the right to grant the use of, or any other public right-of-way which is located within the Town. No reference herein, or in any permit, to the public right-of-way shall be deemed to be a representation or guarantee by the Town that its title to any property is sufficient to permit its use for such purpose, and Franchisee shall be deemed to gain only such rights to use property in the Town as the Town may have the undisputed right and power to give. Notwithstanding the foregoing, the term, "public right-of-way" shall not include any public property except the right-of-way described herein.

REBUILD - means improving the cable system with new electronic and passive devices and involves replacing a significant portion of the coaxial cable and/or fiber optic plant with new plant.

RESIDENT - means any person residing in the Town.

RESIDENTIAL SUBSCRIBER - means a subscriber who lawfully receives a service in an individual dwelling unit where the service is not to be utilized in connection with a business, trade or profession.

SALE - means any sale, exchange, barter or similar transaction.

SCHOOL - means any public or private educational institution including primary and secondary schools (K-12).

STATE - means the State of Virginia.

SUBSCRIBER - means a purchaser of any service delivered over the cable television system and includes those persons who are not required to pay a fee because of their exemption from fees by this Ordinance or through agreements with Franchisee.

SYSTEM FACILITIES - means the cable television system constructed for use within the Town, including without limitation, the headend, antenna, cables, wires, lines, towers, amplifiers, converters, property security systems, equipment or facilities located within the corporate limits of the Town designed,

constructed or wired for the purpose of producing, receiving, amplifying and distributing by coaxial cable, fiber optics, microwave or other means, audio, radio, television and electronic signals to and from subscribers in the Town, and any other equipment or facilities located within the corporate limits of the Town intended for the use of the cable television system; provided, however, such cable television system facilities excludes buildings, facilities, or equipment whose sole use is to provide service to any cable television system facilities located outside the Town limits.

TOWN - means the Town of Rocky Mount, Virginia.

TRUNK LINE - means the major distribution cable used in the cable television system, which divides into feeder lines which are tapped for service to subscribers.

UPGRADE - means improving the cable system, through the exchange of electronic and passive devices, while utilizing a significant portion of the existing coaxial cable and/or fiber optic plant.

USER - means a person utilizing a cable television system channel for purposes of production and/or transmission of material, as contrasted with receipt thereof in a subscriber capacity.

## **§2 GRANT OF NONEXCLUSIVE FRANCHISE**

1. Grant. Upon careful consideration of the qualifications of the applicants and in consideration of the faithful performance and observation of the conditions and reservations herein specified, the Town may grant revocable and nonexclusive Franchises for the right, privilege, authority to provide cable service and/or to erect, construct, operate and maintain, in upon, along, across, above, over and under the public right-of-way now laid out and dedicated and all such extensions thereof and additions thereto in the Town, and public utility right-of-way and easements to the extent the Town is empowered to grant such rights with respect thereto; underground conduits, manholes and other television

conductors and fixtures necessary for the maintenance and operation of a cable television system, hereinafter sometimes referred to as a cable television system and/or systems, solely for the provision of cable television services, on the terms and conditions hereinafter set forth. The Town expressly reserves the right to grant similar use of said public right-of-way to any person at any time during the period of the franchise agreement(s).

2. Open Video System. Any franchise granted for an open video system shall comply with all sections of this Ordinance, unless precluded from compliance with specific sections by Federal or State law, rule, or regulation.
3. Other Right-of-Way Use. No grant of any franchise shall affect the right of the Town to grant to any other person a right to occupy or use the public right-of-way, or portions thereof, for the construction and operation of a cable television system within the Town or the right of the Town to permit the use of the public right-of-way of the Town for any purpose whatever. By accepting a franchise, Franchisee acknowledges the Town's right to make such grants and permit such uses.
4. Event of Conflict. In the event of conflict between the terms and conditions of this Ordinance and the franchise agreement, this Ordinance shall control, taking into account the terms of the Franchise in regards to any amendments.
5. General Town Ordinances. Any franchise granted by the Town is hereby made subject to the general Ordinance provisions now in effect and hereafter made effective. Nothing in the franchise agreement shall be deemed to waive the requirements of the various codes and Ordinances of the Town regarding permits, taxes, and fees to be paid, or manner of construction. All provisions of this Ordinance are to be applied to both new construction and modification of existing cable television systems for upgrading and major repair or replacement.
6. Franchise Nonexclusive. The Town specifically reserves

the right to (i) grant at any time such additional franchises for a cable television system as it deems appropriate, and/or (ii) build, operate, and own such cable television system or systems as it deems appropriate.

7. Rights Reserved. Nothing in this Ordinance or the franchise agreement shall limit any right the Town may have under applicable Federal, State and local law.
8. Time is of the Essence to this Ordinance. Whenever this Ordinance or the franchise agreement shall set forth any time for any act to be performed by or on behalf of Franchisee, such time shall be deemed to be of the essence and any failure of Franchisee to perform within the time allotted shall always be sufficient grounds for the Town to invoke an appropriate penalty.
9. No Waiver of Rights. No course of dealing between Franchisee and the Town nor any delay on the part of the Town in exercising any rights hereunder shall operate as a waiver of any such rights of the Town or acquiescence in the actions of Franchisee in contravention of rights except to the extent expressly waived by the Town or expressly provided for in the franchise agreement.

### **§3 FRANCHISE.**

No cable television system, open video system, or person providing cable service may operate within the Town or occupy or use any public right-of-way without a cable television franchise granted by the Town. All cable franchises in the Town shall be subject to this Ordinance. The term of the franchise agreement shall commence upon execution of a franchise by the Town and Franchisee and shall continue for the period specified in the franchise agreement, unless sooner terminated as provided for herein or the franchise agreement.

### **§4 FRANCHISE AREA.**

A franchise granted pursuant to this Ordinance shall mean the entire corporate limits of the Town, or

portions thereof, as said areas are specifically described in the franchise agreement, and any area annexed by the Town during the term of the franchise agreement.

**§5 CONDITIONS OF OCCUPANCY OF PUBLIC RIGHT-OF-WAY.**

1. Non-interference. Franchisee's rights and privileges shall be subordinated to any prior lawful use or occupancy of the public right-of-way or other public property and shall not be so used as to interfere with existing improvements or with new improvements the Town may deem proper to make, or as to hinder or obstruct the free use of the public right-of-way or other public property. In the event any equipment or facilities of Franchisee shall interfere with any such improvement existing or intended to be made by the Town, Franchisee shall, upon notice from the Town, forthwith relocate said equipment and facilities at Franchisee's expense so as to eliminate said interference.
2. Permit Required. Franchisee shall not open or disturb the surface of any public right-of-way for any purpose without first having obtained a permit to do so in accordance with Town requirements, which shall not be unreasonably withheld or denied.
3. Poles. Nothing in this Ordinance or any franchise granted hereunder shall authorize Franchisee to erect and maintain new poles where existing poles are servicing the area. Franchisee shall obtain permission from the appropriate Town officials before erecting any new poles or underground conduit. Any poles or other fixtures placed in any public right-of-way by Franchisee shall be placed in such a manner as to not interfere with travel on such public right-of-way.
4. Restoration of Public Right-of-Way, Sidewalks, and Pavement. In case of disturbance of any public right-of-way, sidewalk or paved area, Franchisee shall, at its own cost and expense and in a manner in accordance with Town ordinances and standards established by the Town and approved by the Town Engineer, replace and restore such public right-of-way, sidewalk or paved area to as good or better condition than existed prior

to the disturbance promptly, but in no more than twenty (20) business days unless such addition time as specified by the Town. The Town may order Franchisee to restore the public right-of-way, sidewalk, or pavement to a condition as good as or better than existed prior to cable television system construction including any improvements made to said public right-of-way subsequent to cable television system construction. With regard to public property not in the public right of way, Franchisee shall restore such property to a condition as good or better than existed prior to cable television system construction including any improvement made to such property subsequent to cable television system construction. Restoration of public right-of-way and public property not in the public right of way shall be approved by the Town Engineer. In the event that Franchisee and its contractors and subcontractors fail to make such repair within the time specified by the Town, the Town shall be entitled to complete the repair and Franchisee shall pay the costs of the Town for such repair.

5. Subsurface Installation. Franchisee shall participate in and be a member of a "One Call" notification program, if such a program exists.
6. Maps. Franchisee shall at all times keep on file true and accurate maps or plats of all existing and proposed aerial and underground feeder lines, trunk lines and subtrunk lines and a list of educational and municipal buildings to which special services are being provided, which shall be made available to the Town for review, upon request at the offices of the Franchisee. Franchisee shall provide the Town with strand maps of the location of system facilities in the Town and provide map updates to the Town as changes are made in the location of system facilities. Upon request of the Town, Franchisee shall develop and provide a Geographical Information System (GIS) compatible layer, using the program and format currently used by Franchisee, which accurately displays their "as built" utility systems.
7. Codes. Construction and maintenance of the transmission distribution system shall, at

Franchisee's expense, be in accordance with the provisions of the National Electrical Code, latest edition, and National Electrical Safety Code (latest edition), or any amendments or revisions thereof and in compliance with any applicable rules, regulations or orders now in effect or hereafter issued by any federal or State commission or any other public authority (or utility) joint attachment practices. Applicant should also comply with the provisions of Act 287 of the State of Virginia (underground facilities) and, upon request of the Town, submit proof of compliance with said act prior to commencement of any construction.

8. Construction Standards. All installations of equipment shall be durable, of a permanent nature and installed in accordance with current best cable television system engineering practices. Franchisee, upon written request by the Town, shall provide the Town with the cable television construction standards to be used in the construction and installation of the cable television system, which construction standards shall be in compliance with this Ordinance, the Franchise Agreement, and applicable building codes or Town Ordinances. Franchisee shall maintain up-to-date maps of all facilities in both public and private property. Franchisee and any subcontractors shall comply with all laws, rules, regulations and specifications heretofore or hereafter enacted or established including, but not limited to, those concerning street work, street excavation, use and removal and relocation of property within a street.
  
9. Placement. All cables and wires shall be installed parallel with existing telephone and electric wires whenever possible. Multiple cable configurations shall be arranged in parallel and bundled, in accordance with engineering and safety considerations as mandated by the National Electrical Code. All installations shall be underground in those areas of the Town where public utilities providing both telephone and electric service are underground at the time of installation. In areas where either telephone or electric utility facilities are above ground at the time of installation, Franchisee may install its service above ground with the understanding that at such time as

those facilities are required to be placed underground by the Town; Franchisee shall likewise place its service underground.

10. Traffic Safety. Franchisee shall comply with all Town, County and State traffic requirements and Uniform Traffic Safety Code regulations. Barricades or other barriers such as signs, traffic cones, red flags, and warning lights, shall be utilized at all work sites frequented by the public until an area is cleared for normal public use. Local law enforcement shall be contacted, when necessary, to direct traffic. Before leaving a job site each day, Franchisee's employees and contractors shall be required to pick up all scrap materials and ensure that any construction materials and tools are properly stored and covered and that derricks, planks and ladders are removed from or piled at the roadside in a manner that will not obstruct traffic or create a safety hazard for pedestrians.
11. Public Works. If the grades or lines of any street within the franchise area are changed at any time during the term of the franchise agreement, then Franchisee shall, at its own cost and expense and upon reasonable written notification of at least thirty days and request of the Town, protect or promptly alter or relocate the cable television system, or any part thereof, so as to conform with such new grades or lines. In the event that Franchisee refuses or neglects to so protect, alter, or relocate all or part of the cable television system, following notice to do so, the Town shall have the right to break through, remove, alter, or relocate all or any part of the cable television system without any liability to Franchisee, any affiliated person or any other person, and Franchisee shall pay to the Town the documented costs incurred in connection with such breaking through, removal, alteration, or relocation.
12. Protection of Structures. In connection with the construction, operation, maintenance, repair, upgrade, or removal of the cable television system, Franchisee shall, at its own cost and expense, protect any and all existing structures belonging to the Town and all designated landmarks. Franchisee shall obtain permits

from the Town before altering any water main, sewerage or drainage system, or any other municipal structure. Any such alteration shall be made by Franchisee, at its sole cost and expense, and in any reasonable manner prescribed by the Town. Franchisee agrees that it shall be liable, at its own cost and expense, to replace or repair and restore to a condition as good or better than existed previously, in any reasonable manner as may be specified by the Town, any public right-of-way or any municipal structure involved in the construction, operation, maintenance, repair, upgrade or removal of the cable television system that may become disturbed or damaged as a result of any work thereon by or on behalf of Franchisee pursuant to this Ordinance or the franchise agreement.

13. Service Interruption. Franchisee shall use its best efforts to interrupt the provision of service only with good cause and for the shortest time possible. Franchisee shall use reasonable efforts to interrupt service only between the hours of 12:00 midnight and 6:00 a.m.
  
14. No Burden on Public Right-of-Way. Franchisee shall not erect, install, construct, repair, replace or maintain its cable television system in such a fashion as to unduly burden the present or future of the public right-of-way. If the Town in its reasonable judgment determines that a portion of the cable television system is an undue burden, Franchisee at its expense shall make reasonable efforts to modify its cable television system or take such other actions as the Town may determine is in the public interest to remove or alleviate the burden, and Franchisee shall do so within a reasonable period of time as established by the Town.
  
15. Restoration of Private Property. In accordance with Town ordinances, standards established by the Town and with approval of the Town Engineer, any portion of the private property that is in any way disturbed by the construction, operation, maintenance or repair of the cable television system to as good or better condition than existed previously. Costs for Town Engineer review and restoration of private property shall be borne by Franchisee in the same manner that

such costs are borne in standard development agreements. In addition, Franchisee shall at its sole cost and expense restore and replace any other property, real or personal, disturbed, damaged or in any way injured by or on account of Franchisee or by its acts or omissions, in as good or better condition as such property was in immediately prior to the disturbance, damage or injury.

16. Barriers. While any portion of the public right-of-way is open, Franchisee shall maintain reasonable barriers, lights at night and other warnings to the users of the public right-of-way in compliance with applicable government regulations requiring and pertaining to such barriers.
17. Town Maps. The Town does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public right-of-way, it shall be the Franchisee's obligation, to verify the location or substructures in the public right-of-way.
18. Tree Trimming. Franchisee shall have the authority under the supervision of the appropriate authority of the Town and only after prior approval thereof (except in emergency situations), to trim trees upon an overhanging public right-of-way and places within the Town so as to prevent the branches of such trees from coming in contact with its wires and cable. All trimming of trees on private property shall require notice to, and approval from, the property owner.
19. Trees, Shrubs, and Lawns. The following applies to trees, lawns, or shrubs within the public right-of-way where the Franchisee performs construction and in accordance with Town ordinances and land use guidelines where applicable. Trees or shrubs to be transplanted shall be transplanted in accordance with the Town regulations. All damaged trees, shrubs or lawns shall be replaced or restored as directed by the Town. Such trees, shrubs, and lawns shall be warranted for twelve (12) months.
20. Easement Usage. In using easements, Franchisee shall comply with all federal, State, and local laws and

regulations governing the construction, installation, operation, and maintenance of a cable television system. Without limitation, Franchisee shall ensure that:

- A. The safety, functioning and appearance of the property and the convenience and the safety of other persons not be adversely affected by the installation or construction of facilities necessary for the cable television system;
- B. The cost of the installation, construction, operation, or removal of such facilities be borne by Franchisee; and
- C. The owner of the property be justly compensated by Franchisee for any damages caused by the installation, construction, operation, or removal of such facilities by Franchisee.

21. Emergency Notification. Franchisee shall provide the Town with a twenty-four (24) hour emergency telephone number at which a named responsible adult representative of Franchisee (not voice mail or a recording) can be reached in the event of an emergency. Additional specifications for general notification shall be provided for in the franchise.

22. Removal of Obsolete Facilities/Cooperation. When Franchisee opens a trench, accesses a conduit or boring, or is working on aerial locations, it shall remove, unless the Town specifies otherwise, all of Franchisee's obsolete and inactive cable television system facilities from such locations.

- A. When Franchisee opens a trench or access to borings, it shall notify all other Franchisees and permittees ten (10) days in advance of such work through Virginia One Call, so that they may remove their obsolete and inactive facilities from such locations or add new facilities. Franchisee shall cooperate with such persons in such activities and may charge a reasonable fee for such use. When Franchisee receives notification from another Franchisee or permittee that it is opening a trench or access to borings,

Franchisee shall remove all of its obsolete facilities from such location while they are open.

23. Preventative Maintenance. Upon completion of construction, Franchisee shall institute and adhere to a preventive maintenance program, good engineering practices and then current industry practices.
24. Identification. For new facilities, Franchisee shall identify its cable television system and cable drops (by color code, stamping, engraving, tags, stickers, or other appropriate method selected by Franchisee) so as to distinguish Franchisee's cables from that of all other cable operator(s), utilities, and service providers in the authorized area.
25. Interior Wiring. The ownership of cable installed by Franchisee after the effective date of this Ordinance which is located inside subscribers' dwellings shall be determined and governed by applicable FCC regulation.
26. Easements on Town Property. Any easements over or under property, including but not limited to Town parks and greenways, owned by the Town other than the public right-of-way shall be separately negotiated with the Town and paid for by the Franchisee.
27. Vacation. If a public right-of-way is vacated, eliminated, discontinued or closed, all rights of Franchisee under this Ordinance to use same shall terminate and Franchisee at its expense shall immediately remove the cable television system from such public right-of-way unless Franchisee obtains any necessary easements from the affected property owners to use the former public right-of-way.

## **§6 CONSTRUCTION AND DEPLOYMENT.**

1. Cable Television System. Franchisee shall construct or upgrade the cable television system and/or deploy cable services in the franchise area as specified in the franchise agreement. If necessary, Franchisee shall submit applications for issuance of the pole

permits necessary to install the cable television system to the appropriate utility companies within one hundred twenty (120) days of the effective date of the franchise agreement.

2. Construction and Deployment Plan and Approval. Franchisee shall obtain the approval of the appropriate Town officials prior to commencing construction in the public right-of-way and/or for the cable services deployment plan. In such cases, Franchisee shall submit to the Town a construction plan showing the location, placement, dimensions, and type of facilities of all construction proposed in the public right-of-way and also those areas not being served. Franchisee shall not begin any construction, rebuild, upgrade removal or any change whatever in any Town Franchisee facilities except ordinary and necessary repairs, without having first obtained all permits required by the Town. Franchisee shall give the Town appropriate written notice of proposed construction at least ten (10) days prior to such construction or as otherwise specified in the franchise.
3. Interconnection. Franchisee shall interconnect with other systems as specified in the franchise agreement.

## **§7 SYSTEM FEATURES.**

1. Emergency Alert. Franchisee shall comply with the requirements of the Federal emergency alert system as specified by the FCC (47 CFR Part 11.1, et seq.) and as provided for in the franchise agreement.
2. Standby Power. Franchisee shall maintain equipment providing standby powering for an eight (8) hour period at the headend. Franchisee shall provide battery backup power (or an electric generator) a system where the loss of electric power might disrupt the provision of service within the Town such that the cable television system will operate at all strategic fiber optic node locations on the cable television trunk amplifiers and fiber nodes for at least 2.5 hours even if electric service from conventional utility lines are interrupted. Franchisee shall take all reasonable measures to insure reliable delivery of

signals throughout the Town.

3. Two-way. The cable television system shall have active bi-directional return communications.

**§8 TECHNICAL PERFORMANCE AND STANDARDS.**

1. Performance Standards. The performance and technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance and dismantling of the cable television system provided for herein shall be in accordance with all applicable Federal Commission and other federal and State Communications laws and regulations.
2. Rebates. For verified service interruptions or outages of over eight (8) hours in a twenty-four hour period, the Franchisee shall provide, at the subscriber's verbal or written request, a credit of one-thirtieth (1/30) of one month's fees for affected services. For clarification, a service outage refers to loss of the service as a whole, not an individual Channel.
3. Performance Testing. Franchisee shall conduct performance tests as required by the Federal Communications Commission and the franchise agreement. Such tests shall be conducted in the presence of Town consultants if requested by the Town. The results of such tests shall be provided to the Town as specified in the franchise.

**§9 SUBSCRIBER SERVICES.**

1. Basic Service. Cable television basic service shall be made available to substantially all individual dwellings, residences, institutions, organizations and all other entities within the limits of the Town, in accordance with the provisions of this Ordinance and all laws governing the rights of privacy.
2. Installation and Service Fees. Installations and service fees shall be equal for all basic service subscribers. Installation or subscriber use of cable television service which involves the retransmission

of the cable signal to multiple reception points via a privately-owned closed circuit television distribution system shall be negotiated separately by Franchisee and the owners. Franchisee may reduce or waive installation and/or service fees for promotional purposes.

3. Town Ordinances. Cable, whether underground or aerial, shall be in accordance with all generally applicable Town ordinances or regulations.
4. 24-Hour Operation. The system shall be designed for reliable operation twenty-four (24) hours per day.
5. Business Office. Franchisee shall maintain an office as specified in the franchise.
6. Staff, Telephones and Complaints. Franchisee shall have a toll-free, publicly listed telephone number. Franchisee's telephone system shall have, at a minimum, enough incoming lines and adequate staff to process incoming calls such that telephone answer time, including wait time under normal operating conditions, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds under normal operating conditions. Subscribers shall receive a busy signal less than three percent (3%) of the time. Franchisee shall have an e-mail address for receiving consumer complaints and other communications. Franchisee shall maintain a twenty-four (24) hour operation in order to receive customer complaints.
7. Complaints to Town. Any subscriber who has a complaint regarding the quality of cable television service, equipment malfunctions, billings or any other matter which remains unresolved after it has been brought to Franchisee's attention, may file a complaint with the Town.
8. Resolution of Complaints to Town. Upon the filing of a complaint verbally or in writing, the Town shall notify Franchisee and within 5 business days Franchisee shall inform the Town of the resolution or status of the complaint. If the Franchisee is unable

to cure within a reasonable period of time, the Town may make an investigation to determine whether or not there is reason to credit the allegations. If it is determined after such informal investigation that there is reason to credit the allegations of the complainant, the Town shall so notify Franchisee and the complainant, and shall promptly endeavor to resolve the matter by conciliation. In the event such efforts are not successful, the Town may hold a hearing and the Franchisee shall be given an opportunity to speak at the hearing.

9. Time Period for the Resolution of Complaints. Except where another time period is required by any other provision of this Section, Franchisee shall make a good faith effort to resolve, as soon as practicable and in no event later than thirty (30) business days, all complaints after they are received by Franchisee.
10. Adequate Repair Staff. Franchisee shall maintain a repair force capable of responding to subscriber complaints and/or requests for cable television system repairs within twenty-four (24) hours after the receipt of the complaint and/or request. Franchisee shall respond to all service calls throughout the franchise area on a nondiscriminatory basis.
11. Nondiscrimination. Each class of subscriber service shall be offered cable television service on a uniform, nondiscriminatory basis. Franchisee shall not deny nor delay service, deny or delay access, or otherwise discriminate against subscribers, channel users or general citizens on any basis whatsoever. Nothing contained herein shall prohibit Franchisee from offering (i) discounts to commercial and multiple family dwelling subscribers billed on a bulk basis; (ii) promotional discounts; (iii) reduced installation rates for subscribers who have multiple services; (iv) discount for senior citizens and/or low income residents; or (v) discounts for prepayment.
12. Tabulation. For the purpose of selling or sharing information with third parties, Franchisee shall not tabulate any test results, nor permit the use of its cable television system for such tabulation, which would reveal the individual commercial product

performance or individual opinions of subscribers, members of their families or their invitees, licensees or employees without the express written consent of each and every subscriber so polled or tabulated.

13. New Developments. In all cases where developments and subdivisions are to be constructed and to be served in whole or in part by underground power and telephone utilities, and in such areas where both utilities are to be placed underground, exclusive of all electronic cable television facilities, Franchisee shall similarly install the cable television system concurrently with the installation of the underground power and telephone utilities.
14. Line Extension. Franchisee shall install cable plant and offer cable service to subscribers as specified in the Franchise.
15. Card Showing Channel line-up . Franchisee shall provide subscribers with a channel line-up for all cable services: (i) at the time of installation; and/or (ii) upon request.
16. Procedure for Installation. Franchisee shall abide by the following procedure for installation:
  - A. Under normal operating conditions, the standards in this Section shall be met no less than ninety-five percent (95%) of the time as measured on an annual basis. The term normal operating conditions means those service conditions which are within the control of Franchisee. Those conditions which are not within the control of Franchisee include, but are not limited to, strikes, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of Franchisee 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 television system.
  - B. Once a request for cable service is received,

Franchisee shall either set a specific appointment time or specify a four (4) hour time block during normal business hours, as requested by the subscriber or potential subscriber, during which Franchisee's work crew shall install the new equipment to receive service. The term normal business hours means those hours during which most similar businesses in the community are open to serve subscribers. Franchisee may schedule installation activities outside of normal business hours for the express convenience of the subscriber.

- C. For new aerial installations, excluding locations where all utilities are underground, if a subscriber requests underground cable service, Franchisee may charge the subscriber the differential between the cost of aerial and underground installation of the drop to the subscriber. This provision shall not apply where underground construction is required by Town Code or where utilities are located underground.

17. The Format of a Subscribers Bill. Franchisee shall abide by the following format requirements on subscriber's bills.

- A. The bill shall be designed in such a way as to present the information contained therein clearly and comprehensibly to subscribers. The bill shall include a due date and be in an easily readable font and format.
- B. The bill shall contain itemized charges for each category of service and equipment and any installation of equipment or facilities and monthly use thereof (together, "equipment") for which a charge is imposed (including late charges, if any), an explicit due date, the name and address of Franchisee and telephone number for Franchisee's office responsible for inquiries and billing, the telephone number specified by the Town for the resolution of billing disputes, and the FCC Community Unit Identifier Number. The bill shall state the billing period, amount of current billing and appropriate credits or

past due balances, if any.

- C. Franchisee shall not charge a potential subscriber or subscriber for any service or equipment that the subscriber has not affirmatively requested by name.
18. Payment Options. Franchisee shall provide all individual, residential subscribers with the option of paying for cable service by (I) cash, (ii) check, (iii) an automatic payment plan, where the amount of the bill is automatically deducted from a checking account designated by the subscriber, or (iv) by major credit card on a preauthorized basis.
19. Procedure for the Resolution of Billing Disputes. Franchisee shall comply with the following procedure in resolving billing disputes.
- A. The billing dispute resolution procedure shall be initiated once a subscriber contacts Franchisee's department which handles billing questions Town orally or in writing.
- B. The subscriber shall not be required to pay the disputed portion of the bill until the dispute is resolved. Franchisee shall not apply finance charges, issue delinquency or termination notices, or initiate collection procedures for the disputed portion of the bill pending resolution of the dispute.
- C. Franchisee shall promptly undertake whatever review is necessary to resolve the dispute and shall notify the subscriber the results of the review and Franchisee's proposed resolution of the billing dispute as soon as it is completed, but in no case later than twenty (20) business days after receipt from the subscriber of the billing dispute, problem or complaint notification.
20. Subscriber Equipment. Franchisee shall comply with all rules and regulations promulgated by the FCC pursuant to Sections 623 and 624A of the Cable Act (47 U.S.C. §§ 543 and 544a).

21. No Charge for Repair Service. Franchisee shall not impose any fee or charge any subscriber for any service call to his or her premises to perform any repair or maintenance work on Franchisee's equipment, excluding negligence or other action on the part of the subscriber.
22. Records of Complaints, Repair Requests, and Outages. Franchisee shall keep records showing all (a) requests for repair service, (b) complaints or requests that generate a work order or written response, and (c) outages. Franchisee's records shall contain, at a minimum, the following information: (a) the address of the affected subscriber, (b) the date and the approximate time of the complaint or request, (c) the date and approximate time Franchisee responded, (d) the date and approximate time service is restored, (e) the type and the probable cause of the problem, and (f) a description of the corrective action taken. Franchisee shall keep all such records for at least two (2) years from the date the record is made. Franchisee shall keep summary reports of such records for three (3) years. Upon request by the Town, and in compliance with the Cable Act, Franchisee shall produce the requested records to the designated Town office within thirty (30) days of the request for such records, subject to all applicable customer privacy laws and regulations. Also, Franchisee shall provide to the Town, upon request by the Town, a written summary of all such records from the past year on a quarterly basis. Quarterly dates for the provision of such written summaries are March 31, June 30, September 30 and December 31.
23. Notice of Interruption of Service. Except in emergencies or incidents requiring immediate action, Franchisee shall use reasonable efforts to provide the Town and all affected subscribers with prior notice of scheduled service interruptions.
24. Outages. Following are time periods by which outages must be corrected and repairs must be made by Franchisee.
- A. Franchisee shall maintain sufficient repair and

maintenance crews so as to be able to respond to any reception problem or other service problem of either picture, or sound quality, including any outage except for a problem caused by an intentional, wrongful act of the subscriber or by the subscriber's own equipment which was not supplied by Franchisee, promptly and in no event later than twenty-four (24) hours after Franchisee either receives a request for repair service or Franchisee learns of a problem and Franchisee shall use its best efforts to correct such problem with in forty-eight (48) hours after a request for repair service or Franchisee learns of a problem. For purposes of this Section, "reception problem" shall constitute reception that an affected subscriber reasonably determines is unsatisfactory, unless Franchisee can demonstrate that the signals transmitted to such subscriber are in compliance with the FCC's technical signal quality standards.

- B. Franchisee shall maintain, at all times, an adequate repair and service force in order to satisfy its obligations pursuant to A. above, and in cases where it is necessary to enter upon a subscriber's premises to correct any reception problem or other service problem, Franchisee shall either set a specific appointment time or specify a four (4) hour time block during normal business hours, as requested by the subscriber or potential subscriber, during which Franchisee's work crew shall work on the service problem. Franchisee may schedule service calls outside of normal business hours for the express convenience of the subscriber, provided that Franchisee's customer service representatives shall at all times endeavor to be aware of service or other problems in adjacent areas which may obviate the need to enter a subscriber's premises.
  
- C. In no event shall Franchisee cancel any necessary scheduled service call after close of the business on the business day prior to the scheduled appointment. If Franchisee needs to cancel a scheduled appointment, it must contact the subscriber and reschedule at a time

convenient for the subscriber.

25. Failure to Meet Time Periods May Be Excused. Franchisee's failure to correct outages or to make repairs within the stated time periods shall be excused in the following circumstances:

A. If Franchisee could not obtain access to the subscriber's premises when such access is necessary to correct the problem; or

B. If the Town agrees with Franchisee that correcting such outages or making such repairs was not reasonably possible within the allotted time period.

26. Notices Required. Franchisee shall provide the following notices.

A. Franchisee shall provide notice to all persons receiving cable service, including the Town of any change in any fee, charge, deposit, term or condition, which notice shall be provided no later than thirty (30) days prior to the effective date of any such change. All notices required by this Section shall specify, as applicable, the service or services affected, the new rate, charge, term or condition, the effect of the change, and the effective date of the change.

B. Franchisee shall provide notice, in writing, to all persons receiving cable service, including the Town, of any change in any channel assignment or in any service provided over any such channel, which notice shall be provided no later than thirty (30) days prior to the effective date of any such change.

C. Franchisee may terminate service to any subscriber whose bill has not been paid after it becomes delinquent, so long as Franchisee give seven (7) day notice to the subscriber.

27. Resubscription to Cable Service. Franchisee shall not refuse to serve a former subscriber whose service was

terminated, so long as all past bills and late charges have been paid in full.

28. Disconnect. Franchisee shall adhere to the following procedures regarding disconnection.
  - A. Franchisee shall either set a specific appointment time or specify a four (4) hour time period during normal business hours, during which its work crew shall visit the subscriber's premises to disconnect service and to remove any equipment. Franchisee may schedule such service outside normal business hours for the express convenience of the subscriber.
  - B. Franchisee shall not charge any fee for any disconnection.
29. Credits. In the event applicable law or regulation requires Franchisee to retroactively decrease or "rollback" rates, fees or charges for any service Franchisee shall automatically provide a credit on each existing subscriber's bill affected by such decrease or rollback as prescribed by the applicable FCC regulation, law or order.
30. Privacy and Monitoring. Franchisee shall not tap, monitor, or arrange for the tapping or monitoring, or permit any other person to tap or monitor, any cable, line, signal, input device, or subscriber facility for any purpose, except as authorized by applicable law (e.g. court order or police warrant).
31. Truth in Advertising. Franchisee's bills, advertising and communications to its current or potential subscribers shall be truthful and shall not contain any false or misleading statement. For the purposes of the preceding, a statement is false or misleading if it contains an untrue statement of any material fact or omits to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading.
33. Reservation. The Town reserves the right by ordinance to alter or amend the customer service and consumer

protection matters set forth in this Section, to the extent permitted by law, including adopting ordinances stricter than or covering items not presently set forth in this Section. The Town agrees to meet with Franchisee on the matters in question prior to taking such action, and to provide Franchisee with at least forty-five (45) days prior written notice of such action.

**§10 INITIAL SERVICE AND SUBSCRIBER RATES.**

1. Town Regulation. To the extent that federal or State law or regulation may now, or hereafter, authorize the Town to regulate the rates for any particular service tiers, service packages, equipment, or any other services provided by Franchisee, the Town shall have the right to exercise rate regulation to the full extent authorized by law, or to refrain from exercising such regulation for any period of time, at the sole discretion of the Town.
2. Ability to Petition. If applicable, the Town shall have the right to petition the Federal Communications Commission or other appropriate agency or organization to obtain rate regulation authority or to petition the federal body to review or regulate rates in the Town.
3. Rate Schedule Filings. Franchisee shall annually send to all persons receiving cable service, including the Town, an official rate card and a full schedule of all other subscriber and user rates and all other charges such as, but not limited to, pay TV, lease channel and other services made in connection with the cable television system. Franchisee shall notify affected subscribers in writing at least thirty (30) days prior to the implementation of any change in services offered, rates, or charges related thereto. Any special rates for large institutions, motels, multiple-family dwelling units or any other type of subscriber shall be provided upon request.
4. Rate Regulation. Rates charged for basic and additional services shall be consistent with Federal Communications Commission regulations and in conformance with this Ordinance. In case of a

conflict, this Ordinance shall govern unless preempted by Federal or State regulations.

5. Security Deposit. Franchisee shall not be permitted to charge a hardware/software security deposit fee greater than Franchisee's cost of the hardware/software.
6. Refund on Deposits. If Franchisee collects a deposit on any service requested by a subscriber or user, Franchisee shall provide such service within thirty (30) days or refund within the next five (5) days all deposits or advance charges paid for the service. This provision does not alter a Franchisee's responsibility to subscribers and users under any contractual agreements separate from this Ordinance that Franchisee may have with subscribers or users or relieve Franchisee of liability for penalties under this Ordinance or damages that may accrue to the Town or any subscriber because of Franchisee's failure to provide a promised service.
7. Termination. If a subscriber terminates basic service prior to the end of a prepaid period, a prorated portion of any prepaid subscriber service fee, using the total number of days of the prepaid period as a basis, shall be refunded to the subscriber by Franchisee.
8. Long Drop Fees. In the event that a resident desires connection and Franchisee determines that more than one hundred and fifty (150) feet of connecting cable is required in order to connect the resident, then Franchisee shall provide to and may charge to the subscriber the additional labor and materials (above the cost of the initial 150 feet) required to connect the resident at Franchisee's actual cost, upon notice of the cost to, and the agreement to pay the cost from, the subscriber.

**§11 FRANCHISE FEES.**

1. Franchise Fees. As compensation for a franchise granted pursuant to this Ordinance, and in consideration of permission to use the public right-of-way of the Town for the construction, operation,

maintenance and reconstruction of a cable television system within the Town, Franchisee shall pay a communications fee consistent with the Code of Virginia Chapter 6.2-Viginia Communications Sales and Use Tax, as such may be amended, and any regulations promulgated thereunder.

2. Scheduled Payments to Be Made. The communications fee shall be payable, consistent with the Code of Virginia Chapter 6.2-Viginia Communications Sales and Use Tax, as such may be amended, and any regulations promulgated thereunder.
3. Audit. The acceptance of any payment shall not be construed, as an accord that the amount paid is, in fact, the owed amount, nor shall such acceptance of payment be construed as a release of any claim the Town may have for further or additional sums payable under the provisions of this Ordinance. All amounts paid shall be subject to audit and recomputation by the Town. Any audit or calculation is such audit shall be consistent with the Code of Virginia Chapter 6.2-Viginia Communications Sales and Use Tax, as such may be amended, and any regulations promulgated thereunder

## **§12 REVOCATION OF FRANCHISE; DEFAULT BY FRANCHISEE.**

1. Grounds for Revocation. The Town reserves the right to revoke any franchise granted hereunder and rescind all rights and privileges associated with the franchise in any of the following circumstances, each of which shall represent a default and breach under this Ordinance and the franchise agreement:
  - A. Franchisee's default in the performance of any of the material obligations under this Ordinance, the franchise agreement, or under such documents, contracts and other terms and provisions entered into by and between the Town and Franchisee.
  - B. Franchisee's failure to provide or maintain in full force and affect all bonds required herein.
  - C. Franchisee's failure to maintain in full force and effect, any insurance required herein.

- D. Franchisee's violation of any orders or rulings of any regulatory body having jurisdiction over Franchisee relative to this Ordinance or the franchise agreement. Provided, however, that such order or ruling is not under appeal or being litigated.
  - E. Franchisee's violation of any of the provisions of this Ordinance or the franchise agreement or the practice of any fraud or deceit upon the Town or cable subscribers.
  - F. Franchisee's construction schedule is delayed later than the schedule contained in the franchise agreement or beyond any extended date set by the Town.
  - G. Franchisee's failure to restore service from an outage after ninety-six (96) consecutive hours of interrupted service, except upon a condition of force majeure or when approval of such interruption is obtained from the Town.
  - H. Franchisee's misrepresentation of, or omission of, a material fact in the application for or negotiation of the franchise agreement or any extension or renewal thereof.
  - I. Franchisee's cessation of provision of services over the cable television system for any reason within the control of Franchisee.
  - J. Franchisee's failure to comply with the educational access, government access and local origination provisions of this Ordinance or the franchise agreement.
  - K. To the extent allowed by law, Any foreclosure or judicial sale of all, or any part of, the cable television system shall be considered default. Initiation of any such proceedings shall be treated as a notification of a change of control of Franchisee.
2. Force Majeure. If, by reason of force majeure,

Franchisee, in whole or in part, is unable to carry out its obligations hereunder, Franchisee shall not be deemed in violation or default during the continuance of such inability. The term "force majeure," as used herein, shall mean the following: strikes, acts of God; acts of public enemies; orders of any kind of the government of the United States of America or of the State of Virginia or of any of their departments, agencies, political subdivisions or officials or any civil or military authority; insurrections; riots; epidemics; landslides; lightning; earthquakes; fires; hurricanes; volcanic activity; storms; floods; washouts; droughts; civil disturbances; explosions; and circumstances beyond the control of Franchisee and any affiliates.

3. Revocation. The Town shall notify Franchisee in writing, by certified mail, return receipt requested, at its business address, of the alleged default giving rise to revocation of the franchise. Franchisee shall have sixty (60) days from its receipt of the notice to cure the violation(s) and/or make a written response to the Town, as the case may be. If Franchisee does not respond or, if upon receipt of Franchisee's response, the Town concludes that a basis for revocation still exists, it shall notify Franchisee thereof, and provide the Franchisee sixty (60) days written notice of the time and place of a public hearing before the Town Council.
  
4. Public Hearing. At the public hearing, the parties shall have the right to be represented by counsel and shall be afforded the opportunity to present evidence and cross-examine witnesses on relevant issues. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitions matter may be excluded. A stenographic record of the proceedings shall be kept. A decision by a majority of the Town Council is required for revocation. Following the public hearing, the Town Council may revoke the Franchise, may direct Franchisee to comply within such time and manner and upon such reasonable terms and conditions as the Town Council may direct, may mitigate the revocation to a penalty in the discretion of the Town Council, or take any other action that it deems equitable and just in the

circumstances. Franchisee retains any right of appeal as allowed by law.

5. Removal. Upon revocation of a franchise, the Town shall have the right to require Franchisee to remove, at Franchisee's expense, all or a portion of the cable television system required by public necessity from all public right-of-way within the Town.
6. Purchase. If the franchise is revoked in accordance with the foregoing procedures, the Town may (but shall not be required to) initiate proceedings to acquire the system at an equitable price in compliance with state and federal law.
7. Effect of Pending Litigation. Pending litigation or any appeal to any regulatory body or court having jurisdiction over Franchisee shall not excuse Franchisee from the performance of its obligations under this Ordinance or the franchise agreement except for claims of commercial impracticality. Failure of Franchisee to perform such obligations because of pending litigation or petition may result in forfeiture or revocation pursuant to the provisions of this section.
8. Compliance with Law. Notwithstanding anything contained herein to the contrary, any revocation must be in a manner consistent with all Laws and Regulations, including those of the FCC and the Cable Act.

### **§13 RENEWAL PROCEDURES.**

1. Franchise Renewal. Upon completion of the term of any Franchise granted under this Ordinance, the Town may in its sole discretion grant or deny renewal of the franchise of Franchisee in accordance with the provisions of the Cable Act. Franchisee shall continue to own the cable television system, but shall have no right to use of public right-of-way upon the denial of the franchise renewal is revocation of the franchise. There shall be no automatic right of renewal of the franchise rights granted hereunder.
2. Denial of Renewal. If at any time Franchisee requests

renewal of the franchise and the Town decides to deny such renewal, thereby rendering the franchise null and void, the Town shall have the right but not the obligation to purchase the cable television system at fair market value, determined on the basis of the cable television system valued as a going concern butyl with no value allocated to the franchise itself as determined by state and federal law.

3. Removal. Upon denial of renewal of a franchise, the Town shall have the right to require Franchisee to remove, at Franchisee's expense, all or a portion of the cable television system required by public necessity from all public right-of-way within the Town.
4. Compliance with Law. Notwithstanding anything contained herein to the contrary, any renewal must be in a manner consistent with all Laws and Regulations, including those of the FCC and the Cable Act.

#### **§14 REGULATION OF FRANCHISE.**

1. On-Going Regulation. The Town shall exercise appropriate regulatory authority under the provisions of this Ordinance and applicable law. This authority shall be vested in the Town Council and administered by the Town Council or their designee. The Town Manger or his or her designee shall provide day-to-day administration and enforcement of the provisions of this Ordinance and any franchise granted hereunder, and shall carry out the Town's responsibilities with regard to cable television.
2. Compliance. At all times during the term of the franchise agreement, Franchisee shall comply with all laws, ordinances, rules or regulations of the Town, State and governments, their regulatory agencies or commissions which are now, or may be applicable to the construction and operation of the cable television system.
3. Change in Law or Regulation. Notwithstanding any other provisions of this Ordinance to the contrary, Franchisee shall at all times comply with all applicable laws and regulations of the Town, State and

federal governments. In the event that any actions of the State, federal government or any agency thereof, or any court of competent jurisdiction upon final adjudication, substantially reduce in any way the power or authority of the Town under this Ordinance or the franchise agreement, or if in compliance with any Town, State, or federal law or regulation, Franchisee finds conflict with the terms of this Ordinance, the franchise agreement, or any law or regulation of the Town, then as soon as possible following knowledge thereof, Franchisee shall notify the Town of the point of conflict believed to exist between such law or regulation and/or the laws or regulations of the Town, this Ordinance and the franchise agreement. The Town, at its option, may notify Franchisee that it wishes to negotiate those provisions which are affected in any way by such modification in regulations or statutory authority. Thereafter, the Town and Franchisee shall proceed as specified in the franchise agreement's equal protection provision. In cases where the franchise agreement's equal protection provision does not apply, Franchisee shall negotiate in good faith with the Town in the development of alternate provisions which shall fairly restore the Town's rights. The Town shall have the right to modify any of the provisions to such reasonable extent as may be necessary to carry out the negotiated settlement.

4. Authority. The Town reserves the right to exercise its granted authority, as may at any time be lawfully permissible, to regulate the cable television system, the franchise agreement and Franchisee. Should applicable legislative, judicial or regulatory authorities at any time permit regulation not presently permitted to the Town, the Town may, upon written notice to the Franchisee, engage in any such additional regulation as may then be permissible, whether or not contemplated by this Ordinance or the franchise agreement, including without limitation, regulation regarding franchise fees, taxes, programming, rates charged to subscribers and users, consumer protection, or any other similar or dissimilar matter. Judicial authority shall not be deemed granted pursuant to this section if such authority is under appeal or is being litigated.
5. Right of Inspection of Records. Franchisee shall

permit any duly authorized representative of the Town and upon receipt of advance written notice to examine during normal business hours and on any and all records and maps as is reasonably necessary to ensure Franchisee's compliance with this Ordinance or the franchise agreement. Such notice shall specifically reference the subsection of the Ordinance or Franchise that is under review so that the franchisee may organize the necessary books and records for easy access by the Town. The Franchisee shall not be required to maintain any books and records for Franchise compliance purposes longer than three (3) years, except for service complaints, which shall be kept for two (2) years and three (3) years as specified above. The Franchisee shall not be required to provide Subscriber information in violation of Section 631 of the Cable Act. The Town agrees to treat as confidential any books, records or maps that constitute proprietary or confidential information to the extent Town make the Franchisee aware of such confidentiality and marks such documents "proprietary" prior to providing the information to the Town. If the Town believes it must release any such confidential books or records in the course of enforcing this Ordinance and Franchise Agreement, it shall advise Franchisee in advance so that Franchisee may take appropriate steps to protect its interests. Until otherwise ordered by a court or agency of competent jurisdiction, the Town agrees that, to the extent permitted by State and federal law, it shall deny access to any of Franchisee's books and records marked confidential, as set forth above, to any Person. Notwithstanding the above, the Town shall be governed by the requirements of state and federal law.

6. Testing. The Town shall have the right to make tests as it shall deem necessary to ensure compliance with the terms of this Ordinance and the Franchise Agreement, and other applicable provisions of State or federal law or regulation.
7. Right of Inspection of Property. At all reasonable times, Franchisee shall permit examination by any duly authorized representative of the Town of the cable system, together with any appurtenant property of Franchisee situated within or without the Town.

8. Right of Intervention. The Town shall have the reasonable right of intervention in any suit or proceeding to which Franchisee is party and is relevant to this Ordinance or the Franchise, and Franchisee shall not oppose such intervention by the Town.
  
9. Expense Reimbursement to Town. Franchisee for an initial Franchise shall pay the Town a sum of money which will reimburse all costs and expenses incurred by the Town in connection with the initial Franchises processes, including, but not limited to, consultant fees, attorneys' fees, publication fees, travel expenses and all other direct costs; provided, however, that the Town shall submit a detailed schedule of all such costs. Such payment shall be made within thirty (30) days after the Town furnishes Franchisee with a written statement of such expenses. Except that, if upon request for a transfer, the Franchisee is in compliance with this Ordinance and the franchise agreement, the Town shall be reimbursed for a total of five thousand dollars adjusted annually for increases in the Consumer Price Index.

**§16 REGULATION, SUPERVISION AND ENFORCEMENT OF FRANCHISE AND ORDINANCE.**

1. Functions. The Town Manager or his designee shall have the following functions:
  - A. Advise the Town Council and review franchise applications and applications for franchise renewal, extension, and transfer.
  
  - B. Initiate proceedings regarding revocation of the franchise, make initial determinations of Ordinance violations, serve notice of Ordinance violations and penalties on Franchisee and consider complaints of any person with respect to cable service.
  
  - C. Ensure that Franchisee complies with all testing requirements of the Ordinance and franchise agreement, and require additional testing as provided for in the Ordinance and/or franchise

agreement. Review all reports provided for in the Ordinance and/or franchise agreement. Make recommendations to the Town Council regarding the requirement of additional tests, as provided for in this Ordinance.

- D. Receive complaints from subscribers of cable television services, attempt to resolve disputes regarding the provision of service and make initial determinations of Ordinance violations and serve notice of Ordinance violations on the Franchisee, in accordance with any applicable Sections of this Ordinance.
- E. Resolve disagreements and disputes among franchises or other types of services operating or desiring to operate within the Town(s).
- F. Cooperate with other municipalities and government agencies regarding development of the technology exchanges and assist in developing access, institutional network and Internet use.
- G. Audit all Franchisee records as required by this Ordinance, and specify details for Franchisee's preparation and filing of information additional to that required herein.
- H. Make periodic reports to the Town, including an account of franchise fees received and remitted, the total number of hours of utilization of access and local origination channels, and hourly sub-totals for various programming categories, and a review of any plans submitted during the year by Franchisee for development of new services or changes of existing services.
- I. Promote the viewership of all educational and governmental access channels required in the franchise agreement.
- J. Designate the organizations or institutions which will serve as access and local origination channel operators.
- K. Conduct an evaluation of the cable television

system, services, customer complaints, state-of-the-art, and other areas related to compliance with the Ordinance and the franchise agreement whenever deemed appropriate by the Town.

- L. Make recommendations to the Town regarding cable services.

**§17 INDEMNITY, INSURANCE AND FINANCIAL SECURITY.**

1. Disclaimer of Liability. Town shall not at any time be required to pay from its own funds for injury or damage occurring to any person or property from any cause whatsoever arising out of Franchisee's construction, maintenance, repair, use, operation, condition or dismantling of Franchisee's cable television system or Franchisee's provision of cable services. Nothing herein shall be construed to hold Franchisee responsible for the Town's gross negligence.
  
2. Indemnification. Franchisee shall pay on behalf of, or indemnify and hold harmless, the Town, its employees, officers, agents and volunteers from and against any and all suits, claims, actions, damages, fees, penalties, costs of defense (including attorney fees, expert witness fees and court costs) and liabilities arising out of Franchisee's (or Franchisee's officers, employees, agents, volunteers or subcontractors) performance, failure to perform, error, omission, negligence or default under the terms of its franchise or other contracts. The indemnification and hold harmless provisions of this Ordinance and the franchise agreement shall survive the termination or expiration of the Franchise for any claims arising during the term of the franchise agreement or during the removal of the cable system from the right of way. Franchisee's obligations shall not extend to any claims caused by the willful misconduct of the Town. The Town shall provide the Franchisee with prompt and reasonable notice of receipt of a claim or action pursuant to this section. If Franchisee chooses to settle a claim that releases the Town from liability and the Town does not believe such settlement is in the Town's best interests, the

Town shall provide written notice to the Franchisee and the Franchisee shall be excluded from its obligation to represent the Town and shall only be liable up to the amount the Franchisee was willing to provide for the settlement.

3. Commercial General Liability Insurance. Franchisee shall maintain and by its acceptance of this Ordinance specifically agrees that it will maintain throughout the terms of the franchise agreement liability insurance insuring the Town and Franchisee with regard to all damages mentioned herein, in the minimum amounts of:
  - A. \$1,000,000 for property damage per occurrence;
  - B. \$1,000,000 for property damage aggregate;
  - C. \$1,000,000 for personal bodily injury or death to any one person; and
  - D. \$5,000,000 bodily injury or death aggregate per single accident or occurrence.
  
4. Automobile Liability Insurance. Franchisee shall maintain, and by its acceptance of any franchise granted hereunder specifically agrees that it will maintain throughout the term of the franchise agreement, automobile liability insurance for owned, non-owned, or rented vehicles in the minimum amount of:
  - A. \$1,000,000 for bodily injury and consequent death per occurrence;
  - B. \$500,000 for bodily injury and consequent death to any one person; and
  - C. \$500,000 for property damage per occurrence.
  
5. Umbrella Liability Coverage. Umbrella liability coverage, with limits of not less than one million dollars (\$1,000,000) per occurrence covering all work performed under this contract.
  
6. Financial Security.

- A. Franchise Agreement. Franchisee shall maintain throughout the term of its franchise financial security in the form satisfactory to the Town Solicitor and in an amount specified in the franchise agreement or satisfactory to the Town Engineer. Such security shall ensure that Franchisee observes, fulfills and performs each term of its franchise agreement and this Ordinance.
  - B. Financial Security Prior to Construction. Prior to any initial construction, upgrade or rebuild in the public right-of-way, Franchisee shall post financial security in an amount specified in the franchise agreement.
  - C. Types of Financial Security. The following shall be acceptable financial security: cash escrow, performance or construction bond in a form and with a surety, or a letter of credit posted with a financial institution authorized to do business in the State of Virginia.
- 7. Town Surety Approval. The insurance policies and financial securities obtained by Franchisee in compliance with this Section shall be in compliance with this Ordinance. Franchisee shall be responsible for filing all required certificates of insurance policies and financial security with the Town.
  - 8. Expenses. All expenses of the above noted insurance and financial surety shall be paid by Franchisee.
  - 9. Insurance Policies. The insurance policies mentioned herein shall contain an endorsement stating that the policies are extended to cover liability assumed by Franchisee under the terms of this Ordinance and shall contain the following endorsement:
    - A. The insurance policy may not be cancelled, terminated or reduced unless 60 days advance written notice is served upon the Town by registered mail.
    - B. The Town is an additional or co-insured under

this policy of insurance.

C. Cancellation or reduction of any insurance required herein shall be considered a default of Franchisee's obligations under this Ordinance and the franchise agreement and subjects Franchisee to revocation of the franchise as provided for herein.

10. No Limitation on Liability. Neither the provisions of this Ordinance nor any insurance accepted by the Town pursuant hereto, nor any damages recovered by the Town there under, shall be construed to excuse faithful performance by Franchisee or limit the liability of Franchisee under the franchise agreement issued hereunder or for damages, either to the full amount of the financial security or otherwise.

11. Hold Harmless. All contractual liability insurance policies maintained pursuant to this Ordinance or the franchise agreement shall include the provision of the following hold harmless clause:

Franchisee agrees to indemnify, save harmless and defend the Town, its officials, agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and reasonable attorney's fees for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to any property, which may arise or which may be alleged to have arisen out of or in connection with Franchisee's installation, operation, maintenance or repair of the cable television system and/or copyright infringements and/or other damages arising from the Town 's grant of this non-exclusive franchise and is caused, in whole or in part, by a negligent act or omission of Franchisee, its subcontractors or anyone directly or indirectly employed by any of them or anyone for whose act any of them may be liable, regardless of whether or not it is caused in part by party indemnified hereunder and whether or not the act or omission complained of is authorized or prohibited by this Ordinance and/or the franchise granted hereunder; excepting when the party indemnified

hereunder acts in a grossly negligent manner.

**§18 PROGRAMMING.**

1. FCC Regulations. Franchisee shall comply with the present and future rules and regulations of the Federal Communications Commission in connection with and relating to the operation of its cable television system and shall provide the access channels as specified in the franchise agreement.
2. Access Equipment. Franchisee shall provide educational and government access and local origination equipment, facilities, and services as provided in the franchise agreement.
3. Content. Except as provided by Federal law, Franchisee shall in no way restrict the content or message of any program presented over any of the access channels. There are, however, subjects which are specifically prohibited by this Ordinance from being distributed, telecast and/or cablecast via the cable television system. The following material(s) are specifically prohibited from being distributed, telecast and/or cablecast on any and all access channels by access users.
  - A. Any advertising material designed to promote the sale of commercial products or services, including advertising by or on the behalf of candidates for public elective office.
  - B. Any lottery information, gift enterprise or similar scheme, offering prizes dependent in whole or in part upon lot or chance, or any list of prizes drawn or awarded by means of any such lottery, gift enterprise or similar scheme, whether such list contains any part or all of such prizes, or similar scheme if, in connection with such programs, a prize consisting of money or an item of value is awarded to any person whose selection is dependent in whole or in part upon lot or chance, if as a condition of winning or competing for such prize, such winner or winners are required to furnish any money or item of value or are required to have in their

possession any product sold or manufactured, furnished or distributed by a sponsor of any program transmitted via the cable television system.

- C. Any material that is obscene or otherwise unprotected by the First Amendment.
4. Prohibited Material. In accordance with the Cable Act, Franchisee shall refuse to distribute via the cable television system access programming or leased channel programming that is obscene or otherwise unprotected by the United States Constitution.
  5. Access Regulations. The Town shall have the authority to approve or promulgate the rules and regulations for educational and government access channels and the local origination channel and to designate the organizations or institutions which will serve as educational and/or access channel or local origination operators.
  6. Cable In The Classroom. Franchisee shall notify all schools of "Cable In The Classroom" and provide guidance on accessing the Cable In The Classroom Internet website.

**§19 REPORTS.**

1. Reports. Upon written request, Franchisee shall submit the following written reports to the Town:
  - A Annual statement of income certified by a financial officer of Franchisee or CPA. The annual statement of income shall be delivered to the Town no later than ninety (90) days after request by the Town.
  - B. Annual list of officers and members of the Board of a Franchisee and the parent corporation, a consolidated financial statement, and annual report of Franchisee and parent corporation. These documents shall be delivered to the Town no later than 30 days after request by the Town.

- C. A Quarterly summary of all: (a) requests for repair service, (b) complaints that generate a work order or written response, and (c) outages. Such summary to include the following information: (a) the date and the approximate time of the complaint or request, (b) the date and approximate time Franchisee responded, (d) the date and approximate time service is restored, (e) the type and probable cause of the problem, and (g) a description of the corrective action taken.
- D. Quarterly, the number of subscribers at each level of service.
- E. Copies of Franchisee's proof of performance measurement and signal leakage measurements and compliance within thirty (30) days of request and completion of the tests.
- F. Upon request prior to transfer or renewal, a financial statement including a statement of income, a balance sheet, and a statement of sources and applications of funds.
- G. Insurance and Securities Certificate. Annual certificates of insurance and financial securities required by this Ordinance to be provided to the Town. The certificates of insurance and financial securities shall be delivered to the Town no later than 30 days after the effective date of the franchise agreement entered into between Franchisee and the Town.
- H. Franchise Fee Reports. At the time of payment of the franchise fee, Franchisee shall file applicable reports as required under the Code of Virginia Chapter 6.2-Viginia Communications Sales and Use Tax and any regulations promulgated thereunder. Upon request, Franchisee shall provide the Town with a copy of such reports.
- I. Technical Test Results. Results of tests required by Town within thirty (30) business days of the date the Town notifies Franchisee to perform such test.

J. Upon request, Franchisee shall prepare and furnish to the Town at the times reasonably prescribed by the Town, such additional reports with respect to its operation, affairs, transactions or property, as may be reasonably necessary and appropriate to the performance of any of the rights, functions or duties of the Town in connection with this Ordinance or the franchise agreement.

2. Records Retention.

A. Financial Records. Franchisee shall retain all records related to franchise fees for a period of three (3) years.

B. Records of Complaints, Repair Service Requests and Outages. Franchisee shall keep all records relating to all: (a) requests for repair service, (b) complaints or requests that generate a work order or written response, and (c) outages; for two (2) year from the date the record is made. Upon request by the Town, Franchisee shall produce the requested records to the designated Town office within thirty (30) days of the request for such records.

C. Other Records. Franchisee shall retain all other records for a period of three (3) years, unless a shorter period is designated herein or in the franchise agreement.

3. Federal Filings. Upon written request by the Town, copies of all petitions, applications and communications submitted by Franchisee to the Federal Communications Commission, Securities and Exchange Commission or any other federal or State regulatory commission or agency having jurisdiction in respect to any matters affecting Franchisee's operations authorized pursuant to this Ordinance, shall also be submitted by Franchisee.

**§20 TRANSFER, ASSIGNMENT AND FORECLOSURE.**

1. Transfer of Franchise. A franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title to the cable television system be transferred, legal or equitable, or any right, interest or property therein, pass to or vest in any person without the prior written consent of the Town. Any transfer of the franchise without the prior consent of the Town shall make the franchise subject to cancellation.
2. Transfer of Ownership. Franchisee shall not sell, assign, transfer or dispose of twenty percent (20%) or greater ownership interest in Franchisee or more at one time of the ownership or controlling interest in the cable television system, or twenty percent (20%) cumulatively over the term of the franchise agreement of such interests to a corporation, partnership, limited partnership, trust or association, or person or group of persons acting in concert without the prior written consent of the Town. Every sale, transfer, or disposition of twenty percent (20%) or greater ownership interest as specified above in Franchisee shall make the franchise subject to cancellation.
3. Transfer of Control. Franchisee shall not change control, in whatever manner exercised, of Franchisee or any parent company without the prior written consent of the Town. Every change, transfer, or acquisition of control of Franchisee shall make the franchise subject to cancellation unless and until the Town shall have consented thereto.
4. Town Approval. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of the franchise or ownership or control, the Town may inquire into the legal, financial, character, technical and other public interest qualifications of the prospective transferee or controlling party, and Franchisee shall provide the Town with all required information. The Town reserves the right to impose certain conditions on the transferee as a condition of the franchise to ensure

that the transferee is able to meet existing requirements of this Ordinance and the franchise agreement requirements. If required by law or regulation the Town shall act on a request for transfer within one hundred twenty (120) days. Notwithstanding anything contained herein to the contrary, any renewal shall be in a manner consistent with all Laws and Regulations, including those of the FCC and the Cable Act.

5. No Waiver of Town Property Rights. The consent or approval of the Town or any other public entity to any transfer of Franchisee shall not constitute a waiver or release of the rights of the Town in and to the public property or public right-of-way, and any transfer shall, by its terms, be expressly subordinate to the terms and conditions of this Ordinance and the franchise agreement.
6. Hypothecation. No such consent shall be required, however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title, or interest of the Franchisee in the Franchise or Cable System to secure indebtedness.
7. Signatory Requirement. Any approval by the Town of transfer of ownership or control of the franchise or Franchisee shall be contingent upon the prospective transferee agreeing in writing to be bound by the terms and conditions of this Ordinance and the Franchise Agreement.
8. Default Notification. To the extent allowed by law, any foreclosure or judicial sale of all, or any part of, the cable television system shall be considered default. Initiation of any such proceedings shall be treated as a notification of a change of control of Franchisee.
9. Receiver. To the extent allowed by law, the Town Council shall have the right to cancel Franchisee's franchise one hundred twenty (120) days after the election or appointment of a receiver or trustee to take over and conduct the business of Franchisee, whether in receivership, reorganization, bankruptcy or other action or proceedings, unless such receivership

or trusteeship shall have vacated prior to the expiration of the one hundred and twenty (120) days; or unless:

- A. Within one hundred and twenty (120) days after the election or appointment such receiver or trustee shall have fully complied with all provisions of this Ordinance and remedied all defaults there under; and,
- B. Within said one hundred and twenty (120) days such receiver or trustee 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 Ordinance.

**§21 INITIAL FRANCHISE APPLICATIONS.**

- 1. Invitation of Applications for an Initial Franchise, Public Notice of "Request for Proposals. The Town may invite applications for an initial cable television franchise by means of a public notice advertising the availability of its "Request for Proposals."
  - A. The public notice shall contain, but need not be limited to:
    - (1) A description of the franchise area which is sought.
    - (2) A statement that a formal "Request for Proposals" is available to prospective applicants from a Town official whose name, address, and telephone number are specified.
    - (3) A statement that applications for the franchise must be submitted in writing in the form and manner specified in the "Request for Proposals" no later than a day certain.
    - (4) A statement that all applications will be made available for public inspection during normal business hours at a specified location.

2. Application Request. At any time, a person may request an application for a Franchise from the Town for a cable television franchise.
3. Request for Proposals. Prior to inviting any applications for any initial cable television franchise, the Town shall prepare a "Request for Proposals" that shall contain, but need not be limited to, the following:
  - A. A description of the cable television system and/or services desired by the Town including any cable television system specifications established by the Town.
  - B. A statement specifying the form that all applications shall follow.
  - C. A statement indicating the amount of the application fee (if any) to be submitted with the application, and the manner in which such fee is to be submitted.
  - D. A statement that all applications must contain the information required by the "Request for Proposal."
  - E. The closing date for the submission of applications.
  - F. The name, address, and telephone number of the Town official(s) who may be contacted for further information.
4. Initial Franchise Application. Any applicant for a franchise shall complete the Town's Request for Proposal and provide the information required therein.
5. Requirement for Public Hearing on Reasonable Notice. The Town shall conduct a public hearing prior to awarding or denying any cable television franchise. The hearing shall be preceded by reasonable notice to each of the franchise applicants and to the public, and shall be conducted by the Town in accordance with the following procedures:

- A. There shall be an agenda for the hearing which shall specify the proposal(s) to be considered at the hearing.
  - B. Every person who has applied for a cable television franchise shall appear at the hearing either in person or by authorized representative. The application of any applicant not so appearing shall not be further considered, except for good cause shown.
  - C. All persons shall be given opportunity to participate in the hearing, but nothing contained herein shall limit the power of the presiding officer to establish reasonable time limits and otherwise limit repetitive statements or questions.
  - D. The notice of hearing shall:
    - (1) Conform to all relevant State and local laws and Ordinances.
    - (2) Describe the agenda to be considered at the public hearing.
    - (3) Indicate that copies of all franchise applications are available for public inspection during normal business hours at a place to be specified in the notice.
6. Town Discretion. As allowed by law, the Town, at its discretion and consistent with Laws and Regulations, may reject any application for a franchise. In awarding a franchise, the Town: shall allow the applicant's cable television system a reasonable period of time to become capable of providing cable service to all households in the franchise area; may require adequate assurance that the cable operator will provide adequate educational and governmental access channel capaTown, facilities, financial support or institutional network facilities; and may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

**§22 MISCELLANEOUS PROVISIONS.**

1. State and Federal Law and Regulation. This document hereby incorporates by reference all orders, rules and/or regulations of the Federal Communications Commission or other federal or State agencies applicable to a cable television system and such other orders, rules and/or regulations as any such agency or agencies may from time to time adopt. Such regulations shall be a part of this document as though the same were fully set forth at length herein. In the event any such agency ceases to exist or revokes any applicable orders, rules and/or regulations, the said orders, rules and/or regulations shall continue to apply to Franchisee and this Ordinance document unless also revoked by the Town. In the event any such agency ceases to exist, the Town shall be the agency to which application should be made for any required approval or certification.
2. Precedence. This Ordinance shall take priority over other ordinances, acts or statutes regulating cable television adopted by Town unless such ordinance, act or statute specifically preempts regulation by the Town. To the extent permissible by rules of statutory construction this Ordinance shall be construed to supplement and/or implement any other statute, act or regulation by any other agency regarding the provision of cable television services either heretofore or hereafter enacted.
3. Effective Date Conditions. Any franchise agreement entered into pursuant to this Ordinance shall become effective as specified in the Franchise Agreement.
4. Consent of the Parties. Where consent of either party hereto is required, it is deemed to be the intention of the parties in each case that neither party may unreasonably withhold such consent.
5. Cable Act. This Ordinance is subject to the provision of the Cable Communications Policy Act of 1984, as amended.
6. Compliance with Federal Nondiscrimination Laws.

Franchisee shall comply at all times with all other applicable Federal, State and local laws and regulations, and all executive and administrative orders and rates relating to nondiscrimination which are hereby incorporated and made part of this Ordinance by reference.

7. Severability. If any section, sentence, paragraph, term or provision of this Ordinance is determined to be illegal, invalid or unconstitutional, by any court of competent jurisdiction or by any state or federal regulatory agency having jurisdiction thereof, such determination shall have no effect on the validity of any other section, sentence, paragraph, term or provision hereof, all of which will remain in full force and effect.
8. Partial Repealer. All prior Cable Television Ordinances, including the Cable Television Ordinance adopted in 2006 are repealed. All other ordinances inconsistent herewith or in conflict with any of the terms hereof are, to the extent of said inconsistencies or conflicts, hereby specifically repealed.
9. Effective Date. This Ordinance shall take effect five (5) days after adoption.
10. Captions. The captions to sections throughout this Ordinance are intended solely to facilitate reading and reference to the sections and provisions of this Ordinance. Such captions shall not affect the meaning or interpretation of this Ordinance.

TOWN COUNCIL  
ROCKY MOUNT, VIRGINIA

By:

\_\_\_\_\_  
Mayor

Attest:  
Clerk of the Council

\_\_\_\_\_  
Acting Clerk of the Council

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens     Consent Item     Old Business     New Business  
 Committee Report     Other

FOR COUNCIL MEETING DATED:	January 9, 2017
----------------------------	-----------------

STAFF MAKING REQUEST:	Matthew C. Hankins, Assistant Town Manager
BRIEF SUMMARY OF REQUEST:	<p>Bidding for Municipal Building Security Improvements</p> <p>Town Council appropriated \$60,000 in the current budget to make necessary security improvements to the Municipal Building. Municipal building and Police staff members have been working with Spectrum Design, the renovation architects, to make positive changes that will make the building more secure for public and customer data, employees, board members and visitors.</p> <p>Staff is satisfied that the proposed changes meet the direction intended by council, and intends to work with the architect to bid out the work in January and February with your consideration at the March meeting for awarding a contract.</p>
ACTION NEEDED:	No action needed at this time.

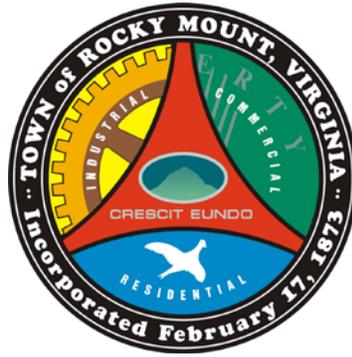
Attachment(s):

<p>FOLLOW-UP ACTION: (To be completed by Town Clerk)</p>
--

TOWN OF ROCKY MOUNT  
345 DONALD AVE.  
ROCKY MOUNT, VIRGINIA 24151

540.483.7660  
FAX : 540.483.8830

E-MAIL: MHANKINS@ROCKYMOUNTVA.ORG  
WWW.ROCKYMOUNTVA.ORG



TOWN COUNCIL  
STEVEN C. ANGLE, *MAYOR*  
GREGORY B. WALKER, *VICE MAYOR*

BOBBY M. CUNDIFF                      BOBBY L. MOYER  
MARK H. NEWBILL                      JON W. SNEAD  
BILLIE W. STOCKTON

MATTHEW C. HANKINS  
*Assistant Town Manager*  
*Director, Community Development*

## MEMORANDUM

To: Mayor Angle & Members of Council  
C. James Ervin, Town Manager

From: Matthew C. Hankins, Assistant Town Manager

Date: January 4, 2017

Re: Bidding for Municipal Building Security Improvements

### Members of Council:

Town Council appropriated \$60,000 in the current budget to make necessary security improvements to the Municipal Building. Municipal building and Police staff members have been working with Spectrum Design, the renovation architects, to make positive changes that will make the building more secure for public and customer data, employees, board members and visitors.

Staff is satisfied that the proposed changes meet the direction intended by council, and intends to work with the architect to bid out the work in January and February with your consideration at the March meeting for awarding a contract.

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens     Consent Item     Old Business     New Business  
 Committee Report     Other

FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	The Franklin County YMCA would like to host the fourth annual Y Resolve 5k/10k event on Saturday, January 21, 2017. Both of the events will begin at 9:00 a.m. and will take the same road course as last year. The plans for the event have been reviewed and approved by your police department.
ACTION NEEDED:	Approve or deny the Y Resolve 5k/10k event

Attachment(s):

<p>FOLLOW-UP ACTION: (To be completed by Town Clerk)</p>
--



December 12, 2016

Randy Simpson  
Franklin County Family YMCA  
235 Technology Drive, Rocky Mount, Va. 24151  
540-489-9622  
[rsimpson@franklincountyyymca.org](mailto:rsimpson@franklincountyyymca.org)

Dear Council Members,

Efforts are underway for the YMCA to host the fourth annual Y Resolve 5k/10k event on Saturday January 21st, 2017. Both races will begin at 9:00am. Wave starts may stagger runners to further enhance safety and minimize impact on traffic. Our last race was a huge success thanks to the collaborated efforts of the Rocky Mount Police Department, all of our sponsors and of course the support by our Town Council.

We are presently in contact with the Rocky Mount Police Department for the traffic control, as they did this for us last year. The course we followed was deemed safe and acceptable. We plan to follow the exact same route again this year.

The event will be staged at the YMCA and no alternate date is planned. The exact course of the event is attached. We look forward to sharing the challenging hills of Rocky Mount with runners from all around the greater Roanoke area once again. We are hopeful that this event will help raise some substantial funds for the YMCA.

We are currently seeking sponsors and numerous volunteers. We look forward to support from the Town of Rocky Mount and welcome input and ideas to make this event even more successful. We would especially love to see members from our Town Council participating in our 3rd annual Y Resolve 5k/10k. Thank you for your time and consideration.

Sincerely,

Randy Simpson, MS

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens     Consent Item     Old Business     New Business  
 Committee Report     Other

FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	Franklin County Parks & Recreation would like to host the 2017 Chug for the Jug 5K, Kids Fun Run and Carilion Health Walk on Saturday, April 29, 2017 beginning at 7:30 a.m. at the Rocky Mount Farmer's Market in downtown Rocky Mount. The course is the same as last year except the start and finish will be at the Rocky Mount Farmer's Market. The plans have been reviewed and approved by your police department.
ACTION NEEDED:	Approve or deny the 2017 Chug for Jug 5K, Kids Fun Run and Carilion Health Walk

Attachment(s):

<p>FOLLOW-UP ACTION: (To be completed by Town Clerk)</p>
--



FRANKLIN COUNTY  
PARKS & RECREATION

540-483-9293

[www.PlayFranklinCounty.com](http://www.PlayFranklinCounty.com)

Town of Rocky Mount  
C/o Mayor Steven Angle  
345 Donald Avenue  
Rocky Mount, VA 24151

December 16, 2016

This letter is a request for use of roadways for the 2017 Chug for the Jug 5K, Kids Fun Run and Carilion Health Walk that is scheduled for **Saturday, April 29, 2017** starting at 7:30am at the Rocky Mount Farmers Market in downtown Rocky Mount.

The Kids Race begins at 7:30am and the course for this run will be from the stoplight at Carter Bank up to Arrington Flowers and back to the Rocky Mount Farmers Market. The adult race/walk begins at 8:00am. The course is the same as last year except we will start and finish from the Rocky Mount Farmers Market. I have been in contact with Mark Lovern with the Rocky Mount Police Department and he and his officers are willing to provide assistance for us on race day.

Last year there were **21** youth in the Kids Fun Run, **39** walkers in the Health Walk and **97** runners in the 5k Race. At total of **157** participants enjoyed this event that was sponsored by Carilion Franklin Memorial Hospital, the Town of Rocky Mount, Haywood's Jewelers, and American National Bank & Trust Company.

Thank you for your consideration and support.

Marcia Cramblitt

*Marcia Cramblitt*

Recreation Programs Manager

Cc: Mark Lovern, Rocky Mount Police Department



ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens**     **Consent Item**     **Old Business**     **New Business**  
 **Committee Report**     **Other**

FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	Linda Woody, Finance Director C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	Attached is the fiscal year 2018 budget calendar which will culminate in the adoption of the FY 2018 budget and FY 2018 – 2022 Capital Improvements Plan at your May 8, 2017 meeting.
ACTION NEEDED:	Adjust or approve FY 2018 budget calendar.

Attachment(s): Yes – planned calendar for FY 2018 budget

<p>FOLLOW-UP ACTION: (To be completed by Town Clerk)</p>
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**TOWN OF ROCKY MOUNT  
FY 18 BUDGET & CAPITAL IMPROVEMENT PLAN SCHEDULE**

<u>DAY</u>	<u>DATE</u>	<u>RESPONSIBLE PARTY</u>	<u>ACTIVITY</u>	<u>TIME</u>	<u>PLACE</u>
Mon	1/9/2017	Town Council	Approval of Budget / CIP Calendar (Regular Council meeting)	7:00	Municipal Bldg.
Tues	1/31/2017	Finance Director	CIP & Budget worksheets to Department Heads		
Fri	2/10/2017	Department Heads	CIP Requests to Finance Director		
Thurs	2/16/2017	Finance Director	Revenue Projections		
Thurs	2/16/2017	Department Heads	Operating Budget Requests to Finance Director		
Mon	3/20/2017	Finance Director	Public Notice of Tax Rate effect if greater than 1%		
Mon	3/20/2017	Clerk / Finance Dir	Public Notice of Planning Commission CIP public hearing		
Fri	3/24/2017	Manager/Financ Dir	Proposed 5 year CIP finalized		
Fri	3/24/2017	Manager/Financ Dir	Proposed budget finalized		
Tues	3/28/2017	Manager/Finance Dir	Distribution of FY 18 - 22 CIP to Planning Commission (with copy to Town Council)		
Fri	3/31/2017	Manager/Financ Dir	Distribution of Proposed FY 18 Budget & FY 18 - 22 CIP to Council		
Tues	4/4/2017	Planning Cmsn.	Public Hearing & Recommendation of Proposed CIP (regular meeting for Planning Commission)	6:00	Municipal Bldg.
Mon	4/10/2017	Manager/Finance Dir	Presentation of FY 18 Budget and FY 18 - 22 CIP to Council (Regular Council meeting)	7:00	Municipal Bldg.
Mon	4/10/2017	Town Council	Public Hearing on Tax Rate effect if greater than 1% (Regular Council meeting)	7:00	Municipal Bldg.
Tues	4/11/2017	Town Council	Budget Work Session #1 (Note: Schools are on vacation this week)	5:00	Municipal Bldg.
Mon	4/17/2017	Town Council	Budget Work Session #2	5:00	Municipal Bldg.
Mon	4/17/2017	Finance Director	Public Notice of proposed Budget and public hearings		
Tues	4/18/2017	Planning Commission & Town Council	Joint Work session on proposed 5 year CIP (optional) (if desired) (special meeting)	6:00	Municipal Bldg.
Mon	5/1/2017	Town Council	Public Hearing on Proposed FY 18 Budget and FY 18 - 22 CIP (Special Council meeting)	7:00	Municipal Bldg.
Mon	5/8/2017	Town Council	Adoption of FY 18 Budget, FY 18 - 22 CIP, & Appropriation Resolution (Regular Council meeting)	7:00	Municipal Bldg.
Mon	6/5/2017	Finance Director	Distribution of Approved Budget and CIP		

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens   
  Consent Item   
  Old Business   
  New Business  
 Committee Report   
  Other

FOR COUNCIL MEETING DATED:	January 9, 2017
----------------------------	-----------------

STAFF MAKING REQUEST:	C. James Ervin, Town Manager
BRIEF SUMMARY OF REQUEST:	<p>Parking and Street Regulations</p> <p>Town staff has received parking complaints from members of Council recently. The Town's parking regulations are codified in §62-101:</p> <p><b>Sec. 62-101. - Parking prohibited in specified places</b></p> <p>No person shall park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:</p> <p>(1) On a sidewalk;</p> <p>(2) In front of a public or private driveway;</p> <p>(3) Within an intersection;</p> <p>(4) Within 15 feet of a fire hydrant;</p> <p>(5) On a crosswalk;</p> <p>(6) Within 20 feet of a crosswalk at an intersection; provided, however, that where there is no crosswalk at an intersection no person shall so park a vehicle within 20 feet from the intersection of curb lines or, if none, then within 15 feet of the intersection of property lines;</p> <p>(7) Within 30 feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway;</p> <p>(8) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by official signs or markings;</p> <p>(9) Within 50 feet of the nearest rail of a railroad grade crossing;</p> <p>(10) Within 15 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance when properly signposted;</p> <p>(11)</p>

	<p>Alongside or opposite any street excavation or obstruction when such parking would obstruct traffic; (12)</p> <p>On the roadway side of any vehicle parked at the edge or curb of a street; (13)</p> <p>Upon any bridge or other elevated structure upon a street or highway or within a tunnel; (14)</p> <p>At any place where official signs prohibit parking; (15)</p> <p>Any bus, truck, trailer or semitrailer, other than a pickup truck, on any public street or highway within the corporate limits of the town between the hours of 9:00 p.m. and 6:00 a.m.; (16)</p> <p>In any fire zone marked as such; (17)</p> <p>In any handicapped parking space without authority to use the same; (18)</p> <p>At any place where official signs limit parking to a specified time in excess of that indicated on such sign; (19)</p> <p>At any place where parking is permitted without valid license plates, a valid state inspection, or a valid local decal.</p> <p>The parking issue we have been addressing is parking a vehicle so close to the end of a driveway that it makes it difficult to back into a street or pass by the parked vehicle with oncoming traffic. As can be seen from the above, this is a limited fit and there is little in the way of code that is directly applicable. Is there a consensus among Council that this code is sufficient or that other limitations need to be spelled out more directly?</p> <p>State code is limited on parking regulations and generally establishes in §46.2-1220 that localities may regulate parking.</p> <p>Additionally some members of Council have asked about regulations erecting reflectors, markers or driveway curbing at the intersection of the road or other driveway appurtenances near the road. This is common in Rocky Mount with our terrain and we have many retaining walls, markers or items directly up to the pavement. The Town has no regulations pertaining to these items other than the requirement that the line of sight needed for drivers is not impeded.</p>
ACTION NEEDED:	No Action Needed

Attachment(s):

**FOLLOW-UP ACTION:**  
(To be completed by Town Clerk)

ITEM(S) TO BE CONSIDERED UNDER:

- Hearing of Citizens   
  Consent Item   
  Old Business   
  New Business  
 Committee Report   
  Other

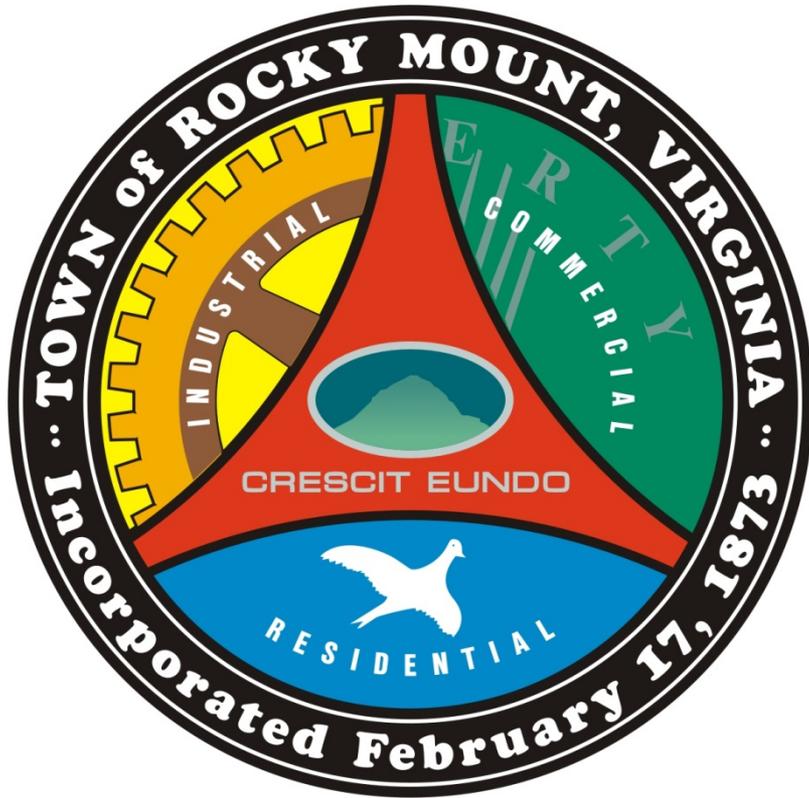
FOR COUNCIL MEETING DATED:	January 9, 2017
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STAFF MAKING REQUEST:	Matthew C. Hankins, Assistant Town Manager
BRIEF SUMMARY OF REQUEST:	<p>The Public Utilities Committee met on January 4, 2017 to receive staff's report on converting our trash collection process to one featuring an automated trash truck and Town-issued cans. Council had directed staff to investigate this with a possible purchase decision mid-year to address the difficulties in getting residents to use correct cans and limit staff exposure to refuse collection related injuries. Citizens have consistently wanted to use fewer larger cans that exceed our staff's ability to pick up and empty. The proposed solution is an automated truck that picks up and empties large cans, with the Town issuing 95-gallon cans to each household with an option to purchase additional cans.</p> <p>An updated copy of the presentation given to the committee is attached.</p> <p>Staff reported that they had had a truck from Roanoke County visit the Town and navigate our most challenging streets and that it handled them as well or better than our current truck. They estimate it would cost the Town approximately \$500,000 to convert to an automated truck and Town issued cans and recommended proceeding with an automated truck as the Town's next refuse collection vehicle. This would provide one new truck; one used truck and approximately 2,500 cans. A used truck is required to allow for downtime of the main collection vehicle and to provide supplemental collection during busier seasons.</p> <p>There is currently a five-year-old truck available from the City of Murray, Ky., that staff recommends bidding on as it is being sold due to the discontinuation of the collection program rather than the truck being replaced due to age.</p> <p>Staff recommends paying for the conversion by using \$88,000 in capital funds accumulated from our last refuse collection rate increase along with the \$475,000 surplus from the current Carter Bank borrowing to purchase the trucks and cans. The Carter Bank funds must be used by June 30, 2017 and having rejected the bids for the Scuffling Hill project, another project will be needed. In order to roll this service out in July, bidding and ordering would need to occur this winter due to the lead time associated with the trucks.</p> <p>Staff also advised that refuse collection service could be offered to those outside of Town, but still on our utility system, at a market-driven rate.</p>

	<p>The committee recommended that Council consider the migration to an automated truck, possibly having a public input session at our February meeting, and that staff be authorized to make a bid on the used truck prior to auction ending.</p> <p>Funds are available to make this investment without an additional borrowing, either by using the surplus from the Carter Bank loan or by using the Utility Capital Fund reserves (currently estimated at \$1.5M). Staff does recommend a \$1.00 per month increase in refuse rates to offset the initial expense and assist in replenishing the Utility Capital Fund prior to the need to replace equipment in ten years. Our monthly rate is currently \$4.98 for residential and \$10.00 for commercial.</p>
<p><b>ACTION NEEDED:</b></p>	<p>Authorize staff to bid up to \$95,000 on the used vehicle and give direction on a public input session and procurement of the items needed to implement automated refuse collection.</p>

Attachment(s):

**FOLLOW-UP ACTION:**  
 (To be completed by Town Clerk)



# Conversion to Automated Trash Collection

# Council Direction

In an effort to improve operational efficiency and staff safety, management is to evaluate equipment and options for automated trash collection (“one-armed bandit style truck”) and report back in January 2017

Staff has:

- Coordinated in-town truck visit by Roanoke County Solid Waste
- Visited tightest turns and narrowest streets
- Interviewed RCSW staff about operational costs
- Considered necessary staffing & route changes

# Truck Visit

Public Works staff reviewed:

- The truck and its uses
- Maximum route capacity (can tips per day)
- Truck yardage capacity (22-31 c.y.)
- Operational issues
- Maintenance & mechanical issues
- Acquisition cost expectations
- Tested the truck on town streets, including:
  - Goodview (tight turn radius, narrow street, on-street parking)
  - Rose (narrow street, on-street parking, lack of turnaround)
  - Harvey (narrow street, on-street parking, lack of turnaround)
  - Windsor (narrow street, obstructed turnaround, low power lines)





## Goodview

Issues: Tight left and right turns from Leanor; one-way traffic; trees and shrubbery close to route; power lines; on-street parking

## Staff Review

Staff was impressed by the truck's turning radius. This 31-yard tandem truck was able to swing the corner with ease. Collection is possible without creating hazards to property or traffic.





# Rose, Harvey

Issues: Tight left and right turns; no turning spots; on-street parking

## Staff Review

Back-up camera allows for easy backing, even with on-street parking on narrow streets. Adequate room to load cans. While the truck on the street would not provide adequate room for vehicles to pass on road surface, that is no change from the current condition.





## Windsor

Issues:

Turnaround site is tight with obstruction; low power & utility lines

## Staff Review

Back-up camera allows for easy backing, even with on-street parking on narrow streets. Adequate room to load cans. While the truck on the street would not provide adequate room for vehicles to pass on road surface, that is no change from the current condition.



# Conversion Pros & Cons

## Pros

- Safer for employees (less handling of hazardous materials)
- Shift at least one employee to focus on streets, sidewalks & facilities maintenance priorities
- Fewer trips to landfill (reduced fuel costs and extended life of truck)
- Opportunity to expand service (additional routes, twice-per week collection)
- Fewer requirements on residents
- Allows significant changes in routes, scheduling and collection policies
- Streamlines collection system

## Cons

- Costs:
  - New Truck
  - Cans
  - Reserve Truck
  - Community education, advertising & publicity
- Lack of backup truck or lack of speed in reserve truck
- Must keep reserve can inventory
- Potential difficulties in bulk trash collection process

# Staff Recommendations

- Pursue purchase of the following:
  - New automated 26-yard collection truck
    - Expected usable life of 10 years \$275,000
  - Town-issue 95 gallon trash cans and inventory \$171,360
    - 2,520 cans @ \$68/each
    - Freight & lettering included
    - Current customer numbers
      - ~1800 residential, ~300 non-residential
  - Used automated truck for reserve & capacity \$50,000
  - Publicity, mailing & advertising \$7,500
  - Estimated conversion capital investment \$503,860
  - Sell oldest town garbage truck -\$9,500
  - Total estimated capital outlay \$494,360

# Staff Recommendations

- Policy updates & changes needed
  - Routes & frequency
  - Extend service to utility customers outside town
  - Elderly & handicapped policy
  - Can maximums (2 residential, 3 business?)
  - Customer price for additional cans
  - Bulk trash collection
  - Require all trash be disposed in town-issued cans
  - Exclude use of non-town issued cans

# Staff Recommendations

- \$494,360 projected capital needed
- Funding options:
  - Utility Capital FY17 ending fund balance expected to be \$850,000
  - Utility Capital FY17 ending fund balance for refuse expected to have \$88,000
  - \$462,000 available from current loan (replace Scuffling Hill drainage project) and
  - Budget capital expense in FY2018 budget (on delivery of truck)
- Funding future needs:
  - Rates of \$1.50/month per customer, set aside in utility capital fund for purchase of next new truck and supplemental cans
    - Current expected new truck purchase price adjusted for 3% average inflation over the next decade would yield a future purchase price of \$370,000, or \$1.47 per customer per month, not including interest earnings on fund balance

# Staff Recommendations

- If council wishes to proceed, consider authorizing staff to bid on a reserve truck currently offered through govdeals.com until Thursday, Jan. 12. Staff requests authorization up to the current value of the truck, estimated at \$95,000.

**GovDeals**  
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January 4, 2017, 02:44 PM ET P1A

## 2012 Mack LEU600 Side Load Compactor

More media

Year	Make/Brand	Model	VIN/Serial	Miles	Title Restriction	Condition	Category	Inventory ID
2012	Mack	LEU600	1M2AU02C8CM006877	40,342	No	See Description	Garbage Trucks	C-15

2012 Mack LEU600 LCF, 10.8L L6 DIESEL.

Starts and runs. GVW 66000 LB. Removed From Service 9/22/16. Maintained every 500 hr. Mack MP7 engine. Allison 4500 automatic 6 speed transmission. 3 axle. White Exterior. Minor Scratches. 25 yard Bed. Grey vinyl seats with normal wear. Am/FM/Cd radio. cruise control. remote mirrors. AC is cold. Vinyl Decals will need to be removed by buyer.

New Way Side Load compactor is Operable

Model: 31ASL

Serial: 11192A-09-12

Engine Hours: 5066

Seller added the following information on 12/14/2016 4:42 PM:  
This a 31 yard bed

**» Seller Information** [Ask a question](#)

Seller Name: Murray, KY [view seller's other assets]

Auction Ends: 1/12/17 4:30 PM ET  
 Remaining: 8 Days 1 Hr  
**This item is subject to an auto extension of the auction end time.**  
[Refresh Bid & Time](#)  
 Buyer's Premium: 7.50%  
 Starting Bid: \$1,500.00  
 Bids: **14**  
 High Bidder: p\*\*\*\*\*8  
 Current Bid: \$20,050.00  
 Bid Increment: \$50.00  
 Minimum Bid: \$20,100.00  
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