

TITLE 9**BUSINESS, PEDDLERS, SOLICITORS, ETC.¹****CHAPTER**

1. MISCELLANEOUS.
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4. CABLE TELEVISION.
5. CABLE TELEVISION FRANCHISE ORDINANCE.

CHAPTER 1**MISCELLANEOUS****SECTION**

- 9-101. "Going out of business" sales.
- 9-102. Revocation or refusal of taxicab licenses for liquor law violators.

9-101. "Going out of business" sales. It shall be unlawful for any person to falsely represent a sale as being a "going out of business" sale. A "going out of business" sale, for the purposes of this section, shall be a "fire sale," "bankrupt sale," "loss of lease sale," or any other sale made in anticipation of the termination of a business at its present location. When any person, after advertising a "going out of business" sale, adds to his stock or fails to go out of business within ninety (90) days, he shall prima facie be deemed to have violated this section. (1993 Code, § 9-101)

9-102. Revocation or refusal of taxicab licenses for liquor law violators. Any driver or owner of a taxicab operating in Decherd, Tennessee, upon conviction for selling or transporting whiskey, shall have his license to operate a taxicab in Decherd revoked. Furthermore, no license to operate a taxicab in Decherd, Tennessee, shall be issued to an applicant who has been convicted of transporting or selling whiskey within five (5) years from the date of his application. (1993 Code, § 9-102)

¹Municipal code references

Building, plumbing, wiring, and residential regulations: title 12.

Junkyards: title 13.

Liquor and beer regulations: title 8.

Noise reductions: title 11.

Zoning: title 14.

CHAPTER 2

PEDDLERS, ETC.¹

SECTION

- 9-201. Permit required.
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9-201. Permit required. It shall be unlawful for any peddler, canvasser or solicitor, or transient merchant to ply his trade within the corporate limits without first obtaining a permit therefor in compliance with the provisions of this chapter. No permit shall be used at any time by any person other than the one to whom it is issued. (1993 Code, § 9-201)

9-202. Exemptions. The terms of this chapter shall not be applicable to persons selling at wholesale to dealers, nor to newsboys, nor to bona fide merchants who merely deliver goods in the regular course of business, nor to bona fide charitable, religious, patriotic, or philanthropic organizations. (1993 Code, § 9-202)

9-203. Application for permit. Applicants for a permit under this chapter must file with the city recorder a sworn written application containing the following:

- (1) Name and physical description of applicant;
- (2) Complete permanent home address and local address of the applicant and, in the case of transient merchants, the local address from which proposed sales will be made;

¹Municipal code reference
Privilege taxes: title 5.

- (3) A brief description of the nature of the business and the goods to be sold;
- (4) If employed, the name and address of the employer, together with credentials therefrom establishing the exact relationship;
- (5) The length of time for which the right to do business is desired;
- (6) A recent clear photograph approximately two inches (2") square showing the head and shoulders of the applicant;
- (7) The names of at least two (2) reputable local property owners who will certify as to the applicant's good moral reputation and business responsibility, or in lieu of the names of references, such other available evidence as will enable an investigator to properly evaluate the applicant's moral reputation and business responsibility;
- (8) A statement as to whether or not the applicant has been convicted of any crime or misdemeanor or for violating any municipal ordinance, the nature of the offense, and the punishment or penalty assessed therefor;
- (9) The last three (3) cities or towns, if that many, where applicant carried on business immediately preceding the date of application and, in the case of transient merchants, the addresses from which such business was conducted in those municipalities; and
- (10) At the time of filing the application, a fee of ten dollars (\$10.00) shall be paid to the city to cover the cost of investigating the facts stated therein. (1993 Code, § 9-203, modified)

9-204. Issuance or refusal of permit. (1) Each application shall be referred to the chief of police for investigation. The chief shall report his findings to the city recorder within seventy-two (72) hours.

(2) If as a result of such investigation the chief reports the applicant's moral reputation and/or business responsibility to be unsatisfactory, the city recorder shall notify the applicant that his application is disapproved and that no permit will be issued.

(3) If, on the other hand, the chief's report indicates that the moral reputation and business responsibility of the applicant are satisfactory, the city recorder shall issue a permit upon the payment of all applicable privilege taxes and the filing of the bond required by § 9-206. The city recorder shall keep a permanent record of all permits issued. (1993 Code, § 9-204)

9-205. Appeal. Any person aggrieved by the action of the chief of police and/or the city recorder in the denial of a permit shall have the right to appeal to the city council. Such appeal shall be taken by filing with the mayor within fourteen (14) days after notice of the action complained of, a written statement setting forth fully the grounds for the appeal. The mayor shall set a time and place for a hearing on such appeal and notice of the time and place of such hearing shall be given to the appellant. The notice shall be in writing and shall be mailed, postage prepaid, to the applicant at his last known address at least

five (5) days prior to the date set for hearing, or shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing. (1993 Code, § 9-205)

9-206. Loud noises and speaking devices. No permittee, nor any person in his behalf, shall shout, cry out, blow a horn, ring a bell, or use any sound amplifying device upon any of the sidewalks, streets, alleys, parks, or other public places of the city or upon private premises where sound of sufficient volume is emitted or produced therefrom to be capable of being plainly heard upon the adjacent sidewalks, streets, alleys, parks, or other public places, for the purpose of attracting attention to any goods, wares, or merchandise which such permittee proposes to sell. (1993 Code, § 9-207)

9-207. Use of streets. No permittee shall have any exclusive right to any location in the public streets, nor shall any be permitted a stationary location thereon, nor shall any be permitted to operate in a congested area where the operation might impede or inconvenience the public use of the streets. For the purpose of this chapter, the judgment of a police officer, exercised in good faith, shall be deemed conclusive as to whether the area is congested and the public impeded or inconvenienced.

Furthermore, no person shall sell or offer for sale any merchandise, food, or any other article from any motor truck, automobile, horse-drawn vehicle, or any other vehicle on Depot Street or within one block thereof within the City of Decherd. (1993 Code, § 9-208)

9-208. Exhibition of permit. Permittees are required to exhibit their permits at the request of any police officer or citizen. (1993 Code, § 9-209)

9-209. Police officers to enforce. It shall be the duty of all police officers to see that the provisions of this chapter are enforced. (1993 Code, § 9-210)

9-210. Revocation or suspension of permit. (1) Permits issued under the provisions of this chapter may be revoked by the city council after notice and hearing, for any of the following causes:

- (a) Fraud, misrepresentation, or incorrect statement contained in the application for permit, or made in the course of carrying on the business of solicitor, canvasser, peddler, transient merchant, itinerant merchant, or itinerant vendor;
- (b) Any violation of this chapter;
- (c) Conviction of any crime or misdemeanor; or
- (d) Conducting the business of peddler, canvasser, solicitor, transient merchant, itinerant vendor, as the case may be, in an unlawful

manner or in such a manner as to constitute a breach of the peace or to constitute a menace to the health, safety, or general welfare of the public.

(2) Notice of the hearing for revocation of a permit shall be given by the city recorder in writing, setting forth specifically the grounds of complaint and the time and place of hearing. Such notice shall be mailed to the permittee at his last known address at least five (5) days prior to the date set for hearing, or it shall be delivered by a police officer in the same manner as a summons at least three (3) days prior to the date set for hearing,

(3) When reasonably necessary in the public interest, the mayor may suspend a permit pending the revocation hearing. (1993 Code, § 9-211)

9-211. Reapplication. No permittee whose permit has been revoked shall make further application until a period of at least six (6) months has elapsed since the last revocation. (1993 Code, § 9-212)

9-212. Expiration and renewal of permit. Permits issued under the provisions of this chapter shall expire on the same date that the permittee's privilege license expires and shall be renewed without cost if the permittee applies for and obtains a new privilege license within thirty (30) days thereafter. Permits issued to permittees who are not subject to a privilege tax shall be issued for one (1) year. An application for a renewal shall be made substantially in the same form as an original application. However, only so much of the application shall be completed as is necessary to reflect conditions which have changed since the last application was filed. (1993 Code, § 9-213)

9-213. Casual sale of goods by residents of the city. The sales and markets noted here are the yard sales and garage sales:

(1) Citizens are required to secure a permit for these sales on their property or property that their items are displayed anytime of the year from the City of Decherd Codes Department. The person or persons will be given a copy of the permit to be posted during the sale.

(a) No person shall have more than two (2) permitted yard sales per address per year.

(b) The City of Decherd will provide two (2) dates for permit free citywide sales.

(c) This permit will be a fee of ten dollars (\$10.00) per sale and will be good for up to three (3) consecutive days in duration. A new permit will have to be obtained for each sale.

(d) Non-residents are allowed to hold yard sales only during city wide yard sale dates.

(e) Non-resident city wide yard sale participants will be required to obtain a permit at a fee of twenty dollars (\$20.00) for three (3) consecutive days. A new permit will be required for each city-wide yard sale.

(f) The permit will allow signs that are no larger than five hundred seventy-six (576) square inches which equals two by two feet (2 x 2') and cannot be placed or fastened to utility poles or any type of public signs.

(g) The permittee must list on the permit where the signs will be placed and all signs must meet the requirements of the City of Decherd Municipal Code, title 14 chapter 11. All signs must be picked up the day after the sale.

(2) Churches and civic groups are exempt from the permit, if their sales are held on private church property for the benefit of the church; however, church sales are prohibited on residential property without a permit. Civic groups having yard sales must benefit the civic group. All other provisions of this section applies.

(3) If misleading information is given to acquire a permit for sales, your permit will be revoked and refused under this section for one (1) year and you could be summoned to city court.

(4) Casual sales may not be conducted by the sellers for more than three (3) consecutive days at any one (1) time.

(5) All yard sale signs posted in the City of Decherd must be held in the city limits of Decherd.

(6) Said goods sold shall not have been purchased by said sellers for the purpose of resale. Should one (1) or more of the foregoing conditions not exist, said sales activities shall be considered as a business and be subject to other requirements. There shall be no inside yard sales with the exception of estate sales. (Ord. #406, Feb. 2018)

CHAPTER 3**CABLE TELEVISION****SECTION**

9-301. To be furnished under franchise.

9-301. To be furnished under franchise. Cable television service shall be furnished to the City of Decherd and its inhabitants under franchise granted by the city council of the City of Decherd, Tennessee. The rights, powers, duties, and obligations of the City of Decherd and its inhabitants are clearly stated in the franchise agreement executed by, and which shall be binding upon, the parties concerned.¹ (1993 Code, § 9-501)

¹For complete details relating to the cable television franchise agreement see the cable television franchise ordinance in the office of the city recorder.

CHAPTER 4

CABLE TELEVISION FRANCHISE ORDINANCE

SECTION

- 9-401. Purpose.
- 9-402. Definitions.
- 9-403. Acceptance: effective date.
- 9-404. Term of franchise.
- 9-405. Revocation of franchise and other penalties.
- 9-406. Transfer of cable television system.
- 9-407. Authority granted by the franchise.
- 9-408. Franchise fee.
- 9-409. Limitations of franchise.
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- 9-411. Service area.
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- 9-428. Unauthorized connections or modifications.
- 9-429. Notice.

9-401. Purpose. The City of Decherd finds that the continued development of cable communication has the potential of having great benefit and impact upon the citizens of city, because of the complex and rapidly changing technology associated with cable communications, the city further finds that the public convenience, safety, and general welfare can best be served by establishing and maintaining regulatory powers which should be vested in the city or such city officials as the city shall designate. It is the intent of this chapter and subsequent amendments to provide for and specify the means to attain the best possible public interest and public purpose in these matters.

Further, it is recognized that cable communications systems have the capacity to provide not only entertainment and information services to the county's residents, but can provide additional services.

For these purposes, the following goals underlie the provisions contained herein.

(1) Where economically reasonable, cable television services should be made available to all city residents.

(2) The system should be capable of accommodating both the present and reasonably foreseeable future cable television needs of the citizens of the city. (1993 Code, § 9-601)

9-402. Definitions. Unless otherwise specifically provided, or unless clearly required by the context, the words and phrases defined in this section shall have the following meanings when used in this chapter:

(1) "Cable Act." The Cable Communications Policy Act of 1984, as amended, 47 U.S.C. § 521 *et seq.*

(2) "Cable television service." The provision of television reception, communications and/or entertainment services for direct or indirect compensation, or as otherwise provided by this chapter, and distributing the same over a cable television system.

(3) "Cable television system." A facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable television service to multiple subscribers within a community, not including a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; or a facility or combination of facilities that serves only subscribers in one (1) or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities use any public right-of-way or public utility easement.

(4) "Channel." A portion of the electro-magnetic frequency spectrum (or any other means of transmission, including, but not limited to optical fibers) which is capable of carrying the equivalent of one (1) six (6) megahertz television broadcast signal and includes uses of all or any portion of such band of frequencies.

(5) "City." The City of Decherd.

(6) "City council." The City Council of the City of Decherd, State of Tennessee.

(7) "Commercial subscriber." All subscribers not defined as either residential or non-commercial.

(8) "FCC." The Federal Communications Commission.

(9) "Franchise." The nonexclusive rights granted pursuant to this chapter to construct, operate, and maintain a cable television system along the public rights-of-way within all of the city. Any such authorization, in whatever

form granted, shall not mean or include any license or permit required for the privilege of transacting and carrying on a business within the city as required by other ordinances and laws of the city.

(10) "Franchise agreement." A contract entered into between the city and the grantee pursuant to this chapter, containing additional provisions of the franchise granted.

(11) "Grantee." The person, partnership, firm, or corporation to whom a franchise, as herein defined, is granted by the city council under this chapter and the lawful successor, transferee, or assignee of said person, firm, or corporation.

(12) "Gross revenues." The following types of revenue received by a grantee directly from the operations of a cable television system in the city: regular subscriber service fees; per channel pay services; leased channel revenues; and converter and remote control rental revenues.

(13) "Person." Any individual, firm, partnership, association, corporation, or organization of any kind.

(14) "Residential subscriber." A subscriber who receives cable television/service in a single-family home or an individual dwelling unit of a multiple dwelling, where the service is not to be utilized with a business trade or profession.

(15) "Service area." The geographical area within the incorporated limits of the city as now exist or hereafter are expanded.

(16) "Street(s)." The surface of and the space above and below any publicly owned or maintained property or right-of-way, street, road, highway, freeway, land, path, alley, court, sidewalk, parkway, or drive, now or hereafter as such within the city.

(17) "Subscriber." Any person or entity lawfully receiving any portion of the cable television service of a grantee pursuant to this chapter. (1993 Code, § 9-602)

9-403. Acceptance: effective date. (1) Within thirty (30) days after final action granting a franchise which shall be done by resolution by the city council, the grantee shall file with the city clerk a written acceptance acknowledged before a notary public of the conditions required by the franchise. Such acceptance shall acknowledge that the grantee agrees to be bound by and to comply with the provisions of this chapter, the franchise agreement (if any) and applicable law and shall be in such a form and content as to be approved by the city attorney. If such acceptance is not filed in said time, then the franchise so awarded may be deemed void and of no further force and effect and the offer of franchise so awarded may stand revoked at the option of the city.

(2) Concurrently with the filing of the written acceptance, the grantee shall file with the city clerk the bond and insurance certificate required by this chapter.

(3) The effective date of the franchise shall be the first day of the first month next following the date on which the grantee files the acceptance, bond, and insurance certificate as required herein; provided, however, if any of the material required to be filed with the acceptance or the acceptance itself is defective or fails to meet with approval, the franchise shall not be in effect until such defect is cured, or such approval is obtained. (1993 Code, § 9-603)

9-404. Term of franchise. The duration of a franchise granted pursuant to this chapter shall be in full force and effect for a term of ten (10) years. The term of the franchise shall be automatically extended for an additional five (5) years, provided that the grantee has materially performed to the terms and conditions of the franchise. (1993 Code, § 9-604)

9-405. Revocation of franchise and other penalties. (1) Subject to the provisions of this section, city reserves the right to revoke, at any time, any franchise granted hereunder and rescind all rights and privileges associated therewith in the event, that:

(a) Grantee has not substantially complied with a material provision of this chapter, the franchise agreement, or of any supplemental written agreement entered into by and between the city and the grantee;

(b) Grantee has made a material false statement in the application for the franchise, knowing it to be false, or grantee commits a fraud in its conduct or relations under the franchise with the city;

(c) Grantee becomes insolvent, enters into receivership or liquidation, files for bankruptcy or assignment for benefit of creditors, is unable to pay its debts as they mature, unless the grantee is in due process of contesting such debts;

(d) Grantee fails to comply with any final federal or state judgment arising directly from the exercise of grantee's rights under its franchise;

(e) Grantee fails to provide or maintain in full force and effect the bond and insurance policies required by this chapter; or

(f) Grantee assigns, sells, or transfers its title or interest in its franchise without the consent of the city council.

(2) In the event that the city shall make a preliminary decision to revoke a franchise granted hereunder, it shall give the grantee a minimum of sixty (60) days' written notice of its intention to terminate and stipulate the cause. A public hearing shall be scheduled for the end of said sixty (60) day period. If during said period, the cause shall be cured to the satisfaction of the city, the city shall declare the notice to be null and void. If the cause is not cured to the satisfaction of the city before a franchise may be terminated, the grantee must be provided with an opportunity to be heard before the city council in a public hearing in accordance with due process procedures. After the public hearing, if the city determines that the franchise should be terminated, it shall

issue a written decision containing its findings of fact and stating the specific grounds for termination. The decision to terminate a franchise shall be subject to judicial review as provided by law.

(3) A grantee shall not be declared in default or be subject to any sanction under any provision of this chapter in any case where the action justifying such sanction is without the grantee's knowledge or authorization or outside its control. (1993 Code, § 9-605)

9-406. Transfer of cable television system. (1) No transfer of control of the cable television system other than a pro forma transfer to a parent or a wholly owned subsidiary corporation, or to a partnership with the same general partner as grantee, or hypothecation as the result of a commercial loan shall take place, whether by force or voluntary sale, lease, assignment, foreclosure, attachment, merger, or any other form of disposition, without prior notice to and approval by the city council, which approval shall not be unreasonably withheld. The notice shall include full identifying particulars of the proposed transaction. For the purpose of determining whether it shall consent to such change, transfer, or acquisition of control, the city may inquire into the qualifications of the prospective controlling party and the grantee shall assist the city in any such inquiry. The city shall have ninety (90) days within which to approve or disapprove, by resolution, the proposed transfer of control. If the city fails to act within said ninety (90) day period, the application to transfer control or assign the franchise shall be deemed to be granted.

(2) Approval of such transfer shall be expressly conditioned upon full compliance with the material terms of the franchise and this chapter. The transferee shall agree in writing to comply with all provisions of this chapter and the franchise agreement.

(3) For the purpose of this section, the term "control" is not limited to majority stock ownership, but includes actual working control in whatever manner exercised. A rebuttable presumption that a transfer of control has occurred shall arise upon the acquisition or accumulation by any person or group of affiliated persons of twenty five percent (25%) of the voting shares of the grantee. (1993 Code, § 9-606)

9-407. Authority granted by the franchise. (1) The grantee of any franchise granted pursuant to the provisions of this chapter shall, subject to the conditions and restrictions set out in this chapter, be authorized to construct or have constructed, operate, and maintain a cable television system, and to engage in the business of providing cable television service in the city as defined herein and in the franchise and for that purpose to erect, install, construct, repair, replace, reconstruct and maintain such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be necessary and appurtenant to the cable television system; provided, however, that before any pole, wire, or other thing mentioned

above which is necessary and appurtenant to the cable television system is placed on or within any street, the required permits to do so must be obtained by the grantee from the city; and, provided further, that before any such construction is commenced, the plans and specifications thereof must be approved in writing by the public works director of the City of Decherd. It shall be unlawful for any telephone, telegraph, or power company or any other public utility company or person to lease or otherwise make available to any person, any poles, lines, facilities, equipment, or other property for use in connection with the operation of a cable television system or the provision of cable television service, unless such other person holds a valid franchise granted pursuant to the provisions of this chapter.

(2) The authority granted to a grantee pursuant to the provisions of this chapter is not and shall not be deemed to be an exclusive right or permission. The city expressly reserves the right to grant one (1) or more non-exclusive franchises to operate a cable television system to other persons for the entire franchise area at any time under the same substantive terms and conditions as apply to the existing grantee. No such additional franchise granted by the city shall affect the obligations of any other grantee.

(3) If the city grants an additional franchise under this chapter which contains terms deemed more favorable by any existing grantee, said existing grantee may elect to incorporate said terms or provisions into its existing franchise upon notice to the city. (1993 Code, § 9-607)

9-408. Franchise fee. (1) Because the city finds that the administration of a franchise granted pursuant to this chapter imposes upon the city additional regulatory responsibility and expense, a grantee of any franchise hereunder shall pay to the city, within ninety (90) days after the end of its fiscal year, an annual sum equal to five percent (5%) of its gross revenues. This fee shall be in addition to any and all taxes which are now or may be required hereafter to be paid pursuant to any federal, state, or local law. This fee shall be deemed to reimburse the city for all costs of regulating the cable television system of the grantee and shall cover the expenses of all regulatory requirements including, but not limited to, any performance testing required by the city under the terms of this chapter and any renewal or transfer procedures arising hereunder.

(2) Acceptance of payments hereunder shall not be construed as a release of as an accord and satisfaction of any claim the city may have for further or additional sums payable under this chapter or for the performance of any other obligations hereunder. (1993 Code, § 9-608)

9-409. Limitations of franchise. (1) In addition to the limitations otherwise herein appearing, the franchise is subject to the limitation that the grantee shall at all times during the life of any franchise hereunder be subject to the lawful exercise of its police power by the city and other duly authorized regulatory state and federal bodies and shall comply with any and all ordinances

which the city has adopted or shall adopt applying to the public generally and shall be subject to all laws of the State of Tennessee and the United States.

(2) Time shall be of the essence in any franchise granted hereunder. The grantee shall not be relieved of its obligations to comply promptly with a provision of this chapter by the failure of the city to enforce compliance. Failure of the city to enforce any breach by the grantee shall not constitute a waiver by the city.

(3) Any poles, cable, electronic equipment or other appurtenances of the grantee to be installed in, under, over, along, across, or upon a street shall be so located so as to cause minimum interference with the public use of the streets and to cause minimum interference with the rights of other users of the streets or of property owners who adjoin any of the streets.

(4) In the event of disturbance of any street, other public property, or private property by grantee, it shall, at its own expense and using reasonable efforts, replace and restore property to the condition existing before the work was done.

(5) Grantee shall contract, maintain, and operate the cable television system so as to cause minimum inconvenience to the general public. All excavations shall be properly guarded and protected. All excavations shall be filled and the surface restored promptly after completion of the work at grantee's sole cost and expense. The grantee shall at all times comply with all excavation ordinances of the city.

(6) The grantee shall, upon reasonable notice from any person holding a building moving permit issued by the city, temporarily alter its facilities to permit the moving of such building. The actual cost of such altering shall be borne by the person requesting the altering and the grantee shall have the right to request payment in advance. For the provisions of this chapter, reasonable notice shall be construed to mean at least seventy-two (72) hours prior to the move.

(7) If, at any time, in case of fire or disaster in the city it shall become necessary in the judgement of the city manager or the chief of the fire department or their designee to cut or move any of the wires, cable amplifiers, appliances, or appurtenances thereto of the grantee, such cutting or moving may be done and any repairs rendered necessary thereby shall be made by the grantee at no expense to the city. (1993 Code, § 9-609)

9-410. Additional city rights in franchise. (1) The city reserves the right upon reasonable notice to require the grantee at his expense to protect, support, temporarily disconnect, relocate, or remove from the streets any property of the grantee by reason of traffic conditions, public safety, street construction or excavation, change or establishment of street grade, installation of sewers, drains, water pipes, power or communication lines, tracts, or other types of structure or improvements by governmental agencies. Reasonable notice for this provision of the chapter shall be construed to mean at least thirty (30)

days except in the case of emergencies where no specific notice period shall be required.

(2) In the event of the failure by the grantee to complete any work required by subsection (1) above or any work required by city law or ordinance within the time established, the city may cause such work to be done and the grantee shall reimburse the city the reasonable costs thereof within thirty (30) days after receipt of an itemized list of such cost.

(3) The city reserves the right, in the event of an emergency or disaster, to require the grantee to make available to the city manager, upon request, grantee's audio override, if any, and community channel, if any, at no cost, for emergency use during such emergency or disaster period.

(4) The city reserves the right during the life of any franchise hereunder to inspect, upon reasonable notice, at all reasonable hours, the grantee's contracts and engineering records dealing with gross revenue and technical service provided by grantee, provided that information pertaining to service to individual subscribers will be available pursuant to § 631 of the Cable Act.

(5) The city reserves the right during the life of any franchise granted hereunder to install and maintain free of charge upon the poles or in the conduits of a grantee any wire and pole fixtures necessary for municipal networks such as police and fire, on the condition that such installations and maintenance thereof do not interfere with the operations of the grantee.

(6) The city reserves the right during the life of any franchise granted hereunder to reasonably inspect all construction or installation work performed subject to the provisions of the chapter to ensure compliance with the terms of the chapter. At its own expense, the city may also perform measurements upon and randomly inspect any portion of a grantee's system to ensure compliance with the technical standards under which the grantee is authorized to operate, provided that such measurement or inspection does not interfere with the operation of the cable television system.

(7) At any time during the term of the franchise, and upon thirty (30) days' notice, the city reserves the right to hold a public hearing for the expressed purpose of reviewing the general and specific performance of the grantee with regard to all franchise provisions contained herein or in any franchise agreement issued hereunder.

(8) Any right or power in or duty impressed upon any officer, employee, department, or board of the city shall be subject to transfer by the city council by law to any other officer, employee, department, or board of the city. The city reserves all rights not specifically granted herein, and the enumerations of the rights herein shall not be construed to be a limitation of any right or power the city may otherwise have. (1993 Code, § 9-610)

9-411. Service area. (1) Subject to the provisions of subsection (2) below, the grantee of any franchise hereunder shall offer cable television service

to all potential residential subscribers who are located within the city limits as of the effective date of the franchise. Subject to the provisions of subsection (2) below, the grantee shall offer cable television service to all potential residential subscribers within any area described in any annexation ordinance passed after the passage of this chapter, within one (1) year of the effective date of the said annexation ordinance.

(2) The grantee of any franchise hereunder shall offer cable television service to all potential residential subscribers located within one hundred fifty feet (150') of grantees feeder cable where there exists a minimum density of thirty-five (35) dwelling units per mile. The grantee may elect, but has no obligation, to offer cable television service to areas not meeting the above standard.

(3) In the event the continued use of a street is denied for any reasonable reason related to public health, safety, or welfare, the grantee will make every reasonable effort to provide residential service over alternate routes. (1993 Code, § 9-611)

9-412. Time for providing service. Unless otherwise authorized by the city council, all areas meeting the requirements of § 9-611(2) subsequent to the effective date of a franchise granted pursuant to this chapter shall be offered cable television service within twelve (12) months of the effective date of the annexation. (1993 Code, § 9-612)

9-413. Condition of use of streets. (1) The poles used for a distribution system shall be, to the extent possible, those erected and maintained by either a power company or a telephone company, or both. Notwithstanding any other provisions of this chapter, no poles except replacements for existing poles shall be erected by or for the grantee, in any street, except when necessary to service a subscriber. Any poles, wires, cable, or other facilities to be constructed or installed by grantee on or within the streets shall be constructed or installed only at such locations and depths and in such a manner as to comply with all state statutes and rules and regulations of the State of Tennessee, the city, and any other agency of competent jurisdiction.

(2) The installation of trunk and distribution lines, including service drops to subscribers, shall be made underground in areas where both telephone and power lines are underground or are placed underground and the service poles are removed. (1993 Code, § 9-613)

9-414. System design and channel capacity. The cable television system shall be constructed and operated in a manner as set forth in this chapter. The cable television system shall have a capacity of at least three hundred (300) MHZ bandwidth and shall be constructed and operated in a manner as set forth in this chapter. (1993 Code, § 9-614)

9-415. Interconnection. Where economically reasonable and technically possible, grantee may connect its system with other cable systems adjoining it so as to provide the widest possible combination of programming in the most efficient manner. (1993 Code, § 9-615)

9-416. Service to government buildings. The grantee shall, upon request therefor, provide and furnish without charge to all public educational institutions and governmental buildings within the service area and within one hundred fifty feet (150') of grantee's existing distribution cable, one (1) service outlet. The institutions shall be entitled to receive, free of charge, the grantee's basic cable television service. (1993 Code, § 9-616)

9-417. Parental control devices. The grantee shall at all times have available parental control devices for the purpose of controlling premium television programming on individual subscriber television sets. The grantee shall have the right to charge reasonable fees of the use of such devices. (1993 Code, § 9-617)

9-418. Construction standards. (1) Grantee shall construct, install, operate and maintain the cable television system in a manner consistent with all laws, ordinances, construction standards, governmental requirements and the construction and operational standards contained in this chapter and any franchise agreement.

(2) All installation and maintenance of electronic equipment shall be of a permanent nature, durable, and installed in accordance with the applicable sections of the *National Electric Safety Code*, the *National Electrical Code* of the National Bureau of Fire Underwriters and all state and local codes where applicable.

(3) Antenna supporting structures (towers) shall be painted, lighted, erected, and maintained in accordance with all applicable rules and regulations of the Federal Aviation Administration and all other applicable local or state codes and regulations.

(4) All construction methods and standards shall conform to standard industry practices at the time of construction, and as specified herein and in any franchise agreement.

(5) Any contractor used by a grantee for construction, installation, operation, maintenance, or repair of system equipment must be properly licensed under the laws of the state to which the contractor is licensed, and all local ordinances.

(6) The city does not guarantee the accuracy of any maps showing the horizontal or vertical location of existing substructures. In public rights-of-way, where necessary, the locations shall be verified by excavation. (1993 Code, § 9-618)

9-419. Operational standards and performance monitoring.

(1) The cable television system shall be operated in compliance with the service standards established by the National Cable Television Association.

(2) The grantee shall put, keep, and maintain all parts of the system in good condition throughout the entire franchise term.

(3) The grantee shall render efficient service, make repairs promptly, and interrupt service only for good cause and for the shortest time possible. Such interruptions, insofar as possible, shall be preceded by notice and shall occur during periods of minimum system use.

(a) Service repair response time to a subscriber outage call shall not exceed forty-eight (48) hours except on weekends and holidays or in circumstances beyond the reasonable control of the grantee;

(b) Trained technicians shall respond on a twenty-four (24) hour day seven (7) days a week basis whenever ten (10) or more verifiable subscriber complaints of outage are received; and

(c) The grantee shall have a local, publicly listed telephone number. The grantee shall provide the means to accept complaint calls twenty-four (24) hours a day, seven (7) days a week. (1993 Code, § 9-619)

9-420. Rates and charges. Grantee shall file with the city schedules which shall describe all services offered, all rates and charges of any kind, and all terms and conditions relating thereto. Grantee shall have the right to pass through to its subscribers all taxes and fees related to the provision of cable television service and grantee shall have the right to itemize all such taxes and fees on the customer bills. The city council reserves the right and authority to comment, whether publicly or in private, regarding grantee's schedule of rates and charges. (1993 Code, § 9-620)

9-421. Rights of individuals. (1) The grantee shall not deny service, deny access, or otherwise discriminate against subscribers or other users, or any citizen on the basis of race, color, religion, national origin, sex, or sexual orientation. The grantee shall comply at all times with all other applicable federal, state, and local laws and regulations, and all executive and administrative orders relating to nondiscrimination.

(2) Grantee shall comply with the individual privacy provisions contained in the Cable Act. (1993 Code, § 9-621)

9-422. Liability and indemnification. (1) The grantee shall, at its sole cost and expense, fully indemnify, defend, and save harmless the city, its officers, councils, commissions, and employees against any and all actions, liability, judgements, executions, claims, or demands whatsoever by others, including, but not limited to, copyright infringement and all other damages arising out of the installation or operation or maintenance of the cable television system authorized herein, whether or not any act of omission complained of is

authorized, allowed, or prohibited by this chapter and any franchise granted hereunder. Grantee shall further indemnify and save the city harmless against all liabilities to others arising out of such construction, operation, and maintenance, including, but not limited to, any liability for damages by reason of, or arising out of, any failure by grantee to secure licenses from the owners, authorized distributors, or licensees of programs to be transmitted or distributed by the grantee, and against any loss, cost, expense, and damages resulting therefrom, including reasonable attorney's fees, arising out of the grantee's exercise or enjoyment of this franchise, irrespective of the amount of any comprehensive liability policy required hereunder.

(2) The foregoing liability and indemnity obligations of the grantee pursuant to this section shall not apply to damages occasioned by acts of the city, its agents or employees, nor shall it be deemed a waiver of any defense of contributory negligence which the grantee may assert against the city, its agents or employees. (1993 Code, § 9-622)

9-423. Insurance. (1) At the time of filing written acceptance of the franchise, the grantee shall file with the city clerk certificates of insurance for the following:

(a) A general comprehensive public liability insurance policy, indemnifying, defending, and saving harmless the city, its officers, councils, commissioners, agents, or employees from any and all claims by any person whatsoever on account of injury to or death of a person or persons occasioned by the operations of the grantee under the franchise granted hereunder with a minimum of liability of three hundred thousand dollars (\$300,000.00) for personal injury or death of any two (2) or more persons in any one (1) occurrence. Renewal certificates of such insurance shall be promptly forwarded to the city clerk as such renewals are made, and such insurance shall be constantly kept in force and effect during the term of this franchise.

(b) Property damage insurance indemnifying, defending, and saving harmless the city, its officers, councils, commissions, agents, and employees from and against all claims by any person whatsoever for property damage occasioned by the operation of a grantee under the franchise granted hereunder with a minimum liability of three hundred thousand dollars (\$300,000.00) for property damage to any one (1) person and five hundred thousand dollars (\$500,000.00) for property damage to two (2) or more persons in any one (1) occurrence.

(2) Such insurance as provided for in this section shall be provided at the grantee's sole cost and expense and be kept in full force and effect by the grantee during the existence of the franchise and until after the removal of all poles, wires, cables, underground conduits, manholes, and other conductors and fixtures incident to the maintenance and operation of the cable television system as defined in the franchise.

(3) All of the foregoing insurance contracts shall be issued and maintained by companies authorized to do business in the State of Tennessee and they shall require thirty (30) days' written notice of any cancellation or reduction in coverage to both the city and the grantee herein. (1993 Code, § 9-623)

9-424. Filing and communications with regulatory agencies. The grantee shall maintain copies of all petitions, applications, and communications, relative to any franchise granted pursuant to this chapter transmitted by the grantee to, or received by the grantee from, all federal and state regulatory commissions or agencies having competent jurisdiction to regulate the operations of any cable television system authorized hereunder. Said copies shall be available for inspection by the city during regular business hours of the grantee. (1993 Code, § 9-624)

9-425. Reports. The grantee shall file annually with the city manager not later than four (4) months after the end of its fiscal year during which it accepted a franchise hereunder and within four (4) months after the end of each subsequent fiscal year, a letter containing the amount of the gross revenues for the previous fiscal year certified by grantee's controller or chief financial officer. (1993 Code, § 9-625)

9-426. Franchise renewal. Upon completion of the term of any franchise granted pursuant to this chapter, the procedures for franchise renewals as established by the Cable Act will apply. (1993 Code, § 9-626)

9-427. Franchise required. It shall be unlawful for any person to construct, operate, or maintain a cable television system in the city unless such person or the person for whom such action is being taken shall have first obtained and shall currently hold a valid franchise granted pursuant to this chapter. It shall also be unlawful for any person to provide cable television service in the city unless such person shall have first obtained and shall currently hold a valid franchise granted pursuant to the provisions of this chapter. All franchises granted by the city pursuant to this chapter shall contain the same substantive terms and conditions. (1993 Code, § 9-627)

9-428. Unauthorized connections or modifications. (1) It shall be unlawful for any person without the expressed consent of the grantee, to make any connection, extension, or division whether physically, acoustically, inductively, electronically, or otherwise with or to any segment of the cable television system for any purpose whatsoever.

(2) It shall be unlawful for any person to willfully interfere, tamper, remove, obstruct, or damage any part, segment, or content of a franchised cable television system for any purpose whatsoever.

(3) Any person found guilty of violating this section may be assessed a fine not to exceed fifty dollars (\$50.00) or sentenced to thirty (30) days in jail, or both. (1993 Code, § 9-628, modified)

9-429. Notice. Whenever under the terms of the franchise either party shall be required or permitted to give notice to the other, such notice shall be in writing and if to be served on the city, it shall be delivered either by first class U.S. mail or by handing such notice to the city manager at the city municipal offices, and if to grantee, then by delivering by first class U.S. mail or by handing such notice to such officer at such address as grantee shall from time to time direct. The original name and address of the officer on behalf of grantee shall be included in grantee's acceptance of the franchise. (1993 Code, § 9-629)