

**ZONING ORDINANCE FOR THE CITY OF  
TULLAHOMA, TENNESSEE**

Ord. #1392  
Nov. 9, 2009

(Appendix A, and any amendments thereto, is maintained by the  
Planning and Codes Department of the City of Tullahoma  
and is available on their website)

APPENDIX "B"

STORMWATER MANAGEMENT ORDINANCE

This Appendix B was replaced by Ord. #1433, Sept. 2013 and can be found in Title 18, Chapter 2 of this municipal code.

APPENDIX "C"

COMPREHENSIVE SCHEDULE OF FEES AND CHARGES

This Appendix C was replaced by Ord. #1156, Oct. 1996, and amended by Ord. #1175, June 1997, and can be found in Title 20, Chapter 10 of this municipal code.

APPENDIX D  
COMPREHENSIVE DEVELOPMENT PLAN  
(Replaced by Ord. #1417, August 22, 2011 and is on file in the recorder's office)

## APPENDIX E

## ORDINANCE NO. 1242

AN ORDINANCE TO RENEW THE FRANCHISE HERETOFORE GRANTED TO RIFKIN/TENNESSEE, LTD., TO BUILD, CONSTRUCT, OPERATE AND MAINTAIN A CABLE TELEVISION SYSTEM IN THE CITY OF TULLAHOMA, TENNESSEE, AS SET FORTH IN ORDINANCE NO. 1044 OF THE CITY OF TULLAHOMA, TENNESSEE, PASSED ON THIRD READING ON JANUARY 19, 1992, PURSUANT TO THE RENEWAL PROVISIONS SET FORTH IN SECTION 15, THEREOF, AS SAID FRANCHISE WAS AMENDED PURSUANT TO THE PROVISIONS OF ORDINANCE NO. 1091 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, ON NOVEMBER 8, 1993, AND AS FURTHER AMENDED BY ORDINANCE NO. 1092 ENACTED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, ON NOVEMBER 8, 1993, SAID FRANCHISE HAVING THEREAFTER BEEN TRANSFERRED FROM RIFKIN/TENNESSEE, LTD., TO CHARTER COMMUNICATIONS, INC., BY ORDINANCE NO. 1216, ENACTED ON JULY 26, 1999.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

WHEREAS, by the provisions of Ordinance No. 1044, enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on January 13, 1992, a franchise was granted to Rifkin/Tennessee, LTD., to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and setting forth conditions accompanying the granting thereof, and to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, as amended by Ordinance No. 1091 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, to implement the Customer Service Obligation Standards of the Cable Television Consumer Protection and Competition Act of 1992, to provide for a higher level of customer service by the cable operator than then currently provided in the original franchise agreement, and as further amended by Ordinance No. 1092 enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on November 8, 1993, which Ordinance created a Title 6, "Finance and Taxation," Chapter 1 "In General," entitled "A SECTION PROVIDING REGULATIONS GOVERNING RATES TO BE CHARGED FOR BASIC CABLE TELEVISION SERVICE AND EQUIPMENT," which section is entitled "Regulation of Basic Cable Television Service and Equipment," which franchise was by Ordinance No. 1216, transferred from Rifkin/Tennessee, LTD., to Charter Communications, Inc., enacted by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, on July 26, 1999.



ORDINANCE NO. 1216

AN ORDINANCE GRANTING CONSENT BY THE CITY OF TULLAHOMA, TENNESSEE, TO A TRANSFER BY RIFKIN/TENNESSEE, LTD, A TENNESSEE LIMITED PARTNERSHIP, OF A FRANCHISE HERETOFORE GRANTED TO RIFKIN BY ORDINANCE NO. 1044, AS AMENDED, PURSUANT TO PROVISIONS THEREOF.

BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, as follows:

SECTION ONE: By the provisions of Ordinance No. 1044, the City of Tullahoma, Tennessee, by and through its board of mayor and aldermen granted a franchise to Rifkin/Tennessee, LTD, a Tennessee Limited Partnership ("Rifkin"), to build, construct, operate, and maintain a cable television system in the City of Tullahoma, Tennessee, and therein in Section 3 (c) thereof, provided that the franchise award shall not be assigned, etc., without the prior consent of the City of Tullahoma expressed by ordinance, and Rifkin has now sought said consent from city, which consent city is pleased to grant, pursuant to the terms hereof.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that the City of Tullahoma, Tennessee does hereby grant its consent to the transfer by Rifkin (now known as Rifkin Acquisition Partners, L.L.L.P., a Colorado registered Limited Liability Limited Partnership which purportedly owns and operates this system established pursuant to the provisions of Ordinance Number 1044) pursuant to that CONSENT OR APPROVAL TO TRANSFER CONTROL OF CATV FRANCHISE (Consent) executed by the City of Tullahoma, Tennessee, on the 12<sup>th</sup> day of July, 1999.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that said consent is hereby granted subject to the provisions that the transferee contemplated thereby shall assume and be liable for any and all obligations and/or liabilities of the transferor to the City of Tullahoma, Tennessee, pursuant to the provisions of the franchise, and/or pursuant to law, without releasing transferor from its obligations and/or liabilities to city.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of

Ordinances of the City of Tullahoma, in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

SECTION FIVE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that if any section, subsection, paragraph, sentence, item or clause of this ordinance shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this ordinance, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of the ordinance shall be treated as severable.

SECTION SIX: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that this ordinance shall take effect and be in full force and effect from and after its passage and from and after its caption being published one time in a newspaper of general circulation in Coffee County, Tennessee, the public welfare requiring it.

CITY OF TULLAHOMA, TENNESSEE

BY \_\_\_\_\_  
MAYOR

ATTEST:

s/Patricia H. Williams  
CITY RECORDER

PASSED ON FIRST READING: 7-12-99

PASSED ON SECOND READING: 7-26-99



ORDINANCE NO. 1091

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE BY ADDING CERTAIN PROVISIONS THERETO IN APPENDIX "E" OF THE CODE OF ORDINANCES OF THE CITY OF TULLAHOMA, TENNESSEE, CREATED BY ORDINANCE NO. 1044 ENACTED DECEMBER 13, 1992, WHICH IS ENTITLED "THE TERMS AND CONDITIONS OF THE CABLE TELEVISION FRANCHISE", AND AN ORDINANCE TO AMEND THE CURRENT CATV FRANCHISE AND TO IMPLEMENT THE CUSTOMER SERVICE OBLIGATION STANDARDS OF THE CABLE TELEVISION CONSUMER PROTECTION AND COMPETITION ACT OF 1992 ("CABLE ACT OF 1992") PROVIDING FOR A HIGHER LEVEL OF CUSTOMER SERVICE BY THE CABLE OPERATOR THAN CURRENTLY PROVIDED IN THE FRANCHISE AGREEMENT BETWEEN THE CITY OF TULLAHOMA, TENNESSEE AND RIFKIN/TENNESSEE, LTD. (THE CABLE OPERATOR).

SECTION ONE: BE IT ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee, which provides as follows:

See Exhibit "A" hereto for the text of the amendment.

SECTION TWO: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that all ordinances in conflict herewith and all provisions in the Code of Ordinances of the City of Tullahoma, in conflict herewith are hereby repealed in their entirety, to the extent of any conflicts.

SECTION THREE: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that if any section, subsection, paragraph, sentence, item or clause of this ordinance shall for any reason be declared unconstitutional or invalid, such declaration shall not affect any other portion of this ordinance, it being the intent that the sections, subsections, paragraphs, sentences, items or clauses of this ordinance shall be treated as severable.

SECTION FOUR: BE IT FURTHER ORDAINED BY THE BOARD OF MAYOR AND ALDERMEN OF THE CITY OF TULLAHOMA, TENNESSEE, that this ordinance shall take effect and be in full force and effect from and after its passage and from and after its caption being published one time in a newspaper of general circulation in Coffee County, Tennessee, and 90 (ninety)

days after the cable operator has received a copy of this ordinance, the public welfare requiring it.

CITY OF TULLAHOMA, TENNESSEE

BY s/  
MAYOR

ATTEST:

s/  
CITY RECORDER

PASSED ON FIRST READING: 10/25/93

PASSED ON SECOND READING: 11/8/93

## EXHIBIT "A"

WHEREAS, the CITY of Tullahoma, Tennessee determines that the level of service provided to the residents of the city would be greatly enhanced through the adoption of customer service standards provided by the Cable Act of 1992; and

WHEREAS, the CITY of Tullahoma, Tennessee hereby notifies the cable operator RIFKIN pursuant to the Cable Act of 1992 that it intends to adopt the customer service standards; which are as follows:

Section 1. In accordance with the Cable Television Consumer Protection and Competition Act of 1992, Section 76.309 subpart H, the following standards are incorporated into the existing CATV franchise:

Cable system office hours and telephone availability:

- (1) The cable operator will maintain a local, toll-free or collect call telephone access line which will be available to its subscribers 24 hours a day, seven days a week.
  - (a) Trained company representatives will be available to respond to customer telephone inquiries during normal business hours.
  - (b) After normal business hours, the access line may be answered by a service or an automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained company representative on the next business day.
- (2) Under normal operating conditions, telephone answer time by a customer representative, including wait time, 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. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions, measured on a quarterly basis.
- (3) The operator will not be required to acquire equipment or perform surveys to measure compliance with the telephone answering standards above unless an historical record of complaints indicates a clear failure to comply.

- (4) Under normal operating conditions, the customer will receive a busy signal less than three (3) percent of the time.
- (5) Customer service center and bill payment locations will be open at least during normal business hours and will be conveniently located.

Installations, outages and service calls. Under normal operating conditions, each of the following four standards will be met no less than ninety-five (95) percent of the time measured on a quarterly basis:

- (1) Standard installations will be performed within seven (7) business days after an order has been placed. "Standard" installations are those that are located up to 125 feet from the existing distribution system.
- (2) Excluding conditions beyond the control of the operator, the cable operator will begin working on "service interruptions" promptly and in no event later than 24 hours after the interruption becomes known. The cable operator must begin actions to correct other service problems the next business day after notification of the service problem.
- (3) The "appointment window" alternatives for installations, service calls, and other installation activities will be either a specific time or, at maximum, a four-hour time block during normal business hours. (The operator may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.)
- (4) An operator may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment.
- (5) If a cable operator representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled, as necessary, at a time which is convenient for the customer.

Communications between cable operators and cable subscribers

- (1) Notification to subscribers—

- (a) The cable operator shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:
    - (1) Products and services offered;
    - (2) Prices and options for programming services and conditions of subscription to programming and other services;
    - (3) Installation and service maintenance policies;
    - (4) Instructions on how to use the cable service;
    - (5) Channel positions programming carried on the system; and,
    - (6) Billing and complaint procedures, including the address and telephone number of the local franchise authority's cable office.
  - (b) Customers will be notified of any changes in rates, programming services or channel positions as soon as possible through announcements on the cable system and in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the cable operator. In addition, the cable operator shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by the preceding paragraph.
- (2) Billing—
- (a) Bills will be clear, concise and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates and credits.
  - (b) In case of a billing dispute, the cable operator must respond to a written complaint from a subscriber within 30 days.
- (3) Refunds – Refund checks will be issued promptly, but no later than either –
- (a) The customer's next billing cycle following resolution of the request or thirty (30) days, whichever is earlier, or

- (b) The return of the equipment supplied by the cable operator if service is terminated.
- (4) Credits – Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

### Definitions

- (1) "Normal business hours." The term "normal business hours" means those hours during which most similar businesses in the community are open to serve customers. In all cases, "normal business hours" must include some evening hours at least one night per week and/or some weekend hours.
- (2) "Normal operating conditions." The term "normal operating conditions" means those service conditions which are within the control of the cable operator. Those conditions which are not within the control of the cable operator include, but are not limited to, natural disasters, civil disturbances, power outages, telephone network outages, and severe or unusual weather conditions. Those conditions which are ordinarily within the control of the cable operator include, but are not limited to, special promotions, pay-per-view events, rate increases, regular peak or seasonal demand periods, and maintenance or upgrade of the cable system.
- (3) "Service interruption." The term "service interruption" means the loss of picture or sound on one or more cable channels.

## Ordinance No. 1044

Cable Television Franchise

AN ORDINANCE granting a franchise to Rifkin/Tennessee, Ltd., a Tennessee Limited Partnership, to build, construct, operate and maintain a cable television system in the City of Tullahoma, Tennessee and setting forth conditions accompanying the granting of this franchise, and an ordinance to create therefor Appendix "E" to the Code of Ordinances of the City of Tullahoma, Tennessee.

Be it ordained by the Board of Mayor and Aldermen of the City of Tullahoma, Tennessee, as follows:

Section 1 – Title. This Ordinance shall be known and may be cited as the terms and conditions of the cable television franchise.

Section 2 – Definitions. For the purpose of this ordinance, and when not inconsistent with the context, words used herein in the present tense include the future; words in plural include the singular, and vice versa. The word "shall" is always mandatory. The captions supplied herein for each section are for convenience only. Said captions have no force of law, are not part of the section and are not to be used in construing the language of the section. The following terms and phrases, as used herein, shall be given the meaning set forth below:

(a) "City" or "Grantor" is the City of Tullahoma, Tennessee, a municipal corporation under the laws of the State of Tennessee, or any successor to the legislative powers of the present city.

(b) "Grantee" or "Company" is Rifkin/Tennessee, Ltd., a limited partnership organized, existing under the laws of the State of Tennessee, and doing business as Tullahoma Cablevision, it is the grantee of rights under this franchise.

(c) "Franchise" is the rights granted to any person by the City of Tullahoma under the terms of this and any agreement entered into by and between the City of Tullahoma, Tennessee, and such person according to the terms of this code.

(d) "Governing body" is the governing legislative body of the City of Tullahoma, Tennessee.

(e) "Person" is any person, firm partnership, association, corporation, company or organization of any kind.

(f) "Cable system" or "Cable television system" means a system of coaxial cables or other electrical conductors, including optical transmission media, and equipment used or to be used primarily to receive or transmit television or radio signals originated directly or indirectly or taken off the air and to transmit them to the subscribers for a fee.

(g) "CATV system" shall mean cable system.

(h) "Corporate limits" shall include all areas lying within the limits of the City of Tullahoma., Tennessee, as from time to time changed by annexation or other legal methods.

(i) "Federal Communications Commission" or "FCC" is the Federal Commission or Agency created pursuant to the Communications Act of 1934 or its successor agency.

(j) "Channels" shall mean a group of frequencies in the electromagnetic spectrum capable of carrying an audio-data or an audio-video television signal. Each channel is a block of frequencies containing a six MHz band width.

(k) "Basic cable service" means any service tier which includes the re-transmission of local television broadcast signals

(l) "Gross annual receipts" shall mean all revenue derived directly by the grantee and its subsidiaries, from or in connection with the operation of the cable TV system pursuant to this ordinance; including, but not limited to, gross annual basic cable service receipts, gross annual premium channels receipts, all other service receipts, gross annual advertising receipts, gross annual receipts from use of commercial channels, installation and reconnection fees, and converter and other equipment rentals; provided, however, that this shall not include any taxes on services furnished by the grantee herein, imposed directly upon any subscriber or user by the state, city or other governmental entity and collected by the grantee on behalf of said governmental unit.

(m) "City of Tullahoma" means the present municipal corporation of City of Tullahoma, together with any future annexation made pursuant to law. Also referred to as "City."

(n) "Ordinance" or "Franchise ordinance" means this ordinance which grants a franchise and defines the specific rights and obligations of each party pursuant to the general authority, powers and restrictions of this ordinance.



(o) "Streets" shall mean the surface of and all rights-of-way and the space above and below any public street, road, highway, bridge, freeway, lane, path, public way or place, sidewalk, alley, court, boulevard, parkway, drive, waterway, dock, wharf, pier, or easement now or hereafter held by the city for the purpose of public travel and shall include other easements or rights-of-way as shall be now held or hereafter held by the city which shall, within their proper use and meaning entitle the franchisee to the use thereof for the purposes of installing or transmitting cable television system transmissions over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to a cable television system.

(p) "Year" means the remaining portion of any calendar year in which a franchise is granted. Thereafter, "Year" means a full calendar year.

### Section 3 - Grant of authority.

(a) The city warrants it has a right to issue a franchise and the grantee, by acceptance, acknowledges and accepts the right of the city to issue the same.

(b) The city hereby grants to grantee, subject to the right of amendment as hereinafter provided, the right and privilege to construct, erect, operate and maintain, in, upon, along, across, above, over and under the streets, alleys, public ways and public places now laid out or dedicated, and all extensions thereof, and additions thereto, in the city, poles, wires, cables, underground conduits, manholes, and other conductors and fixtures necessary for the maintenance and operation in the city of a cable system for the interception, retransmission, sale, and distribution of television signals, radio, data, or other electronic signals as may be deemed appropriate by the grantee, upon the limitations, terms, and conditions in this ordinance contained, as the same may be from time to time amended.

(c) This franchise award shall not be sublet, assigned or leased, nor shall any of the rights or privileges therein granted or authorized be transferred or assigned, either in whole or in part, nor shall title thereto, either legal or equitable, or any right, title, interest or property therein pass to or vest in any person except the grantee, either by act of the grantee or by operation of law, without the prior consent of the City of Tullahoma expressed by ordinance, which consent will not be unreasonably withheld. The board of mayor and aldermen shall have forty-five (45) days to approve or disapprove any such assignment. If no action is taken by the board within 45 days, approval is automatically granted.

(d) The right to use and occupy said streets, alleys, public ways and places for the purposes herein set forth shall not be exclusive when granted by the City of Tullahoma.

Section 4 – Compliance with applicable laws

(a) Unless otherwise prohibited by state and federal laws, or where jurisdiction has been or shall be conferred upon a state or federal commission, board or body, the City of Tullahoma reserves a right by ordinance or resolution to regulate such cable system as to attachment fees, if any; rates and charges to be paid by the subscribers for the service; the quality of service to be provided subscribers; the rate of construction of facilities so as to serve the territorial area referred to hereinafter; to promulgate rules and regulations and other necessary supervisory procedures to assure prompt completion of the system; to provide service for all citizens of the City of Tullahoma and its political jurisdiction wherever located; to set a schedule of construction that will attain the said completion of such system as hereinabove last stated; and to adopt such other rules and regulations it may now or hereafter lawfully impose in keeping with and not in conflict with applicable state or federal law, or the lawful rules and regulations heretofore or hereafter adopted by any federal commission, board or body; and/or any lawful state rules and/or regulations lawfully adopted by any state commission, board or body.

(b) Grantee, its successors and assigns granted a franchise hereunder shall be subject to lawful regulations heretofore or hereafter adopted by the Federal Communications Commission and should it now be or hereafter become subject to the jurisdiction of any other commission then also to the lawful rules and regulations adopted by such commission and also to the lawful rules and regulations adopted by any similar federal commission or state regulatory body, having jurisdiction. If the grantee, its successors or assigns, shall fail to comply with any material federal and/or state statute, rules, regulations, orders or conditions lawfully vested under federal law in any federal regulatory body and/or rules, regulations, orders and conditions lawfully vested in any state regulatory body and/or rules regulations, orders and conditions lawfully vested in the City of Tullahoma, the City of Tullahoma shall have the right to terminate or cancel any franchise granted hereunder after written notice to the grantee to correct such failure or default and such failure or default shall continue for a period of time specified in such notice, not less than ninety (90) days.

(c) Grantee shall be subject to all city resolutions, rules and regulations and grantee shall also be subject to all applicable rules and regulations which, from time to time, may be allowed and/or promulgated by the Federal Communications Commission for cable television systems.

(d) This franchise may be altered, amended or changed to comply with and reflect any change in any state or federal law, not in conflict with the cable act, as to any additional powers or rights given to the city with reference to the operation of the cable television system upon thirty (30) days written notice to the grantee prior to such amendment, alteration or change.

Section 5 – Franchise and area. Any franchise granted hereunder relates to the present limits of the City of Tullahoma and to any area hereafter added thereto during the term of any franchise granted hereunder.

Section 6 – Distribution system. Upon the effective date of this ordinance, the grantee will, to the best of its ability and within a reasonable time frame, undertake to replace and/or upgrade its exiting cable structures, lines and equipment such that the distribution system is capable of carrying in the forward direction at least thirty-five (35) television channels. All new, rebuilt, or upgraded distribution facilities will be capable of stereo sound and two-way transmission. The actual number of channels provided will be dependent upon the market demand of the customers of the cable television system, but not less than that number provided at the time of passage of this ordinance.

Such rebuilding, replacement and/or upgrading of the distribution system shall be completed in accordance with a schedule presented to and approved by the board of mayor and aldermen at the time of final reading of the franchise ordinance. Should the grantee request the board of mayor and aldermen to extend such schedule, justification for such extension shall be presented and substantiated to the board of mayor and aldermen. A request for such extension shall not be unreasonably denied, and any denial of such extension, in whole or in part, shall be accomplished in a written statement by the board of mayor and aldermen which shall set forth the reason for denial.

Section 7 – Technical standards

(a) The cable television system shall be installed and remain capable of using all band equipment and of passing the entire VHF and FM spectrum and it shall have the further capability of converting UHF for the distribution to subscribers on the accepted cable transmission bands.

(b) The cable television system shall be installed and remain capable of transmitting and passing the entire color television signal without the introduction of material degradation of color fidelity and intelligence.

(c) The cable television system shall be installed and remain capable of twenty-four (24) hours per day continuous operation.

(d) The cable television system shall be capable of and will produce a picture upon any subscriber's television screen in black and white or color (provided the subscriber's television set is capable of producing a color picture) that is materially undistorted and free from ghost images and accompanied by proper sound, assuming the standard production television set is in good repair and that the television broadcast signal transmission is receivable satisfactorily at the grantee's antenna site. In any event, the picture produced shall be as good as is generally accepted in the cable television industry.

(e) The cable television system shall transmit or distribute signals of adequate strength to produce good pictures with good sound in all television receivers operating within the manufacturer's specifications of all subscribers without causing cross modulation in the cables or interference with other electrical or electronic systems.

(f) Grantee shall not allow its cable or other operations to interfere with the television reception of persons not served by grantee, nor shall the system interfere with, obstruct or hinder in any manner the operation of the various utilities serving the residents of the city. Should grantee discover or otherwise become aware of such interference, grantee shall respond with reasonable diligence to eliminate the interference, but in no event shall such elimination take more than two (2) days from the date of discovery.

(g) Limit failures which leave five (5) or more subscribers with no cable service to a minimum by locating and correcting such malfunctions properly and promptly, but in no event longer than twenty-four (24) hours after notice unless prevented by an act of God.

(h) Demonstrate by instruments or otherwise to subscribers that a signal of adequate strength and quality is being delivered.

Section 8 – Public, educational and governmental access channels and emergency broadcast services required

A. The grantee shall provide and maintain an emergency audio alert system which will be compatible with existing warning devices and which can be accessed via a telephone or radio link, which will be furnished by the city. This system shall provide for immediate muting of the audio on all channels and the insertion of emergency messages via the access link. The city agrees to hold harmless the grantee from any penalties or damages resulting from use of this service.

B. The grantee shall provide, upon implementation of this franchise, and maintain 1 (one) PEG channel which shall lie within all service tiers. This

channel shall have return line capability to allow program origination from the Tullahoma Municipal Building, and shall be under the direct control of city government. At such time that this channel is utilized for programming other than routine public service announcements at an average level of 80% during prime viewing times for a period of 30 days, a second PEG channel shall be made available as soon as it is technically feasible without removing any existing programming, unless an alternative procedure is mutually agreed on by the city and the grantee.

C. Grantee shall provide, at no charge, full basic cable service to all fire halls, schools, community centers and municipal buildings that request this service.

D. The grantee shall, through periodic contributions of equipment and/or money, participate in the operation of the PEG channel(s), in order to provide the best possible picture and sound quality. This participation may be negotiated separately and shall not be considered as a part of any taxes or fees due the city.

Section 9 – Indemnification. Grantee shall save the City of Tullahoma harmless from all loss sustained and all costs incurred by said city, including, but not limited to, reasonable attorney fees by the City of Tullahoma on account of any suit, judgment, execution, claim or demand whatsoever against the City of Tullahoma resulting from negligence on the part of grantee in the construction, operation or maintenance of its cable television system in the City of Tullahoma; and for this purpose grantee shall carry property damage and personal injury insurance with some responsible insurance company or companies qualified to do business in the State of Tennessee. The amounts of such insurance to be carried for liability due to property damage shall be \$250,000 to any one person and \$500,000 to two or more persons on any one occurrence; and against liability due to injury to or death of person, \$500,000 as to any one person and \$1,000,000 as to any one occurrence, and \$1,000,000 for all other types of liability. The insurance company must be "A" rated financially in Best's Guide for Property and Casualty Companies. The City of Tullahoma shall notify grantee, in writing, within (10) days after the presentation of any claim or demand, either by suit or otherwise, made against the City of Tullahoma on account of any negligence as aforesaid on the part of grantee. Where any such claim or demand against the City of Tullahoma is made by suit or other legal action, written notice thereof shall be given by the City of Tullahoma to grantee not less than five (5) days prior to the date upon which an answer to such legal action is due or within ten (10) days after the claim or demand is made upon the City of Tullahoma, whichever notice period yields grantee the larger amount of time within which to prepare an answer. All insurance shall be kept in full force and effect by grantee throughout the term

of this 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 this franchise. In the event grantee shall fail to pay any liability insurance premium when due, the city at its option, may pay such premium and charge said amount back to franchise.

An insurance certificate obtained by grantee in compliance with this section shall be filed and maintained with the city recorder during the term of this franchise.

Neither the provision of this section nor any damages recovered by the city hereunder shall be construed as limiting the terms, obligations or liabilities imposed under any other section of this franchise.

If grantee fails to pay the city any compensation within the time fixed herein, or fails to repay the city within thirty (30) days of notice of the amount due, any damages, costs or expenses which the city is compelled to pay by reason of acts of default of grantee in connection with this franchise, or fails after thirty (30) days written notice by the city of grantee's failure to comply with any provision of this franchise which the city determines can be remedied by demand on the performance bond, the city may, subject to subsection D herein, demand payment of the amount thereof, with interest and any penalties, under the performance bond. Upon such demand for payment, the city shall notify grantee of the amount and the date thereof.

B. The grantee shall post with the city recorder a performance bond in the amount of \$100,000.00 or equal to the previous year's franchise fee, whichever is more. This shall be done within thirty (30) days of the date of passage of this ordinance and succeeding anniversary dates.

The rights reserved to the city with respect to the performance bond are in addition to all other rights by the city, whether reserved by negotiation with grantee or authorized by law, and no action, proceeding or exercise of a right with respect to such performance bond shall affect any other rights the city may have.

#### Section 10 – Construction and maintenance.

(a) All structures, lines and equipment erected by grantee within the City of Tullahoma shall be so located as to cause minimum interference with the proper use of streets, alleys, public ways and places and to cause minimum interference with the rights or reasonable convenience of property owners.

Existing poles, posts, conduits, and other such structures of any electric power system, telephone company, or other public utility located in the City of Tullahoma shall be used to the extent practicable in order to minimize interference with travel and avoid unnecessary duplication of facilities. The City of Tullahoma shall actively assist grantee to the fullest extent necessary in obtaining reasonable joint pole or conduit use agreements from the owners of existing poles or conduits. To the extent that existing poles, posts, conduits, and other such structures are not available, or are not available under reasonable terms and conditions, including excessive cost or unreasonable limitation upon the use of grantee's cable television system, grantee shall have the right to purchase, lease, or in any other manner acquire land, rights-of-way, or public utility easements upon or under which to erect and maintain its own poles, conduits, and other such structures as may be necessary for the construction and maintenance of its cable television system.

(b) Whenever in any place within the franchise area, all or any part of the electric and telephone utilities shall be located underground, it shall be the obligation of the grantee to locate or to cause its property to be located underground within such places. If the electric and telephone utilities shall be relocated underground in any place within the franchise area after grantee shall have previously installed its property, grantee shall, nevertheless, at the same time or in a timely manner thereafter, remove and relocate its property also underground in such places. Any facilities of grantee placed underground at the property owner's request, in an area where electric or telephone facilities are aerial, shall be installed with the additional expense being paid by the property owner.

(c) In case of any disturbance by grantee of pavement, sidewalk, driveway or other surfacing, grantee shall, at its own cost and expense and in a manner approved by the City of Tullahoma, replace and restore all paving, sidewalk, driveway or surface so disturbed in as good condition as before said work was commenced and guarantee such repairs or replacement for one (1) year.

(d) Grantee shall, on the request of any person holding a building moving permit issued by the City of Tullahoma, temporarily raise or lower its lines to permit the moving of the building. The expense of such temporary removal shall be paid by the person requesting the same, and grantee shall have the authority to require such payment in advance. Such permits shall require a minimum of 48 hours advanced notice before moving of any structure.

(e) Grantee shall have the authority to trim trees upon and overhanging streets of the franchise area so as to prevent the branches of such trees from coming into contact with grantee's wires and cables. Grantee shall

obtain from the public works director, if required, a permit to conduct any such trimming and the same shall be conducted in strict compliance with all laws and ordinances and at the sole expense of the grantee.

(f) All poles, lines, structures and other facilities of grantee in, on, over and under the streets, sidewalks, alleys, public utility easements and public grounds or place of the City of Tullahoma shall be kept by grantee at all times in a safe condition.

(g) When the City of Tullahoma or the State of Tennessee undertakes any reconstruction, realignment or any other work on City of Tullahoma's streets which would require relocation or modification of grantee's poles, wires, or other facilities, City of Tullahoma shall notify grantee, and grantee shall be responsible for such relocations of grantee's facilities at grantee's expense.

(h) Grantee shall, at all times, employ reasonable care and shall install and maintain devices or systems for preventing failures and accidents which are likely to cause damage, injuries or nuisances to the public.

(i) The cable television system shall at all times conform to the construction and maintenance standards as set forth by the Federal Communication Commission and/or the cable industry's accepted standards.

#### Section 11 – Service extension

(a) The cable television system as contemplated herein shall be installed and maintained in accordance with the highest accepted industry standards to the end that the subscriber may receive the most desirable form of service. The cable television system will be built in all areas of the city having a density of 25 occupied dwelling units per cable mile. Then number of miles will be calculated starting at the closest point of active distribution system and will continue until reaching within 250 feet of the dwelling unit.

(b) Grantee agrees to extend its cables to provide additional service within the corporate limits of the City of Tullahoma under the following circumstances: Solely at the cost of the grantee, where the average cost to build does not exceed \$250 per new residential applicant for service connections to be connected to the proposed extension; if the average cost to build exceeds \$250 per residential applicant for service connections to be connected to the proposed extension, the new residential applicants will each pay, or "aid in construction," a pro-rated portion of the extension cost over \$250 average per new residential applicant, unless the new residential applicants will arrange with the grantee for the payment of all or part of the costs of the extension as may be acceptable



to the grantee. The average cost per new residential subscriber to extend service shall be calculated as:

$$\frac{\$ \text{Cost to extend services}}{\# \text{New residential applicants}} = \text{Average cost per new residential applicant}$$

The pro-rated portion of the extension cost over \$250 per new residential subscriber shall be calculated as:

$$\text{Average cost per new residential applicant minus } \$250 = \text{Pro-rated portion per new residential applicant.}$$

The \$250 average cost per new residential applicant will be increased or decrease annually based on the Consumer Price Index applicable to the same twelve-month period with a \$400 maximum cost per residential hook-up. No party shall be considered a new residential applicant for a service connection within the meaning of this section unless such applicant (1) is an occupant of a residence to which service would be extended and (2) will sign a written contract with the grantee to pay the monthly service charge for one connection for a period of twelve months immediately following the date when service is available through the proposed extension.

Aid in construction agreements by the new residential applicants to the grantee must be made in advance of initiating the extension process; grantee subsequently will commence mapping, design and pole make-ready within sixty (60) days. Grantee will commence construction within sixty (60) days of receipt of all required licenses, permits and authorizations. Any monies paid in advance to the grantee as aid in construction but unused, will be refunded to the original new applicant on a pro-rated basis.

(c) Nothing contained herein shall prevent the grantee from extending cables on a cost basis that is more favorable than the requirements of this section to the customers to be served by any extension.

(d) Any extension of service to a commercial business will be negotiated between the said business operator and the grantee.

Section 12 – Amendments and supplemental agreements. It shall be the policy of the City of Tullahoma to amend the franchise upon application of the grantee, when necessary, to enable the grantee to take advantage of any development or developments in the field of transmission of television and radio signals which will afford it an opportunity to more efficiently, effectively or

economically serve its customers. Provided, however, that this section shall not be construed to require the City of Tullahoma to make any amendment.

Section 13 – Filings and communications with regulatory agencies. Copies of all petitions, applications, registrations, and responses to complaints submitted by the grantee to the Federal Communications Commission shall also be submitted simultaneously to the City of Tullahoma.

Section 14 – Maps, plats and reports.

(a) The grantee shall file with the mayor or his/her designee a true and accurate map or plat of all existing and proposed installations.

(b) The grantee shall file annually with the City of Tullahoma, or its designee, not later than ninety (90) days after the end of the company's fiscal year, a detail of gross income, certified by the chief financial officer, applicable to the operations within the City of Tullahoma during the preceding twelve month period. Further, the city shall have the right to inspect the franchisee's records showing the annual gross receipts from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be accorded to the city. Should the city notify franchisee in writing of its desire to inspect and/or audit franchisee's records, franchisee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.

(c) The grantee shall at all times keep on file with the mayor a current list of its partners and stockholders with an interest of 10% or greater, its officers and directors and bond holders.

Section 15 – Franchise term and renewal. This franchise shall take effect and be in full force from February 1, 1992 and after acceptance by grantee as provided in section 20, and the same shall continue in full force and effect for a term of ten (10) years, with two five-year renewals. Renewals shall be accomplished as provided for in federal law and regulations.

Section 16 – Forfeiture. If grantee should violate any material terms, conditions, or provisions of this franchise or if grantee should fail to comply with any material provisions of any ordinance of the City of Tullahoma regulating the use by grantee of the streets, alleys, public utility easements or public ways of the City of Tullahoma, and should grantee further continue to violate or fail to comply with the same for a period of thirty (30) days after grantee shall have been notified in writing by the City of Tullahoma to cease and desist from any such violation or failure to comply so specified, then grantee may be deemed to have forfeited and annulled and shall thereby forfeit and annul all the rights

and privileges granted by this franchise; provided, however, that such forfeiture shall be declared only by written decision of the board of mayor and aldermen after an appropriate public proceeding before the board of mayor and aldermen affording grantee due process and full opportunity to be heard and to respond to any such notice of violation or failure to comply; and provided further that the board of mayor and aldermen may, in its discretion and upon a finding of violation or failure to comply, impose a lesser penalty than forfeiture of this franchise or excuse the violation or failure to comply upon a showing by grantee of mitigating circumstances. Grantee shall have the right to appeal any finding of violation or failure to comply with any resultant penalty to any court of competent jurisdiction. In the event that forfeiture is imposed upon grantee, it shall be afforded a period of six (6) months within which to sell, transfer, or convey this cable television system to a qualified purchaser at fair market value. During this six (6) month period, which shall run from the effective date of the final order or decision imposing forfeiture, including any appeal, grantee shall have the right to operate this cable television system pursuant to the provisions of this franchise.

Section 17 – Surrender right. Grantee may surrender this franchise at any time upon filing with the Mayor of the City of Tullahoma a written notice of its intention to do so at least six (6) months before the surrender date. On the surrender date specified in the notice, all of the rights and privileges and all of the obligations, duties and liabilities of grantee in connection with this franchise shall terminate. Further, should the grantee, his and/or its successors and assigns discontinue the business for which this franchise is granted, all poles, wires, cables, and other devices shall be removed without expense to the City of Tullahoma, within ninety (90) days after demand for such removal is made by the City of Tullahoma.

Section 18 – Transfers. All of the rights and privileges and all of the obligations, duties and liabilities created by this franchise shall pass to and be binding upon the successors of the City of Tullahoma and the successors and assigns of grantee; and the same shall not be assigned or transferred without the written approval of the board of mayor and aldermen, which approval shall not be unreasonably withheld; provided, however, that this section shall not prevent the assignment or hypothecation of the franchise by grantee as security for debt without such approval; and provided further that transfers or assignments of this franchise between any parent and subsidiary corporation or between entities of which at least fifty percent (50%) of the beneficial ownership is held by the same person, persons, or entities shall be permitted without the prior approval of the board of mayor and aldermen.

Section 19 – Franchise fee. Grantee shall pay to the city for the use of the streets and other facilities of the city in the operation of the cable television

system and for the municipal supervision thereof a sum equal to three percent (3%) of the annual gross receipts, as defined herein, from receipts from subscribers within the city. Said fee shall be paid on a quarterly basis within forty-five (45) days after the end of a calendar quarter, with an adjustment fee being the final quarterly payment of the year. Quarterly payments shall be a reasonable estimate of anticipated and realized receipts. The final payment will be adjusted upward or downward by grantee based on gross revenues received for the year in order to arrive at the three percent (3%) per year fee.

In the event this franchise should be terminated or forfeited prior to the end of the franchise term, as defined herein, grantee shall immediately submit to the city an audited financial statement prepared by a certified public accountant acceptable to the city showing the annual gross revenues of grantee for the time elapsed since the last fiscal year report. Grantee shall pay to the city not later than forty-five (45) days following the termination of this franchise a like percentage of such annual gross revenues and any other sums legally due and owing the city.

In the event that any payment is not made on or before the applicable date fixed herein, grantee shall be subject to the penalty provided for hereinafter.

The city shall have the right to inspect the grantee's records showing the annual gross revenues from which its franchise payments are computed. The right of audit and computation of any and all amounts paid under this franchise shall always be open to inspection by the city. Should the city notify the grantee in writing of its desire to inspect and/or audit grantee's records, grantee shall be obligated to produce such records and make them available to the city within twenty (20) working days of such notification.

Section 20 - Liquidated damages – Should it be found, after conducting the hearing and appeal procedure provided for herein, and after written receipt by the grantee of a finding of violation by the city administrator or his/her designee, that grantee is in violation of the terms of this ordinance, the liquidated damages chargeable to the performance bond, provided for under section 13 herein, shall be as follows:

A. For failure to provide or maintain data and reports as requested by the city or as required herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues, if after ten (10) days written notice of such data or reports are not supplied.

B. For failure to comply with the operation standards as specified in section 6 thereof, following the city board's resolution directing grantee to make

improvements within a reasonable time period, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.

C. For failure to test, analyze and report on the performance of the system following the request of the city, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues.

D. For failure to pay the franchise fee when due pursuant to section 10 herein, grantee shall forfeit one hundred (\$100) dollars per day or part thereof that the violation continues ten (10) days after written notice.

E. The rights in this section are separate, distinct and in addition to those enumerated elsewhere in this ordinance.

F. Any liquidated damages imposed by the City of Tullahoma in accordance with this license may be reduced by the city if it finds that the failure of the grantee resulted from conditions beyond the grantee's control and/or Acts of God.

G. Any damages assessed under this section 20, shall be subject to judicial review at the request of the grantee.

Section 21 – Franchise to have no recourse -

A. Except as expressly provided for in this franchise, grantee herein shall have no recourse whatsoever against the city for any loss, cost or expense of damage arising out of any of the provisions or requirements of this franchise or because of the enforcement thereof by the city.

B. Grantee further acknowledges by the acceptance of this franchise that it has not been induced to enter into this franchise by any understanding or promise or other statement, whether verbal or written, by or on behalf of the city or by any other third person concerning any term or condition of this franchise not expressed herein.

C. Grantee further acknowledges by the acceptance of this franchise that it has carefully read the terms and conditions hereof and is willing to and does accept all of the risks of the meaning of such terms and conditions.

D. Grantee further acknowledges by the acceptance of this franchise that this franchise is non-exclusive.

Section 22 – Rights reserved to the city. Without limitation upon the rights which the city might otherwise have, the city does hereby expressly reserve the following rights, powers and authorities:

A. To exercise its governmental police powers now or hereafter to the full extent that such powers may be vested in or granted to the city.

B. To grant additional franchises within the city to other persons for the construction of a cable television system or other related systems.

C. To exercise any other rights, powers or duties required or authorized under the Constitution of the State of Tennessee, the laws of Tennessee or the city charter.

Section 23 - Effective date and acceptance. This ordinance shall become effective on February 1, 1992 and, after acceptance by grantee, shall then be and become a valid and binding contract between the City of Tullahoma and grantee; provided, however, that this ordinance shall be void unless grantee shall, within ninety (90) days after the final passage of this ordinance, file with the Mayor of the City of Tullahoma a written acceptance of this ordinance and the franchise herein granted, agreeing that it will comply with all of the provisions and conditions hereof and that it will refrain from doing all of the things prohibited by this ordinance.

Section 24 – Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any federal or state court or administrative or governmental agency of competent jurisdiction, specifically including the Federal Communication Commission, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

Section 25 – Amendment to Cable Act - Anything to the contrary contained herein notwithstanding, in the event the Congress of the United States shall amend the Cable Act whereby certain additional rights, privileges and/or obligations of the city are allowed, granted, or changed thereby and such amendment (s) are in conflict with this ordinance, such amendment(s) shall prevail.

Section 26 – Passage and effective date. For purposes of becoming a law, this ordinance shall be effective fifteen (15) days from and after its final passage, and after the publication of the caption hereof in a newspaper of general circulation in Tullahoma, Coffee County, Tennessee, the public welfare requiring

it. For all other purposes, it shall be effective as provided for in Section 23 above.

CITY OF TULLAHOMA, TENNESSEE

BY s/ \_\_\_\_\_  
MAYOR

ATTEST:

s/Patricia H. Williams  
CITY RECORDER

PASSED ON FIRST READING: 12-9-91

PASSED ON SECOND READING: 12-10-91

PASSED ON THIRD READING: 1-13-92

APPENDIX "F"

SEWER USE ORDINANCE

Appendix "F" can be found in Title 18, Chapter 1, "Sewer Use Regulations," of this municipal code.



APPENDIX "G"

INFECTIOUS DISEASE EXPOSURE CONTROL

Appendix "G" can be found in Title 4, Chapter 3, "Infectious Disease Control Policy," of this municipal code.