



REGULAR TOWN COUNCIL MEETING

Monday, June 24, 2019 @ 7:00pm
Warren County Government Center

1. Pledge of Allegiance
2. Moment of Silence
3. Roll Call
4. Approval of the Regular Council Meeting minutes of June 10, 2019
5. Receipt of Petitions and/or Correspondence from the Public
6. Reports:
 - a. Report of special committees or Town officials and Town Manager
 *** Report from EDA Executive Director Doug Parsons**
 - b. Requests and inquiries of Council members.
 - c. Report of the Interim Mayor
 - d. Proposals for addition/deletion of items to the Agenda.
7. **CONSENT AGENDA ITEMS** – (ROLL CALL VOTE REQUIRED) - NONE
8. **COUNCIL APPROVAL** – Resolution for Employee Appreciation Week
9. **COUNCIL APPROVAL** – Shenandoah Cable Television Pole Attachment License Agreement

TOWN COUNCIL WORK SESSION Immediately Following the Regular Meeting

1. Council Discussion/Goals

TOWN/STAFF RELATED ITEMS

2. Continued Discussion of Ordinance Amendment to Chapter 134-71 Utility
 Accounts/Payments/Termination of Service – *Director of Finance*
3. Code Enforcement Update – *Director of Planning/Zoning*
4. Goal Setting/Budget Calendar – *Town Manager*

COUNCIL/MAYOR RELATED ITEMS

5. Liaison Committee Agenda Items for July 18
6. Planning Commission Terms Expire

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**Town of Front Royal, Virginia
Council Agenda Statement**

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Item No. 8

Meeting Date: June 24, 2019

Agenda Item: COUNCIL APPROVAL – Resolution for *“Employee Appreciation Week”*

Summary: Council is requested to approve a Resolution recognizing *“Town of Front Royal Employee Appreciation Week”* as July 13 – July 19, 2019 for all full-time and part-time Town employees, as presented.

Budget/Funding: None

Attachments: Resolution

Meetings: None

**Staff
Recommendation:** Approval ✓ Denial

Proposed Motion: I move that Council approve a Resolution recognizing *“Town of Front Royal Employee Appreciation Week”* as July 13 – July 19, 2019 for all full-time and part-time Town employees, as presented.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: 



Town of Front Royal, Virginia
**RESOLUTION FOR
TOWN OF FRONT ROYAL
EMPLOYEE APPRECIATION WEEK
July 13 – July 19, 2019**

WHEREAS, the Town of Front Royal has 183 full-time and part-time employees; and,

WHEREAS, Town employees are recognized as professionals who accept and meet the daily challenges of providing quality service to our citizens and visitors; and,

WHEREAS, Town employees excel in the workplace and demonstrate dependability, initiative and accountability through their stewardship of Town resources; and,

WHEREAS, the Town Council desires to recognize the service of the Town's employees,

NOW, THEREFORE BE IT RESOLVED by the Mayor and Council of the Town of Front Royal, Virginia hereby express deep and sincere appreciation to the all the employees of the Town of Front Royal for their dedication, service, and vital contributions to the community;

AND BE IT FURTHER RESOLVED that the week of July 13 – 19, 2019 be designated as "*Town of Front Royal Employee Appreciation Week*".

APPROVED:

Matthew A. Tederick, Interim Mayor

Attest:

Jennifer E. Berry, MMC, Clerk of Council

THIS RESOLUTION was approved at the Regular Meeting of the Town of Front Royal, Virginia, Town Council conducted on _____, 2019 upon the following recorded vote:

William A. Sealock	<u>Yes/No</u>	Gary L. Gillispie	<u>Yes/No</u>
Eugene R. Tewalt	<u>Yes/No</u>	Jacob L. Meza	<u>Yes/No</u>
Chris Holloway	<u>Yes/No</u>	Letasha T. Thompson	<u>Yes/No</u>

Approved as to Form and Legality:

Douglas W. Napier, Town Attorney

Dated: _____

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**Town of Front Royal, Virginia
Council Agenda Statement**

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Item No. 9

Meeting Date: June 24, 2019

Agenda Item: COUNCIL APPROVAL – Shenandoah Cable Television Pole Attachment License Agreement

Summary: To provide additional services to the community and businesses Shenandoah Cable Television is seeking a town-wide pole attachment license agreement. This agreement defines the fees, procedures, parameters and appropriate responsibilities involved in attaching cabling to the Town poles, infrastructure and rights-of-way. Council is requested to approve the Shenandoah Cable Television Pole Attachment License Agreement as presented.

Budget/Funding: None

Attachments: Agreement

Meetings: None

Staff Recommendation: Approval ✓ Denial

Proposed Motion: I move that Council approve the Shenandoah Cable Television Pole Attachment License Agreement as presented.

*Note: Motions are the formal & final proposal of Council,
proposed motions are offered by Staff for guidance
*To be clear and concise, motions should be made in the positive

Approved By: JW

POLE ATTACHMENT LICENSE AGREEMENT

BETWEEN

TOWN OF FRONT ROYAL, VIRGINIA

AND

SHENANDOAH CABLE TELEVISION, LLC

POLE ATTACHMENT LICENSE AGREEMENT

This Pole Attachment Licensing Agreement (the "Agreement") dated this ____ day of June, 2019 is made by and between the **Town of Front Royal, Virginia** (hereinafter referred to as "Utility"), and **Shenandoah Cable Television, LLC** (hereinafter referred to as "Licensee").

RECITALS

WHEREAS, Licensee proposes to install and maintain Cable System Facilities and associated communications equipment owned by Licensee and Licensee's Affiliates on Utility's Poles to provide Cable Services to the public; and

WHEREAS, Utility is willing, when it may lawfully do so, to issue one or more Permits authorizing the placement or installation of Licensee's Attachments on Utility's Poles, provided that Utility may refuse, on a non-discriminatory basis, to issue a Permit where there is insufficient Capacity or for reasons relating to safety and/or any other Applicable Standard.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions and remunerations herein provided, and the rights and obligations created hereunder, the parties hereto agree as follows:

AGREEMENT

I. DEFINITIONS

For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Paragraph of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

1.1 Affiliate: when used in relation to an Attaching Entity, means another entity that owns or controls, is owned or controlled by, or is under common ownership or control with such Attaching Entity.

1.2 Applicable Standards: means all applicable engineering and safety standards governing the installation, maintenance and operation of facilities and the performance of all work in or around electric Utility Facilities and includes the National Electric Safety Code ("NESC"), the National Electrical Code ("NEC"), and the regulations of the Occupational Safety and Health Administration ("OSHA"), and/or other federal, state or local regulations of an authority with jurisdiction over Utility Facilities.

1.3 Assigned Space: means space on Utility's Poles that can be used, as defined by the Applicable Standards, for the attachment of Cable System Facilities for the provision of Cable Service.

1.4 Attaching Entity: means any public or private entity, including Licensee, that places an Attachment on Utility's Pole, in accordance with a License Agreement, to provide Cable Service.

1.5 Attachment(s): means Cable System Facilities that are utilized to provide Cable Service and that are placed directly on Utility's Poles, but does not include Cable System Facilities that are Overlashed onto an existing Attachment, or a service drop attached to a single Pole where the Licensee has an existing Attachment on such Pole.

1.6 Cable Service: means the transmission or receipt of voice, video, data, Internet or other forms of digital or analog signals over Cable System Facilities, and such other transmissions as may constitute "Telecommunications Services" within the meaning of the Cable Communications Privacy Act of 1984, as amended, and the Telecommunications Act of 1934, as amended.

1.7 Cable System Facilities: means wire or cable facilities (including but not limited to fiber optic, copper and/or coaxial cables or wires) or antennas or other related equipment utilized to provide Cable Service.

1.8 Climbing Space: means that portion of a Pole's surface and surrounding space that is free from encumbrances to enable Utility employees and contractors to safely climb, access and work on Utility Facilities and equipment.

1.9 Common Space: means space on Utility's Poles that is not used for the placement of wires or cables but which jointly benefits all users of the Poles by supporting the underlying structure and/or providing safety clearance between attaching entities and electric Utility Facilities.

1.10 Make-Ready Work: means all work, as reasonably determined by Utility, required to accommodate Licensee's Cable System Facilities and/or to comply with all Applicable Standards. Such work includes, but is not limited to, rearrangement and/or transfer of Utility Facilities or existing Attachments, inspections, engineering work, permitting work, Tree Trimming (other than Tree Trimming performed for normal maintenance purposes), pole replacement and construction.

1.11 Occupancy: means the use or specific reservation of Assigned Space for Attachments on the same Utility Pole.

1.12 Overlash: means to place an additional wire or cable Communications Facility onto an existing Attachment.

1.13 Permit: means written or electronic authorization of Utility for Licensee to make or maintain Attachments to specific Utility Poles pursuant to the requirements of this Agreement.

1.14 Pole: means a pole owned by Utility used for the distribution of electricity and/or Cable Service that is capable of supporting Attachments for Cable System Facilities.

1.15 Pole Capacity: means the ability of a Pole to accommodate an additional Attachment based on Applicable Standards, including space and loading considerations.

1.16 Post-Installation Survey: means all work and inspections required by Utility to determine and verify that the Attachments have been made in accordance with Applicable Standards and the Permit.

1.17 Pre-Permit Survey: means all work or operations required by Applicable Standards and/or Utility to determine the potential Make-Ready Work necessary to accommodate Licensee's Cable System Facilities on a Pole. Such work includes, but is not limited to, field inspection and administrative processing. Pre-Permit Survey shall be arranged with Utility.

1.18 Riser: means metallic, fiberglass or plastic encasement materials placed vertically to guide and protect communications or Utility wires and cables.

1.19 Tag: means to place distinct markers on wires and cables, coded by color or other means specified by Utility and/or applicable Federal, state or local regulations, that will readily identify the type of Attachment (e.g., cable TV, telephone, high-speed broadband data, public safety) and its owner.

1.20 Tree Trimming: means cutting, pruning, trimming or otherwise removing or altering the branches of any tree, bush or other foliage overhanging the streets, alleys, walkways or public rights of way within the Town to prevent such branches from interfering with the Cable System Facilities. This work will be confined to approximately twelve (12) inches around Licensee Attachments.

1.21 Utility Facilities: means all personal property and real property owned or controlled by Utility, including Poles.

II. SCOPE OF AGREEMENT

2.1 Grant of License. Subject to the provisions of this Agreement, Utility hereby grants Licensee a revocable, nonexclusive license authorizing Licensee to

install and maintain Permitted Attachments to Utility's Poles. It is understood that this license does not constitute a franchise.

2.2 Parties Bound by Agreement. Licensee and Utility agree to be bound by all provisions of this Agreement and the provisions of any Permit(s) issued pursuant to this Agreement.

2.3 Permit Issuance Conditions. Utility will issue a Permit(s) to Licensee when Utility determines that (i) it has sufficient Capacity to accommodate the requested Attachment(s), and (ii) such Permit(s) comply with all Applicable Standards.

2.4 No Interest in Property. No use, however lengthy, of any Utility Facilities, and no payment of any fees or charges required under this Agreement, shall create or vest in Licensee any easement or other ownership or property right of any nature in any portion of such Facilities. Neither this Agreement, nor any Permit granted under this Agreement, shall constitute an assignment of any of Utility's rights to the Utility Facilities. Notwithstanding anything in this Agreement to the contrary, Licensee shall, at all times, be and remain a licensee only.

2.5 Licensee's Right to Attach. Nothing in this Agreement, other than a Permit issued pursuant to Article VI, shall be construed as granting Licensee any right to attach Licensee's Cable System Facilities to any specific Pole or to compel Utility to grant Licensee the right to make an Attachment to any specific Pole.

2.6 Necessity of Authorizations. Licensee is obligated to obtain all necessary certification, permitting, and franchising from Federal, state and local authorities prior to making any Attachments.

2.7 Utility's Rights over Poles. The parties agree that this Agreement does not in any way limit Utility's right to locate, operate and maintain its Poles in the manner that will best enable it to fulfill its service requirements.

2.8 Expansion of Capacity. Utility will take reasonable steps to expand Pole Capacity when necessary to accommodate Licensee's request for Attachment. Notwithstanding the foregoing sentence, nothing in this Agreement shall be construed to require Utility to install, retain, extend, or maintain any Pole for use when such Pole is not needed for Utility's service requirements.

2.9 Other Agreements. Except as provided herein, nothing in this Agreement shall limit, restrict, or prohibit Utility from fulfilling any agreement or arrangement regarding Poles into which Utility has previously entered, or may enter in the future, with others not party to this Agreement.

2.10 Permitted Uses. This Agreement is limited to the uses specifically stated in the Recitals and no other use shall be allowed without Utility's express written

consent to such use. Nothing in this Agreement shall be construed to require Utility to allow Licensee to use Utility's Poles after the termination of this Agreement.

III. FEES AND CHARGES

3.1 Payment of Fees and Charges. Licensee shall pay to Utility the fees and charges specified in Appendix A and shall comply with the terms and conditions specified herein.

3.2 Payment Period. Irrespective of the date on which an Attachment is made, all fees shall be calculated and payable for the entire year in which a Permit for such Attachment is issued under this Agreement or for any existing attachment.

3.3 Billing. Utility shall invoice Licensee for the payments annually in advance. Utility will submit to the Licensee an invoice for the annual rental period March 1st or as soon as reasonably practicable of each year. The initial annual rental period shall commence upon the execution of this Agreement and conclude on the next December 31 thereafter, and each subsequent annual rental period shall commence on the following January 1 and conclude on December 31 of the subsequent year. The invoice shall set forth the total number of Utility's Poles on which the Licensee was issued and/or holds a Permit(s) for Attachments during such annual rental period, including any previously authorized and valid Permits. Licensee shall pay each such invoice within forty-five (45)-calendar days after Utility's issuance thereof.

3.5 Late Charge. If Utility does not receive payment for any fee or other amount owed within thirty (30) calendar days after it becomes due, Licensee, upon receipt of fifteen (15) calendar days written notice, shall pay interest to Utility, at the rate of one and one half (1-1/2 %) per month, on the amount due.

3.6 Payment for Make-Ready Work. Licensee will be responsible for payment to Utility for all Make-Ready Work required to accommodate Licensee's Cable System Facilities.

3.7 Advance Payment. At the discretion of Utility, Licensee may be required to pay in advance all reasonable costs, including but not limited to administrative, construction, inspections and Make-Ready Work expenses, in connection with the initial installation or rearrangement of Licensee's Cable System Facilities pursuant to the procedures set forth in Articles VI and VII below.

3.8 Determination of Charges. Wherever this Agreement requires Licensee to pay for work done or contracted by Utility, the charge for such work shall include all reasonable material, labor, engineering and administrative costs and applicable overhead costs. Utility shall bill its services based upon actual costs, and such costs

will be determined in accordance with Utility's cost accounting systems used for recording capital and expense activities.

3.9 Work Performed by Utility. Wherever this Agreement requires Utility to perform any work, Licensee acknowledges and agrees that Utility, at its sole discretion, may utilize its employees or contractors, or any combination of the two to perform such work.

3.10 True Up. Wherever Utility, at its discretion, requires advance payment of estimated expenses prior to undertaking an activity on behalf of the Licensee or Licensee's Affiliate and the actual cost of activity exceeds the advance payment of estimated expenses, Licensee agrees to pay Utility for the difference in cost when that amount exceeds One Hundred dollars (\$100.00). To the extent that the actual cost of the activity is less than the estimated cost, Utility agrees to refund to Licensee the difference in cost where that amount exceeds One Hundred dollars (\$100.00).

IV. SPECIFICATIONS

4.1 Installation/Maintenance of Cable System Facilities. When a Permit is issued pursuant to this Agreement, Licensee's Cable System Facilities shall be installed and maintained in accordance with the Applicable Standards then in effect.

4.2 Tagging. Licensee shall Tag all of its Cable System Facilities as required by applicable Federal, state and local regulations upon installation of such Facilities.

4.3 Interference. Licensee shall not allow its Cable System Facilities to impair the ability of Utility to use Utility's Poles, nor shall Licensee allow its Cable System Facilities to interfere with the operation of any Utility Facilities.

4.4 Protective Equipment. Licensee, and its employees and contractors, shall utilize and install adequate protective equipment to ensure the safety of people and facilities. Licensee shall at its own expense install protective devices designed to handle the voltage and current impressed on its Cable System Facilities in the event of a contact with the supply conductor. Except as provided in Article XVI, Utility shall not be liable for any actual or consequential damages to Licensee's Cable System Facilities or Licensee's customers' facilities.

4.5 Violation of Specifications. If Licensee's Cable System Facilities, or any part thereof, are installed, used, or maintained in violation of this Agreement, and Licensee has not corrected the violation(s) within thirty (30) calendar days from receipt of written notice of the violation(s) from Utility, Utility at its option, may correct said conditions. Utility will attempt to notify Licensee in writing prior to performing such work whenever practicable. When Utility believes, however, that

such violation(s) pose an immediate threat to the safety of any person, interfere with the performance of Utility's service obligations, or pose an immediate threat to the physical integrity of Utility Facilities, Utility may perform such work and/or take such action as it deems necessary without first giving written notice to Licensee. As soon as practicable thereafter, Utility will advise Licensee of the work performed or the action taken.

4.6 Restoration of Utility Service. Utility's service restoration requirements shall take precedence over any and all work operations of Licensee on Utility's Poles.

4.7 Effect of Failure to Exercise Access Rights. If Licensee does not exercise any access right granted pursuant to this Agreement and/or applicable Permit(s) within one hundred eighty (180) calendar days of the effective date of such right and any extension thereof, Utility may use the space scheduled for Licensee's Attachment(s), for its own needs and/or other Attaching Entities. In such instances, Utility shall endeavor to make other space available to Licensee, upon written application per Article VI, as soon as reasonably possible and subject to all requirements of this Agreement, including the Make-Ready Work provisions.

V. PRIVATE AND REGULATORY COMPLIANCE

5.1 Necessary Authorizations. Licensee shall be responsible for obtaining from the appropriate public and/or private authority or other appropriate persons any necessary franchise or other required authorization to construct, operate and/or maintain its Cable System Facilities on public property before it occupies any portion of Utility's Poles. Licensee shall defend, indemnify and reimburse Utility for all loss and expense, including reasonable attorneys' fees, that Utility may incur as a result of claims by governmental bodies, owners of private property, or other persons, that Licensee does not have sufficient rights or authority to attach Licensee's Cable System Facilities on Utility's Poles.

5.2 Lawful Purpose and Use. Licensee's Cable System Facilities must at all times serve a lawful purpose, and the use of such Facilities must comply with all applicable federal, state and local laws.

5.3 Effect of Consent to Construction/Maintenance. Consent by Utility to the construction or maintenance of any Attachments by Licensee shall not be deemed consent, authorization or an acknowledgment that Licensee has the authority to construct or maintain any other such Attachments. It is Licensee's responsibility to obtain all necessary approvals for each Attachment from all appropriate parties or agencies.

VI. PERMIT APPLICATION PROCEDURES

6.1 Permit Required. Licensee shall not install any Attachments on any Pole without first applying for and obtaining a Permit pursuant to the applicable requirements of Appendix B.

6.2 Utility Review of Permit Application. Upon receipt of a properly executed Application for Permit (Appendix C), including the Pre-Permit Survey, Utility will review the Permit Application as promptly as possible, and discuss any issues with Licensee, including engineering or Make-Ready Work requirements associated with the Permit Application. Utility acceptance of the submitted design documents does not relieve Licensee of full responsibility for any errors and/or omissions in the engineering analysis.

6.3 Performance of Make-Ready Work. If Make-Ready Work is required to accommodate Licensee's Attachments, Utility or its contractors shall perform such work pursuant to Article VII.

6.4 Permit as Authorization to Attach. After receipt of payment for any necessary Make-Ready Work, Utility will sign and return the Permit Application, which shall serve as authorization for Licensee to make its Attachment(s).

VII. MAKE-READY WORK/INSTALLATION

7.1 Estimate for Make-Ready Work. In the event Utility determines that it can accommodate Licensee's request for Attachment(s), it will, upon request, advise Licensee of any estimated Make-Ready Work charges necessary to accommodate the Attachment.

7.2 Payment of Make-Ready Work. Utility, at its discretion, may require payment in advance for Make-Ready Work based upon the estimated cost of such work. Upon completion Licensee shall pay Utility's actual cost of Make-Ready Work.

7.3 Who May Perform Make-Ready Work. Make-Ready Work shall be performed only by Utility and/or a contractor authorized by Utility to perform such work. If Utility cannot perform the Make-Ready Work to accommodate Licensee's Cable System Facilities within forty-five (45) calendar days, or less, of Licensee's request for Attachments, Licensee may seek permission from Utility for Licensee to employ a qualified contractor to perform such work.

7.4 Scheduling of Make-Ready Work. In performing all Make-Ready Work to accommodate Licensee's Cable System Facilities, Utility will endeavor to perform such work within forty-five (45) calendar days during its normal work schedule. In the event Licensee requests that the Make-Ready Work be performed on a priority

basis or outside of Utility's normal work hours, Licensee agrees to pay any resulting increased costs. Nothing herein shall be construed to require performance of Licensee's work before other scheduled work or Utility service restoration.

7.5 Written Approval of Installation Plans Required. Before commencing any installation of its Cable System Facilities on Utility's Poles Licensee must obtain Utility's written approval of Licensee's detailed plans for installation, which shall accompany the Permit application, including the name of the party (Licensee and/or contractor) performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article XVIII.

7.6 Licensee's Installation/Removal/Maintenance Work.

7.6.1 All of Licensee's installation, removal and maintenance work shall be performed at Licensee's sole cost and expense, in a good and workmanlike manner, and must not adversely affect the structural integrity of Utility's Poles or Facilities or any other Attaching Entity's facilities or equipment attached thereto.

7.6.2 All of Licensee's installation, removal and maintenance work performed on Utility's Poles or in the vicinity of other Utility Facilities, either by its employees or contractors, shall be in compliance with all applicable regulations specified in Article IV. Licensee shall assure that any person installing, maintaining, or removing its Cable System Facilities is fully qualified and familiar with all Applicable Standards and the provisions of Article XVII.

7.7 Tree Trimming. Licensee shall not perform Tree Trimming without first coordinating such activities with, and obtaining the prior approval of the Utility. Notwithstanding that Tree Trimming is included in Make-Ready Work, Licensee may perform Tree Trimming to provide a minimum of twelve (12) inches of clearance around Licensee Attachments. Initial Tree Trimming may be performed prior to installation of Attachments. No additional Permit is required, from Utility, for Licensee to perform any Tree Trimming or cutting necessary to safeguard or maintain its Attachments and Service, provided that under no circumstances shall Licensee violate the Town's Tree Trimming Policy, a copy of which is attached hereto as "Appendix D".

VIII. TRANSFERS

8.1 Required Transfers of Licensee's Cable System Facilities. If Utility reasonably determines that a transfer of Licensee's Cable System Facilities is necessary, Licensee agrees to allow such transfer. In such instances, Utility will notify Licensee to perform such transfer at its own expense within thirty (30) calendar days after receiving notice from Utility. If Licensee fails to transfer its

Facilities within thirty (30) calendar days after receiving such notice from Utility, Utility shall have the right to transfer Licensee's Facilities using its personnel and/or contractors at Licensee's expense. Utility shall not be liable for damage to Licensee's Facilities except to the extent provided in Article XVI.

8.2 Billing for Transfers Performed by Utility. If Utility performs the transfer(s), Utility will bill Licensee for actual costs per Article III. Licensee shall reimburse Utility within thirty (30) calendar days of the receipt of the invoice.

IX. POLE MODIFICATIONS AND/OR REPLACEMENTS

9.1 Licensee's Action Requiring Modification/Replacement. In the event that any Pole to which Licensee desires to make Attachment(s) is unable to support or accommodate the additional facilities in accordance with all Applicable Specifications, Utility will notify Licensee of the necessary Make-Ready Work, and associated costs, to provide an adequate Pole, including but not limited to replacement of the Pole and rearrangement or transfer of Utility's Facilities. Licensee shall be responsible for separately entering into an arrangement with other Attaching Entities concerning the allocation of costs for the relocation or rearrangement of such entities' existing Attachments. If Licensee elects to go forward with the necessary changes, Licensee shall pay to Utility the actual cost of the Make-Ready Work, performed by Utility, per Article III. Utility, at its discretion, may require advance payment.

9.2 Treatment of Multiple Requests for Same Pole. If Utility receives Permit Applications for the same Pole from two or more prospective licensees within thirty (30) calendar days of the initial request, and accommodating their respective requests would require modification or replacement of the Pole, Utility will allocate among such licensees the applicable costs associated with such modification or replacement. Such allocation applies only to those Attachments involving cable/wire and not Risers and/or Other Equipment.

9.3 Guying. The use of guying to accommodate Licensee's Attachments shall be provided by and at the expense of Licensee and to the reasonable satisfaction of Utility. Licensee shall not attach its guy wires to Utility's anchors without prior written permission of the Utility. If permission is granted, charges may apply.

9.4 Allocation of Costs. The costs for any rearrangement or transfer of Licensee's Cable System Facilities or the replacement of a Pole (including any related costs for tree cutting or trimming required to clear the new location of Utility's cables or wires) shall be allocated to Utility and/or Licensee and/or other Attaching Entity on the following basis:

9.4.1 If Utility intends to modify or replace a Pole solely for its own requirements, it shall be responsible for the costs related to the

modification/replacement of its Pole. Licensee will be responsible for its costs of rearranging or moving Licensee's attachments. Prior to making any such modification or replacement Utility shall provide Licensee written notification of its intent in order to allow Licensee a reasonable opportunity to elect to modify or add to its existing Attachment. Should Licensee so elect, it must seek Utility's written permission per the Agreement. The notification requirement of this Paragraph 9.4.1 shall not apply to routine maintenance or emergency situations. If Licensee elects to add to or modify its Cable System Facilities, Licensee shall bear the incremental costs incurred by Utility in making the space on the Poles accessible to Licensee.

9.4.2 If the modification or the replacement of a Pole is the result of an additional Attachment or the modification of an existing Attachment sought by an Attaching Entity other than Utility or Licensee, the Attaching Entity requesting the additional or modified Attachment shall bear the entire cost of the modification or Pole replacement, as well as the costs for rearranging or transferring Licensee's Cable System Facilities. Licensee shall cooperate with such third party Attaching Entity to determine the costs of moving Licensee's facilities.

9.4.3 If the Pole must be modified or replaced for other reasons unrelated to the use of the Pole by Attaching Entities (e.g., storm, accident, deterioration), Utility shall pay the costs of such modification or replacement; provided however, that Licensee shall be responsible for the costs of rearranging or transferring its Cable System Facilities.

9.5 No provision of this Agreement shall be construed to require Utility to relocate its Attachments or modify/replace its Poles for the benefit of Licensee, provided, however, any denial by Utility for modification of the pole is based on nondiscriminatory standards of general applicability.

X. ABANDONMENT OR REMOVAL OF UTILITY FACILITIES

10.1 Notice of Abandonment or Removal of Utility Facilities. If Utility desires at any time to abandon or remove any Utility Facilities to which Licensee's Cable System Facilities are attached, it shall give Licensee notice in writing to that effect at least ninety (90) calendar days prior to the date on which it intends to abandon or remove such Utility's Facilities. Notice may be limited to thirty (30) calendar days if Utility is required to remove or abandon its Utility Facilities as the result of the action of a third party. If, following the expiration of said period, Licensee has not yet removed and/or transferred all of its Cable System Facilities therefrom, Utility shall have the right, subject to any applicable laws and regulations, to have Licensee's Cable System Facilities removed and/or transferred from the Pole at Licensee's expense. Utility shall give Licensee prior written notice of any such removal or transfer of Licensee's Facilities.

XI. REMOVAL OF LICENSEE'S FACILITIES

At the expiration or other termination of this License Agreement or individual Permit(s), Licensee shall remove its Cable System Facilities from the affected Poles at its own expense. If Licensee fails to remove such facilities within sixty (60) calendar days of expiration or termination or some greater period as allowed by Utility, Utility shall have the right to have such facilities removed at Licensee's expense, or shall become the property of Utility without compensation to Licensee, at the sole option of Utility.

XII. TERMINATION OF PERMIT

12.1 Automatic Termination of Permit. Any Permit issued pursuant to this Agreement shall automatically terminate when Licensee ceases to have authority to construct and operate its Cable System Facilities on public or private property at the location of the particular Pole(s) covered by the Permit.

12.2 Surrender of Permit. Licensee may at any time surrender any Permit for Attachment and remove its Cable System Facilities from the affected Pole(s), provided, however, that before commencing any such removal Licensee must obtain Utility's written approval of Licensee's plans for removal, including the name of the party performing such work and the date(s) and time(s) during which such work will be completed. All such work is subject to the insurance requirements of Article XVIII. No refund of any fees or costs will be made upon removal. If Licensee surrenders such Permit pursuant to the provisions of this Article, but fails to remove its Attachments from Utility's Poles within thirty (30) calendar days thereafter, Utility shall have the right to remove Licensee's Attachments at Licensee's expense, or shall become the property of Utility without compensation to Licensee, at the sole option of Utility.

XIII. INSPECTION OF LICENSEE'S FACILITIES

13.1 Inspection. Utility shall have the right at any time to make periodic inspections of Licensee's Cable System Facilities, utilizing its employees and/or contractors, and Licensee shall reimburse Utility for the actual expense of such inspections, *provided* that Licensee is found to be in violation of any Applicable Standard, and *provided further* that Licensee shall not be required to pay for more than one inspection every two (2) years.

13.2. Notice. Utility will give Licensee at least (30) calendar days advance written notice of such inspections, except in those instances where safety

considerations justify the need for such inspection without the delay of waiting until written notice has been received. Licensees shall have the right to have a representative available at either the Initial or Subsequent inspections. If reasonable notice is given, planned inspections will not be delayed because Licensee's representative is not available.

13.3 Duty of Full Compliance. Licensee agrees to bring its Attachments into full compliance with this Agreement in the event that any inspection results in a finding by Utility that Licensee is not in compliance with this Agreement within thirty (30) calendar days of receipt of notice. For avoidance of doubt, "full compliance" shall mean compliance with the version of the Applicable Standards that was in effect at the time the Attachment was placed on Utility's Poles.

13.4 No Liability. The making of any inspections under this Article XIII, or the failure to do so, shall not operate to impose upon Utility any liability of any kind whatsoever or relieve Licensee of any responsibility, obligations or liability whether assumed under this Agreement or otherwise existing.

XIV. UNAUTHORIZED OCCUPANCY OR ACCESS

14.1 Penalty Fee. If any of Licensee's Attachments are found occupying any Pole for which no Permit has been issued, Utility, without prejudice to its other rights or remedies under this Agreement, may assess an Unauthorized Access Penalty Fee as specified in Appendix A.

14.2 No Ratification of Unlicensed Use. No act or failure to act by Utility with regard to said unlicensed use shall be deemed as ratification of the unlicensed use and if any Permit should be subsequently issued, such Permit shall not operate retroactively or constitute a waiver by Utility of any of its rights or privileges under this Agreement or otherwise; provided, however, that Licensee shall be subject to all liabilities, obligations and responsibilities of this Agreement in regards to said unauthorized use from its inception.

XV. ADVANCE PAYMENT

Utility holds the right to require, at its sole discretion, for Licensee to furnish Advance Payment for each Attachment in the amount of the first Annual Attachment Fee as specified in Appendix A, plus any estimated Make-Ready Work expenses.

XVI. LIABILITY AND INDEMNIFICATION

16.1 Liability. Utility reserves to itself the right to maintain and operate its Poles in such manner as will best enable it to fulfill its service requirements. Licensee agrees to use Utility's Poles at Licensee's sole risk. Notwithstanding the foregoing,

Utility shall exercise reasonable precaution to avoid damaging Licensee's Cable System Facilities and shall report to Licensee the occurrence of any such damage caused by its employees, agents or contractors. Subject to the provisions of this Article XVI, Utility agrees to reimburse Licensee for all reasonable costs incurred by Licensee for the physical repair of such facilities damaged by the gross negligence or willful misconduct of Utility.

16.2 Indemnification. Licensee, and any agent, contractor or subcontractor of Licensee, shall defend, indemnify and hold harmless Utility and its officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors, against any and all liability, costs, damages, fines, taxes, special charges by others, penalties, payments (including payments made by Utility under any Workers' Compensation Laws or under any plan for employees' disability and death benefits), and expenses (including reasonable attorney fees of Utility and all other costs and expenses of litigation) ("Covered Claims") arising in any way, including any act, omission, failure, negligence or willful misconduct, in connection with the construction, maintenance, repair, presence, use, relocation, transfer, removal or operation by Licensee, or by Licensee's officers, directors, employees, agents, and contractors, of Licensee's Cable System Facilities, except to the extent of Utility's gross negligence or willful misconduct giving rise to such Covered Claims. Such Covered Claims include, but are not limited to, the following:

16.2.1. Intellectual property infringement, libel and slander, trespass, unauthorized use of television or radio broadcast programs and other program material, and infringement of patents;

16.2.2. Cost of work performed by Utility that was necessitated by Licensee's failure, or the failure of Licensee's officers, directors, employees, agents, or contractors, to install, maintain, present, use, transfer or remove Licensee's Cable System Facilities in accordance with the requirements and specifications of this Agreement, or from any other work this Agreement authorizes Utility to perform on Licensee's behalf;

16.2.3. Damage to property, injury to or death of any person arising out of the performance or nonperformance of any work or obligation undertaken by Licensee, or Licensee's officers, directors, employees, agents, and contractors, pursuant to this Agreement;

16.2.4. Liabilities incurred as a result of Licensee's violation, or a violation by Licensee's officers, directors, employees, agents, and contractors, of any law, rule, or regulation of the United States, Commonwealth of Virginia or any other governmental entity or administrative agency, whether such violation is the result of a violation of the statute by Utility or Licensee solely or any joint violation thereof;

16.3 Procedure for Indemnification.

16.3.1. Utility shall give notice promptly to the Licensee of any claim or threatened claim, specifying the factual basis for such claim and the amount of the claim. If the claim relates to an action, suit or proceeding filed by a third party against Utility, the notice shall be given to Licensee by Utility no later than fifteen (15) calendar days after written notice of the action, suit or proceeding was received by Utility.

16.3.2. Failure to timely give the required notice will not relieve the Licensee from its obligation to indemnify the Utility unless the Licensee is materially prejudiced by such failure.

16.3.3. The Licensee will have the right at any time, by notice to the Utility, to participate in the defense of the claim with counsel of its choice, which counsel must be reasonably acceptable to the Utility. Utility shall assume control of the defense of any claim against Utility unless Utility agrees in writing to permit Licensee to assume control of the claim, in which case Utility agrees to cooperate fully with the Licensee. If the Licensee so assumes control of the defense of any third-party claim, the Utility shall have the right to participate in the defense at its own expense. If the Licensee does not so assume control or otherwise participate in the defense of any third-party claim, it shall be bound by the results obtained by the Utility with respect to the claim.

16.3.4. If the Licensee assumes the defense of a third-party claim as described above, then in no event will the Utility admit any liability with respect to, or settle, compromise or discharge, any third party claim without the Licensee's prior written consent, and the Utility will agree to any settlement, compromise or discharge of any third-party claim which the Licensee may recommend which releases the Utility completely from such claim.

16.4 Environmental Hazards. Licensee represents and warrants that its use of Utility's Poles will not generate any hazardous substances, that it will not store or dispose on or about Utility's Poles or transport to Utility's Poles any hazardous substances and that Licensee's Cable System Facilities will not constitute or contain and will not generate any hazardous substance in violation of Federal, state or local law now or hereafter in effect including any amendments. "Hazardous substance" shall be interpreted to mean any substance or material designated or defined as hazardous or toxic waste, hazardous or toxic material, hazardous or toxic or radioactive substance, or other similar term by any Federal, state, or local laws, regulations or rules now or hereafter in effect including any amendments. Licensee, and its agents, contractors and subcontractors, shall defend, indemnify and hold harmless Utility and its respective officials, officers, board members, council members, commissioners, representatives, employees, agents, and contractors

against any and/or all liability, costs, damages, fines, taxes, special charges by others, penalties, punitive damages, expenses (including reasonable attorney fees and all other costs and expenses of litigation) arising from or due to the release, threatened release, storage or discovery of any such hazardous wastes or hazardous substances on, under or adjacent to Utility's Poles attributable to Licensee's use of Utility's Poles.

Should Utility's Poles be declared hazardous waste, Utility, Licensee and all Attaching Entities shall share proportionately in the cost of disposal of said Poles based on their individual percentage use of same. For Attaching Entities such percentage shall be derived from the sum of Assigned Space occupied by each Attaching Entity plus its share of the Common Space. For the Utility such percentage shall be equal to the space above the NESC 40 inch safety space plus its share of the Common Space. Provided, however, if the source or presence of the hazardous substance is solely attributable to particular parties, such costs shall be borne solely by said parties.

16.5 Municipal Liability Limits. No provision of this Agreement is intended, or shall be construed, to be a waiver for any purpose by Utility of any applicable State limits on municipal liability. No indemnification provision contained in this Agreement under which Licensee indemnifies Utility shall be construed in any way to limit any other indemnification provision contained in this Agreement.

XVII. DUTIES, RESPONSIBILITIES, AND EXCULPATION

17.1 Duty to Inspect. Licensee acknowledges and agrees that Utility does not warrant the condition or safety of Utility's Poles, or the premises surrounding the Poles, and Licensee further acknowledges and agrees that it has an obligation to inspect Utility's Poles and/or premises surrounding the Poles, prior to commencing any work on Utility's Poles or entering the premises surrounding the Poles.

17.2 Knowledge of Work Conditions. By executing this Agreement, Licensee warrants that it has acquainted, or will fully acquaint, itself and its employees and/or contractors and agents with the conditions relating to the work that Licensee will undertake under this Agreement and that it fully understands or will acquaint itself with the facilities, difficulties, and restrictions attending the execution of such work.

17.3 **DISCLAIMER. UTILITY MAKES NO EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO UTILITY'S POLES, ALL OF WHICH ARE HEREBY DISCLAIMED, AND UTILITY MAKES NO OTHER EXPRESS OR IMPLIED WARRANTIES, EXCEPT TO THE EXTENT EXPRESSLY AND UNAMBIGUOUSLY SET FORTH IN THIS AGREEMENT. UTILITY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

17.4 Duty to Competent Supervision and Performance. The parties further understand and agree that in the performance of work under this Agreement, Licensee and its agents, servants, employees, contractors and subcontractors will work near electrically energized lines, transformers, or other Utility Facilities, and it is the intention that energy therein will not be interrupted during the continuance of this Agreement, except in an emergency endangering life, grave personal injury, or property. Licensee shall ensure that its employees, servants, agents, contractors and subcontractors have the necessary qualifications, skill, knowledge, training, and experience to protect themselves, their fellow employees, employees of Utility, and the general public, from harm or injury while performing work permitted pursuant to this Agreement. In addition, Licensee shall furnish its employees, servants, agents, contractors and subcontractors competent supervision and sufficient and adequate tools and equipment for their work to be performed in a safe manner. Licensee agrees that in emergency situations in which it may be necessary to de-energize any part of Utility's equipment, Licensee shall ensure that work is suspended until the equipment has been de-energized and that no such work is conducted unless and until the equipment is made safe.

17.5 Requests to De-energize. In the event Utility de-energizes any equipment or line at Licensee's request and for its benefit and convenience in performing a particular segment of any work, Licensee shall reimburse Utility in full for all costs and expenses incurred, in accordance with Article III in order to comply with Licensee's request. Before Utility de-energizes any equipment or line, it shall provide, upon request, an estimate of all costs and expenses to be incurred in accommodating Licensee's request.

17.6 Interruption of Service. In the event that Licensee shall cause an interruption of service by damaging or interfering with any equipment of Utility, Licensee at its expense shall immediately do all things reasonable to avoid injury or damages, direct and incidental, resulting therefrom and shall notify Utility immediately.

17.5 Duty to Inform. Licensee further warrants that it understands the imminent dangers (INCLUDING SERIOUS BODILY INJURY OR DEATH FROM ELECTROCUTION) inherent in the work necessary to make installations on Utility's Poles by Licensee's employees, servants, agents, contractors or subcontractors, and accepts as its duty and sole responsibility to notify and inform Licensee's employees, servants, agents, contractors or subcontractors of such dangers, and to keep them informed regarding same.

XVIII. INSURANCE

18.1 Policies Required. At all times during the term of this Agreement, Licensee shall keep in force and effect all insurance policies as described below:

18.1.1. Worker's Compensation and Employers' Liability Insurance. Statutory worker's compensation benefits and employers' liability insurance with a limit of liability no less than that required by Virginia law at the time of the application of this provision for each accident. This policy shall be endorsed to include a waiver of subrogation in favor of Utility. Licensee shall require subcontractors and others not protected under its insurance to obtain and maintain such insurance.

18.1.2. Commercial General Liability Insurance. Policy will be written to provide coverage for, but not limited to, the following: premises and operations, products and completed operations, personal injury, blanket contractual coverage, broad form property damage, independent contractor's coverage with Limits of liability not less than \$2,000,000 general aggregate, \$2,000,000 personal injury, \$2,000,000 each occurrence.

18.1.3 Automobile Liability Insurance. Business automobile policy covering all owned, hired and non-owned private passenger autos and commercial vehicles. Limits of liability not less than \$1,000,000 each occurrence, \$1,000,000 aggregate.

18.1.4 Umbrella Liability Insurance. Coverage is to be in excess of the sum employers' liability, commercial general liability, and automobile liability insurance required above. Limits of liability not less than \$4,000,000 each occurrence, \$4,000,000 aggregate.

18.1.5 Property Insurance. Each party will be responsible for maintaining property insurance on its own facilities, buildings and other improvements, including all equipment, fixtures, and utility structures, fencing, or support systems that may be placed on, within, or around Utility Facilities to fully protect against hazards of fire, vandalism and malicious mischief, and such other perils as are covered by policies of insurance commonly referred to and known as "extended coverage" insurance or self-insure such exposures.

18.2 Qualification; Priority; Contractors' Coverage. The insurer must be authorized to do business under the laws of the Commonwealth of Virginia and have an "A" or better rating in Best's Guide. Such insurance will be primary. All contractors and all of their subcontractors who perform work on behalf of Licensee shall carry, in full force and effect, worker's compensation and employer's liability, comprehensive general liability and automobile liability insurance coverages of the type that Licensee is required to obtain under this Article with the same limits.

18.3 Certificate of Insurance; Other Requirements. Prior to the execution of this Agreement and prior to each insurance policy expiration date during the term of this Agreement, Licensee will furnish Utility with a Certificate of Insurance and, upon request, certified copies of the required insurance policies. The Certificate shall reference this Agreement and worker's compensation and property insurance

waivers of subrogation required by this Agreement. Utility shall be given thirty (30) calendar days advance notice of cancellation or nonrenewal of insurance during the term of this Agreement. Utility, its council members, board members, commissioners, agencies, officers, officials, employees and representatives (collectively, "Additional Insureds") shall be named as Additional Insureds under all of the policies, except worker's compensation, which shall be so stated on the Certificate of Insurance. All policies, other than worker's compensation, shall be written on an occurrence and not on a claims-made basis. All policies may be written with deductibles, not to exceed \$100,000, or such greater amount as expressly allowed in writing by Utility. Licensee shall defend, indemnify and hold harmless Utility and Additional Insureds from and against payment of any deductible and payment of any premium on any policy required under this Article. Licensee shall obtain Certificates of Insurance from its agents, contractors and subcontractors and provide a copy of such Certificates to Utility upon request.

18.4 Limits. The limits of liability set out in this Article may be increased or decreased by mutual consent of the parties, which consent will not be unreasonably withheld by either party, in the event of any factors or occurrences, including substantial increases in the level of jury verdicts or judgments or the passage of state, federal or other governmental compensation plans, or laws which would materially increase or decrease Licensee's exposure to risk.

18.5 Prohibited Exclusions. No policies of insurance required to be obtained by Licensee or its contractors or subcontractors shall contain provisions (1) that exclude coverage of liability assumed by this Agreement with Utility except as to infringement of patents or copyrights or for libel and slander in program material, (2) that exclude coverage of liability arising from excavating, collapse, or underground work, (3) that exclude coverage for injuries to Utility's employees or agents, or (4) that exclude coverage of liability for injuries or damages caused by Licensee's contractors or contractor's employees, servants or agents. This list of prohibited provisions shall not be interpreted as exclusive.

18.6 Deductible/Self-insurance Retention Amounts. Licensee shall be fully responsible for any deductible or self-insured retention amounts contained in its insurance program or for any deficiencies in the amounts of insurance maintained.

XIX. AUTHORIZATION NOT EXCLUSIVE

Utility shall have the right to grant, renew and extend rights and privileges to others not party to this Agreement, by contract or otherwise, to use Utility Facilities covered by this Agreement. Such rights shall not interfere with the rights granted to Licensee by the specific Permits issued pursuant to this Agreement.

XX. ASSIGNMENT

20.1 Limitations on Assignment. Licensee shall not assign its rights or obligations under this Agreement, nor any part of such rights or obligations, without the prior written consent of Utility, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Licensee may assign or transfer its interest in this Agreement to any of Licensee's Affiliates without Utility's consent.

20.2 Sub-licensing. Licensee shall have the right to sub-license its rights under this Agreement to one or more of Licensee's Affiliates without Utility's consent. Licensee shall not sub-license to a non-affiliated third party, including but not limited to allowing such non-affiliated third parties to place Attachments on Utility's Poles, without Utility's prior written consent, which shall not be unreasonably withheld. Any sublicensing not authorized by this Agreement shall constitute a material breach of this Agreement. For avoidance of doubt, the use of Licensee's Cable System Facilities by third parties (including but not limited to leases of dark fiber) that involves no additional Attachment is not subject to the provisions of this Section 20.2.

XXI. FAILURE TO ENFORCE

Failure of Utility or Licensee to take action to enforce compliance with any of the terms or conditions of this Agreement or to give notice or declare this Agreement or any authorization granted hereunder terminated shall not constitute a waiver or relinquishment of any term or condition of this Agreement, but the same shall be and remain at all times in full force and effect until terminated, in accordance with the Agreement.

XXII. TERMINATION OF AGREEMENT

22.1 Notwithstanding Utility's rights under Article XII, Utility shall have the right, pursuant to the procedure set out in Section 22.2, to terminate this entire Agreement, or any Permit issued hereunder, whenever Licensee is in material default of any material term or condition of this Agreement, including but not limited to the following circumstances:

22.1.1. Construction, operation or maintenance of Licensee's Cable System Facilities in violation of law or in aid of any unlawful act or undertaking; or

22.2.2. Construction, operation or maintenance of Licensee's Cable System Facilities after any authorization required of Licensee has lawfully been denied or revoked by any governmental or private authority or violation of any other agreement with the Utility; or

22.2.3. Construction, operation or maintenance of Licensee's Cable System Facilities without the insurance coverage required under Article XVIII.

22.2 Utility will notify Licensee in writing within fifteen (15) calendar days, or as soon as reasonably practicable, of any condition(s) applicable to Section 22.1 above. Licensee shall take immediate corrective action to eliminate any such condition(s) within fifteen (15) calendar days, or such longer period mutually agreed to by the parties, and shall confirm in writing to Utility that the cited condition(s) has (have) ceased or been corrected. If Licensee fails to discontinue or correct such condition(s) and/or fails to give the required confirmation, Utility may immediately terminate this Agreement or any Permit(s). In the event of termination of this Agreement or any of Licensee's rights, privileges or authorizations hereunder, Utility may seek removal of Licensee's Cable System Facilities pursuant to the terms of Article XI, provided, that Licensee shall be liable for and pay all fees and charges pursuant to terms of this Agreement to Utility until Licensee's Cable System Facilities are actually removed.

XXIII. TERM OF AGREEMENT

23.1 This Agreement shall become effective upon its execution and, if not terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of five (5) years (the "Initial Term"). This Agreement shall become effective upon its execution, and, if not earlier terminated in accordance with other provisions of this Agreement, shall continue in effect for a term of five (5) years (the "Initial Term"), and will thereafter continue in full force and effect upon the same covenants, terms, and conditions for up to four (4) additional terms of five (5) years each ("Renewal Term") provided that the parties notify each other in writing at least six (6) months prior to the expiration of the then current term of their intention to renew.

23.2 Even after the termination of this Agreement, Licensee's responsibility and indemnity obligations shall continue with respect to any claims or demands related to Licensee's Cable System Facilities as provided for in Article XVI.

XXIV. AMENDING AGREEMENT

Notwithstanding other provisions of this Agreement, the terms and conditions of this Agreement shall not be amended, changed or altered except in writing and with approval by authorized representatives of both parties.

XXV. NOTICES

25.1 Wherever in this Agreement notice is required to be given by either party to the other, such notice shall be in writing and shall be effective when personally delivered to, or when mailed by certified mail, return receipt requested, with postage prepaid and, except where specifically provided for elsewhere, properly addressed as follows:

If to Utility, at:

Town of Front Royal Energy Services
1101 Manassas Avenue
Front Royal, VA 22630

If to Licensee:

Shenandoah Cable Television, LLC
500 Shentel Way
Edinburg, VA 22824
Attn: Director, OSP Engineering and Construction
with a copy to General Counsel at the same address.

- 25.2 Licensee shall maintain a staffed 24-hour emergency telephone number, not available to the general public, where Utility can contact Licensee to report damage to Licensee's facilities

XXVI. ENTIRE AGREEMENT

This Agreement supersedes all previous agreements, whether written or oral, between Utility and Licensee for placement and maintenance of Licensee's Cable System Facilities on Utility's Poles within the Utility's geographical service area covered by this Agreement; and there are no other provisions, terms or conditions to this Agreement except as expressed herein.

XXVII. SEVERABILITY

If any provision or portion thereof of this Agreement is or becomes invalid under any applicable statute or rule of law, and such invalidity does not materially alter the essence of the Agreement to either party, such provision shall not render unenforceable this entire Agreement but rather it is the intent of the parties that the Agreement be administered as if not containing the invalid provision.

XXVIII. GOVERNING LAW

The validity, performance and all matters relating to the effect of this Agreement and any amendment hereto shall be governed by the laws (without reference to choice of law) of the Commonwealth of Virginia.

XXIX. PERFORMANCE BONDS

On execution of this Agreement, Licensee shall provide to Utility a performance bond in the amount of \$150,000 Dollars (\$150,000). The bond shall be with an entity and in a form acceptable to Utility. The purpose of the bond is to ensure performance by Licensee, including its Affiliates and contractors, of all of its obligations under this Agreement and for the payment by Licensee of any claims, liens, taxes, liquidated damages, penalties and fees due to Utility which arise by reason of the construction, operation, maintenance or removal of Licensee's Cable System Facilities on or about Utility's Poles.

XXX. REQUIRED STATUTORY PROVISIONS.

30. Licensee shall not during the performance of this Agreement knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

31. During the performance of this Agreement, Licensee agrees as follows:

- a. Licensee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of Licensee. Licensee agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- b. Licensee, in all solicitations or advertisements for employees placed by or on behalf of Licensee, will state that such contractor is an equal opportunity employer.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

32. Licensee will include the provisions of the foregoing paragraphs 31. a, b and c in every subcontract or purchase order of over \$10,000 to this Agreement, so that the provisions will be binding upon each subcontractor or vendor of Licensee.

33. During the performance of this Agreement, Licensee agrees to (i) provide a drug-free workplace for the Licensee's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Licensee's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Licensee that Licensee maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 to this Agreement, so that the provisions will be binding upon each subcontractor or vendor of Licensee to this Agreement.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

34. At all times during this Agreement, Licensee shall be organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership, Licensee shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in duplicate on the day and year first written above.

Town of Front Royal, Virginia
(UTILITY)

(LICENSEE)

BY: _____

BY: _____

TITLE: Town Manager

TITLE: _____

U T I L I T Y

COMMONWEALTH OF VIRGINIA)

: ss

City of _____)

I, the undersigned, a Notary Public in and for the State of Virginia, hereby certify that on the ____ day of _____, 2____, personally appeared before me [NAME] _____, [TITLE] _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year above written.

Notary Public in and for the
Commonwealth of Virginia, residing at
_____, Virginia

L I C E N S E E

STATE OF _____)

: ss

County of _____)

I, the undersigned, a Notary Public in and for the State of _____, hereby certify that on the _____ day of _____, 2____, personally appeared before me [NAME] _____, [TITLE] _____ to me known to be the individual described in and who executed the foregoing instrument and acknowledged that they signed and sealed the same as their free and voluntary act and deed, for the uses and purposes therein mentioned.

GIVEN under my hand and official seal the day and year above written.

Notary Public in and for the

State of _____, residing at

_____, _____.

APPENDIX A

ATTACHMENT FEES AND CHARGES

Effective Date: 05/__/2019

- | | | |
|----|-------------------------------------|---|
| 1. | Annual Pole Attachment Fee: | \$ 23.00 per attachment/per year |
| 2. | Non-Recurring Fees: | |
| | Make-Ready Work Charges | See Article III of Agreement |
| | Miscellaneous Charges | See Article III of Agreement |
| | Inspection Fees | See Article III or Agreement |
| 3. | Unauthorized Attachment Penalty Fee | 5 times annual attachment fee, per occurrence |

APPENDIX B

POLE ATTACHMENT PERMIT APPLICATION PROCESS

The following procedure is to be followed by each Licensee seeking to make new Attachments on Utility's Poles. Note that no entity may make any Attachments to Utility's Poles without having first entered into a binding Pole Attachment Licensing Agreement.

1. Licensee shall submit a written request to perform a Pre-Permit Survey. The request must include a preliminary route description. The Pre-Permit Survey will include a review of the proposed Attachment(s) to determine the feasibility of the request and identify any potential Make-Ready-Work.
2. Following the Pre-Permit Survey, Licensee shall submit a completed Permit Application (Appendix C) that includes: route map, installation plans and recommendations on Make-Ready Work.
3. Upon receipt of written authorization, Utility will proceed with Make-Ready Work according to the specific agreed upon installation plans and the terms of the Agreement, including payment for the Make Ready Work charges as set out by Utility and agreed to by the Licensee.
4. Utility will sign and return the Application for Permit authorizing the Licensee to make its Attachment(s) in accordance with agreed upon installation plans.
6. The Licensee shall submit written certification that it has completed the Post-Installation Survey and that the installation was done in accordance with the provisions of the Permit. The Post-Installation Survey shall be submitted within ninety (90) calendar days after installation is complete.

APPENDIX C

APPLICATION FOR PERMIT

Application Date: __/__/__

To: Pole permits, Town of Front Royal,
102 East Main St,
Front Royal, VA 22630

Desire to: ☐ Attach to Utility Pole(s) ☐ Remove Attachment from Utility Pole(s)

Permit No. _____ Superseded Permit No. _____

No. of Poles this permit _____ Sheet 1 of _____

Licensee name: _____

Address: _____

Contact Person: _____ Title: _____ Phone No. _____

Utility Contact Person: _____ Title: _____ Phone No. _____

Narrative Description of proposed activity:

In accordance with the terms and conditions of the Pole Attachment Licensing Agreement dated _____, application is hereby made for a Permit to attach to and/or vacate Pole(s) in the locations detailed on the attached Route Map(s).

Permission is hereby granted to Licensee to attach and/or vacate poles listed on the attached Field Data Summary Sheets, subject to payment of the necessary Make-Ready Work charges as set out by Utility and agreed to by the Licensee.

SUBMITTED:

APPROVED:

Licensee _____

Utility _____

By _____

By _____

Title _____

Title _____

Date _____

Date _____

APPENDIX D



TOWN OF FRONT ROYAL ENERGY SERVICES TREE TRIMMING POLICY

The Town of Front Royal owns and operates its own distribution system which serves about 8,000 customers and has nearly 100 miles of overhead power lines within its corporate limits and adjacent rural areas in Warren County. Here at the Town of Front Royal Energy Services we understand the important benefits that trees add to our community. They provide beauty, shade and enhance the environment. Although they are a beautiful addition to our landscapes, trees can cause many problems with the electrical system.

Trees and limbs that come into contact with the electric lines can cause power outages and damage to electrical equipment. Trees also have the potential to become energized, thereby posing a safety hazard.

In our efforts to provide safe, reliable and affordable energy, the Town of Front Royal Energy Services is implementing a new, more effective, method of tree trimming and vegetation management known as “cycle trimming”. With cycle trimming all power lines are trimmed on a three-year cycle. While cycle trimming will not protect against all power outages, it will result in a more reliable electric system overall.

The Town of Front Royal Energy Services employs qualified contractors to perform our tree trimming and right-of-way maintenance. The contractors are certified as required by OSHA to trim trees around high voltage electrical lines and equipment.

The following is a list of Frequently Asked Questions:

Will I be notified before the trimming of my trees takes place?

Yes. An employee from the Town of Front Royal Energy Services will make every effort to contact you. If we can't reach you in person, a door hanger will be left at your residence. The only time you will not be notified is during storm restoration.

When do you trim my trees?

The Town of Front Royal Energy Services has implemented a policy known as “cycle trimming”. This means that your trees will be trimmed every 3 years.

How far do you cut trees back?

All trees will be trimmed in a manner consistent with practices outlines in Best Management Practices “Utility Pruning of Trees”, a companion publication of the ANSI A300.

The following list is presented as a reference guide to assist trimming crews in deciding the average amount of trimming necessary on trees directly under lines. This list is presented as a reference only and should be modified according to the restrictions encountered in each trimming situation.

Suggested Distance around Conductors

3 Years of Clearance

Ailanthus	18'	Red Maple	13'
Alder	25'	Silver Maple	20'
Ash	11'	Sugar Maple	13'
Basswood (Linden)	9'	Black & Red Oak	9'
Beech	9'	Pin Oak	11'
White Birch	16'	Water Oak	14'
Boxelder	22'	White Oak	6'
Eastern Red Cedar	6'	Willow Oak	13'
Wild Cherry	7'	Shortleaf Pine	14'
American Elm	18'	Sycamore	21'
Chinese Elm	22'	Cottonwood	24'
Black Gum	7'	Lombardy Poplar	22'
Hackberry	9'	Sassafras	11'
Hickory	7'	Tulip Tree	16'
Black Locust	25'	(Yellow Poplar)	
Honey Locust	11'	Black Walnut	13'
Magnolia	13'	Black Willow	13'
Norway Maple	11'	Weeping Willow	21'

Will the Town remove trees if necessary?

If you have a tree and would like to have it removed, contact us at 540-635-3027. A representative will come out and meet with you and make the determination if the tree is eligible for removal.

WORK

SESSION

2



Work Session Agenda Form

Item # 2

DATE: June 24, 2019

AGENDA ITEM: Utility Account Bad Debt

SUMMARY: During the June 3, 2019 work session Town Council discussed revisions to Town of Front Royal Municipal Code 134-71 related to collection of bad debt on utility accounts and requested additional information regarding options on the wording of the ordinance and comparisons to other localities.

The Department of Finance collected information from other localities and organizations regarding deposit amounts, handling of LLC's, bad debt ratio, and other means of collections. Summary of findings include:

Deposits – majority of deposits cover two months of services; whereas the Town of Front Royal requires a deposit for one month.

Handling of Business Accounts – some organizations charge a higher deposit on commercial accounts and there were no organizations that required a personal guaranty

Bad Debt Ratio – majority of the organizations that were able to provide data show that their bad debt ratio is less than 1% of sales; which is the equivalent to the Town of Front Royal.

Other Collection Procedures – majority of the localities process collections using the Commonwealth of Virginia's debt set-off program, as does the Town of Front Royal. Four localities surveyed place liens on properties to collect from the owner of the property. Two localities obtain judgments, one of which uses an outside collection attorney.

Previous items Town Council requested to pursue were:

1. Judgments for bad debt on utility accounts
2. Raising the minimum deposit amount from \$125.00 to \$150.00
3. Personal guaranty on business utility accounts
4. Proof of Income
5. Ordinance amendment to include verbiage on collections

Following this cover are suggested revisions to Town of Front Royal Municipal Code 134-71 related to the remaining four items listed above.

BUDGET/FUNDING: N/A

Work Session

STAFF RECOMMENDATION: Staff feels that the amount of bad debt written off by the Town is equivalent to other localities that pursue other/additional avenues of collection. Staff's opinion is that if Town Council would like to lower the Town's bad debt, the best course of action would be to increase the amount of deposit required to open a utility account.

Based on comparison and taking into account all services provided by the Town of Front Royal (water, sewer, electric); staff feels that the amount for utility deposits required by the Town of Front Royal are lower than all other organizations surveyed and should be increased.

Town of Front Royal statistics show that 87.4% of the utility accounts written off in FY18 for bad debt had a deposit on file when the account was closed & the deposit amount did not cover the remaining balance on the account.

The amount of utility deposit required by the Town of Front Royal is not sufficient to cover service if a utility account holder vacates the property without the knowledge of the Town, resulting in disconnect for non-payment.

For example, if no payment were made on an account (not taking into account holidays/weekends) the timeline would be as follows:

- May 1st- May 30th usage occurs (1 month worth of billing)
- May 31st Utility bill is mailed; due date of bill is June 20th (allowing 20 days to pay)
- June 21st Delinquent notice is mailed; (10 days notice of delinquency)
- July 2nd Service is disconnected for Non-payment

In this example 63 days have elapsed from the date of initial usage until the Town would be able to disconnect for non-payment. The deposit amount equivalent to one month would not usually be sufficient to cover the remaining balance.

Requiring a personal guaranty and/or furnishing proof of income should help reduce the Town's bad debt expense, but will make the utility application process more cumbersome for applicants and is currently not a process that any other locality has implemented.

Staff recommends for Town Council to consider raising the amount of deposit required to establish a utility account. Possible options to be considered, or a combination thereof:

- A. Raising the minimum deposit amount to \$250 or equivalent of 2 times highest bill; whichever may be greater.
- B. Creating a flat deposit amount per service:
 - Water: \$75
 - Water/Sewer: \$150
 - Electric: \$200
- C. Differentiating between residential & commercial:
 - Water, Sewer, & Electric - \$350 (Residential)
 - Water, Sewer, & Electric - \$500 (Commercial)
- D. Average of 2 months of bills while property was occupied

134-71 UTILITY ACCOUNTS-PAYMENTS/TERMINATION OF SERVICE

A. DEPOSIT:

1. Amount: For an existing residential service location, the deposit required for Town utility services shall be an amount equal to the highest monthly bill for that location during the preceding twelve months or one hundred and ~~twenty-five~~ **fifty** dollars (~~\$125.00~~ **\$150.00**), whichever is greater. For an existing commercial service location, the deposit required for Town utility services shall be an amount equal to the highest monthly bill for that location during the preceding twelve months or two hundred dollars (\$200.00), whichever is greater. To calculate the amount of the deposit for newly established residential or commercial service locations, the Front Royal Department of Finance shall establish the deposit at an amount equal to the customer's anticipated monthly usage of water and electric service, as may be the case. If, at any time, the customer's deposit is waived or returned, as set forth below, but the customer's service subsequently is terminated for nonpayment or the customer has made four late payments during any twelve month period, a deposit, in an amount as set forth above, shall be required.

2. Deposit Waiver: Notwithstanding the foregoing, no deposit shall be required when an acceptable credit history is furnished by the customer from a previous utility provider. Acceptable credit history is defined as a customer who can demonstrate that during the previous twelve months his bills were paid with no more than four (4) late payments on a monthly billing system or no more than two (2) late payments on a bimonthly system.

3. Payment of Deposit: Payment of the deposit is due upon execution of the service work order. In lieu of the foregoing, when the required deposit for a residential customer exceeds one hundred dollars (\$100.00) but is less than two hundred dollars (\$200.00), the customer may elect to pay one hundred dollars (\$100.00) at the time the work order is executed and pay the balance of the deposit along with payment for the first month's service. When the required deposit exceeds two hundred dollars (\$200.00), the deposit may be paid in two equal installments with one half due when the work order is signed and pay the remaining half along with the payment for the first month's service.

4. Interest and Refunds: Deposits shall be held in an interest bearing account. Deposit plus interest shall be refunded either: (1) upon termination of the service account in an amount equal to the deposit and accrued interest minus any amount deducted to satisfy customer arrearages or other debts owing to the Town; or (2) upon the customer's request after a period of twelve months of service during which there were no more than four delinquent payments. Upon request of a refund, the Director of Finance shall first ensure that customer does not have any debts owing to the Town. If the customer is indebted to the Town, the Director of Finance will apply any refund toward satisfaction of these debts prior to the refund of any money to the customer.

B. PAYMENTS:

1. Due Date - Fines and Charges: All payments for water, sewer, electric, and garbage collection services shall be due within 20 days of the date of billing. Accounts, for which full payment is not received within 20 days, are delinquent. A late charge of 2% of the delinquent bill immediately shall be charged to the delinquent account. If the account remains delinquent for 10 days after the original notice, an additional service charge of \$10.00 shall be charged. Finally, a service charge will be required to reconnect service that has been discontinued due to non-payment. If the reconnection occurs during normal business hours, the reconnection fee shall be \$20.00-first reconnection fee;

\$30.00-second reconnection fee; \$40.00-third reconnection fee; \$50.00-reconnection fee for all other times.

2. Allocation of Payments: During a delinquency in the payment for any service (electric, water, sewerage, or garbage collection) any subsequent payment received for services will be applied first against the most delinquent account which is not subject to a defense of any applicable statute of limitations.

3. Budget Billing: Notwithstanding the foregoing, the Director of Finance, in his discretion, may enter into agreements with customers for alternative billing and payment schedules with persons on fixed or limited incomes.

4. The Town of Front Royal shall take all lawful action to collect all debts owed to the municipality which have become overdue.

C. TERMINATION OF SERVICES:

1. Notice: The Director of Finance shall notify the customer in writing of all ~~20-day~~ delinquencies, imminent service termination, and right to contest as set forth below. Notice also shall be posted on the door of the premise with the delinquent account.

2. Protest: The customer may contest the bill by contacting the Director of Finance for the Town of Front Royal who will immediately schedule a hearing on the customer's claim that his account is not delinquent.

3. Disconnection of Service: If the matter is not successfully contested by the customer and arrearages remain 10 days after the date of the aforementioned notices, ~~water~~ service shall be disconnected. ~~If the account remains delinquent after another 2 days, electric service shall be disconnected. If, however, the customer has not secured water service, electric service (rather than water) will be disconnected after 10 days.~~ Notwithstanding the foregoing, no services shall be disconnected prior to a requested hearing.

4. Persons in Poor Health: Customer may seek an additional 30 days before water and electric services are disconnected if the Director of the Warren County Health Department certifies in writing to the Town of Front Royal Director of Finance that the customer has a serious medical condition or the customer resides with a family member with a serious medical condition. Upon providing certification the service termination may be delayed twice within a 12-month period, but may not be consecutive, certification shall be valid for period of 365 days.

5. Conditions for Reconnection of Service: Once disconnected, services shall not be restored to that customer until the outstanding balance (service fee(s), penalty, and reconnection fee(s)) for that service location is paid in full, unless the Director of Finance has approved other arrangements for payment in full.

D. RETURNED ~~PAYMENT CHECK~~ POLICY: If a ~~payment check~~ is returned to the Town for any reason, the Director of Finance shall notify, in the same manner as provided above, the Customer. If payment, in full, plus a \$35.00 service charge is not received by the close of business three days after the date on the notice, all utility services to the customer's service location shall be disconnected. If

the customer presents the Town with more than two bad checks during any twelve month payment, payment by check will no longer be accepted.

E. BUSINESS ACCOUNTS. The Town shall require any entity not a natural person requesting a utility account to either: (1) provide the written personal guaranty of payment from a natural person holding an ownership interest in the entity or, (2) pay an additional deposit amount equal to the greater of: (a) twice the average monthly utility bill during the preceding twelve (12) month period for utilities provided at the service location or, (b) \$375.00. Any additional deposit paid pursuant to (2), above, after applying same to any past due balances, shall be refunded to the entity within a reasonable time after the utility account is closed.

F. PROOF OF INCOME. Customer shall furnish Town with documentation necessary to verify source of income to prove ability to pay average monthly utility bill for that location for the preceding 12 month period; such proof may include, pay stub, bank statement, copy of last year's federal tax return, wages and tax statement (W-2 and/or 1099's), pension payment, social security payment, child/spousal support agreement, and/or other documentation deemed acceptable.

Locality	Services	Deposit Amount	Handling of Business Accounts	Bad Debt	Other Collection Procedures
Front Royal	Water/Sewer/Electric	Deposits equal highest bill for previous 12-months; minimum of \$125 residential or \$200 commercial	No difference	<1%	Diligent on disconnects for non-payment; services are disconnected if payment agreement is not met; tiered reconnection fees; debt-set off; pursuing judgments on closed accounts with balances greater than \$1,000
Clarke County	Water/Sewer	2 times average bill; minimum of \$300 for residential & \$500 for commercial; property owners not required to pay a deposit	No difference	Roughly 10%	Lien properties
Culpeper (Town), VA	Electric, water, sewer	Electric = \$250, Water/Sewer \$50; Deposits are not waived; 24 months of good credit history allows deposit to be refunded	No difference	<1%	Very diligent on disconnect of service for non-payment each month. Customers must pay balance in full for service to be restored. After applying security deposits on closed accounts, we will check for any tax overpayments. We also hold license renewals if any amounts are owed. And if a utility has a prior amount owed, even if written off, they are required to pay the prior amount owed in full before we will open a new account for them.
Danville	Electric, Water, Sewer, & Gas	Residential - Water - \$75, Water & Sewer - \$100, Gas - \$200, Electric-\$200 Water, Sewer, Gas, & Electric - \$400; Deposits returned after 12 months of good payment history	\$1,500 Deposit on Commercial Accounts		
Henrico, VA	Water/Sewer	Renters \$100; deposits waived for 12-months of good credit	No difference	<1%	Tiered reconnection fees, 1st offense warning, 2nd offense \$50, 3rd and thereafter \$100; debt setoff & outside collection attorney
Leesburg, VA	Water/Sewer	\$150 deposit for residential;	\$500 Deposit on Non-residential Accounts	<1%	Debt set-off & hold property owner responsible by placing lien on property
Luray, VA	Water/Sewer	\$150 deposit	No difference		Debt set-off, extreme accounts will obtain lien on property
NOVEC	Electric	\$300 deposit, not to exceed 2 months usage; held for 12 months of good payment history			
Rappahannock Electric	Electric	Highest 2 months, returned to residents after 12 months good payment history & 24 months for businesses	No difference		Secure judgments
Shenandoah Valley Electric Cooperative	Electric	Two times the estimated annual average of a months' worth of billing	No difference		
South Hill, VA		In-town \$100/Out-Town \$150; Deposits are not waived	Deposit equals 2 months of service		Debt set-off
Strasburg, VA	Water/Sewer	\$200 in-town; \$240 out-town	No difference		Place liens on property
Vienna, VA	Water/Sewer	\$225 Deposit or 3 months average use; only for renters (Deposits are waived for landlords or those receiving a HUD section 8 discount)	No difference	3%	Debt set-off
Vinton, VA	Water/Sewer	\$100 deposit for renters only	No deposit on business accounts	<1%	Debt set-off
Waynesboro	Water/Sewer	Residential - \$150; No deposit for property owners	Commercial \$250 Deposit		
Winchester, VA	Water/Sewer	\$170 deposits	No difference		
Woodstock, VA	Water/Sewer	3 months average bill	No difference		Debt set-off
Wytheville, VA	Water/Sewer	\$100; deposits are waived for property owners	No difference	<1%	Debt set-off

STATISTICS ON BAD DEBT UTILITY ACCOUNTS

	<u># of Accounts</u>	<u>Total Dollars</u>	<u>Avg \$ Per Account</u>	<u>% of Total \$</u>	<u>% of # of Accounts</u>
Business Accounts	47	\$ 45,597.87	\$ 970.17	16.4%	7.2%
Personal Accounts	605	\$ 232,376.47	\$ 384.09	83.6%	92.8%
Total Accounts	652	\$ 277,974.34	\$ 426.34	100%	

Balances

<u>Value of Balance</u>	<u># of Accounts</u>	<u>Total Dollars</u>	<u>Avg \$ Per Account</u>	<u>% of Total \$</u>	<u>% of # of Accounts</u>		
# of accounts <\$100	114	\$ 7,260.42	\$ 63.69	2.6%	17.5%		
\$100-\$199	137	\$ 20,474.00	\$ 149.45	7.4%	21.0%		
\$200-\$299	89	\$ 21,761.92	\$ 244.52	7.8%	13.7%		
\$300-\$399	86	\$ 29,614.72	\$ 344.36	10.7%	13.2%		
\$400-\$499	61	\$ 27,542.02	\$ 451.51	9.9%	9.4%		
\$500-\$599	38	\$ 20,623.78	\$ 542.73	7.4%	5.8%		
\$600-\$699	28	\$ 18,204.05	\$ 650.14	6.5%	4.3%		
\$700-\$799	19	\$ 14,256.18	\$ 750.33	5.1%	2.9%		
\$800-\$899	22	\$ 18,882.80	\$ 858.31	6.8%	3.4%		
\$900-\$999	8	\$ 7,624.64	\$ 953.08	2.7%	1.2%		
>\$1,000	50	\$ 91,729.81	\$ 1,834.60	33.0%	7.7%		
						38.4% of Total Dollars	74.7% of Total Accounts
						61.6% of Total Dollars	25.3% of Total Accounts

Only Balances > \$1,000

<u>Description</u>	<u># of Accounts</u>	<u>Total Dollars</u>	<u>Avg \$ Per Account</u>	<u>% of \$ > \$1,000</u>	<u>% of # of Accounts</u>
Business Accounts	14	\$ 38,004.16	\$ 2,714.58	41.4%	28.0%
Personal Accounts	36	\$ 53,725.65	\$ 1,492.38	58.6%	72.0%
Serious Medical Condition	2	\$ 2,550.73	\$ 1,275.37	2.8%	4.0%
Meter Tampering	5	\$ 7,286.40	\$ 1,457.28	7.9%	10.0%
Water Leaks	2	\$ 3,614.30	\$ 1,807.15	3.9%	4.0%
Returned Check Before Shutoff	3	\$ 5,057.42	\$ 1,685.81	5.5%	6.0%
# of Accounts with Deposits	49				98.0%

General Statistics

FY2018 Utilities Billed	\$ 29,679,635.00
% of writeoffs to amount billed for FY2018	1%
FY2012 Utilities Billed	\$ 23,170,779.00
% of writeoffs to amount billed for FY2018	1.20%
FY2011 Utilities Billed	\$ 24,066,425.29
% of writeoffs to amount billed for FY2018	1.16%
# of 2018 Disconnects for Non-payment	2,563
# of Utility Accounts Closed in 2018	1,796
# of Standard Utility Bills Mailed in 2018	100,585
# of Delinquent Utilitry Bills Mailed in 2018	26,870
# of Payment Agreements Per Year	5,952
2018 amount collected from debt set off on closed accounts	\$ 48,317.86

Deposit on Utility Account Statistics

Writeoff Accounts Opened with Deposits	96.8%
Writeoff Accounts Closed with Deposits	87.4%
Average \$ Amount of Deposit	240
Total # of Active Utility Accounts with Deposits	2428
Totla # of Active Utility Accounts	8382
Total % of Active Utility Accounts with Deposits	29.0%



**Town of Front Royal
Finance Department
102 E. Main St
Front Royal VA 22630
Phone: 540.635.7799
Fax: 540.635.2298**



Enclosed is an application for utility service connection or disconnection. Please complete the following steps to insure proper scheduling of your service request. Service connects/disconnects will only be completed on scheduled business days Monday – Friday. Please allow at least 10 days before request is due when mailing application, also it would be advised that you call to make sure the office received your mailed request. Applications received by noon can be processed during the same business day.

All information must be completed, and all signatures MUST be notarized, unless signed in presence of Finance Department staff in which case photo-identification will be required

Include written authorization from the property owner to obtain services in the name of such lessee or tenant; or provide copy of lease; or proof of ownership for recently conveyed property.

Include a \$5.00 processing fee for the transferring of services

A security deposit will be required unless a satisfactory credit letter is received from another utility provider for a period of at least 12 months or satisfactory credit established on prior utility with the Town of Front Royal. If a deposit is needed, the first installment of the deposit must be paid before the account opening. Please call the Finance Department to get the correct deposit amount due.

The following information **is required** when filling out the utility application:

- Applicant Name
- Service Address
- Mailing Address
- Valid Telephone Number
- Social Security Number or Taxpayer Identification Number
- Employment Information
- Applications made under a business name will require a personal guarantee of indebtedness or additional deposit amount.

If you have any questions or concerns, please don't hesitate to contact the Finance Department



Town of Front Royal Utility Application

Full Name _____

Service Address _____

Mailing Address _____

Social Security # or FIN # _____

Home Phone# _____ Cell Phone# _____

Co-Applicant's Full Name _____

Social Security # or FIN # _____

Home Phone _____ Cell Phone# _____

Applicant Employment Information (Not required for businesses)

___ Employed ___ Unemployed ___ Retired ___ Other _____

Employer Name _____

Work Address _____

Work Telephone _____

Have you had service with the Town of Front Royal previously

___ Yes ___ No

If yes, when & where?

Date you desire to have services connected _____

Do you Lease ___ or Own? ___ (Attach copy of lease, landlord authorization, or proof of ownership)

I (applicant and/or co-applicant) hereby request the Town of Front Royal to provide utility services at the above service location. I (applicant and/or co-applicant) agree to pay all charges for services rendered as a result of this request. I understand and agree that failure to pay any amount due to the Town of Front Royal may result in termination of services and legal action for the collection of such sums plus interest, court costs and legal expenses and fees. I have read and signed the Service agreement provided by the Town of Front Royal and have by signing the following document agrees to adhere to this document.

Signature (Applicant)

Signature (Co-Applicant)

Notary:

State of _____ City/County of _____

On _____

The individual(s) whose name is signed to the foregoing instrument appeared before me, acknowledged the foregoing signature to be his/hers, and having been duly sworn by me, made an oath that the statements in the said instrument are true.

My commission expires _____ Signature _____

Printed Name: _____



TOWN OF FRONT ROYAL VIRGINIA

Electric, Water, Sewerage, and Garbage Collection Service Agreement

This Service Agreement is made between the undersigned ("Customer") and the Town of Front Royal, Virginia.

In exchange for services described on Work Order No. _____, incorporated herein by reference, Customer agrees to the following:

DEPOSIT

For an existing residential service location, the deposit required for Town utility services shall be an amount equal to the highest monthly bill for that location during the preceding twelve months or one hundred and fifty (\$150.00), whichever is greater.

For an existing commercial service location, the deposit required for Town utility services shall be an amount equal to the highest monthly bill for that location during the preceding twelve months or two hundred dollars (\$200.00), whichever is greater.

To calculate the amount of the deposit for newly established residential or commercial service locations, the Front Royal Department of Finance shall establish the deposit at an amount equal to the customer's anticipated monthly usage of water and electric service, as may be the case. If, at any time, the customer's deposit is waived or returned, as set forth below, but the customer's service subsequently is terminated for nonpayment or the customer has made four late payments during any twelve month period, a deposit, in an amount as set forth above, shall be required.

DEPOSIT WAIVER

Notwithstanding the foregoing, no deposit shall be required when an acceptable credit history is furnished by the customer from a previous utility provider. Acceptable credit history is defined as a customer who can demonstrate that during the previous twelve months his/her bills were paid with no more than four (4) late payments on a monthly billing system or no more than two (2) late payments on a bimonthly system.

PAYMENT OF DEPOSIT

Payment of Deposit: Payment of the deposit is due upon execution of the service work order. In lieu of the foregoing, when the required deposit for a residential customer exceeds one hundred dollars (\$100.00) but is less than two hundred dollars (\$200.00), the customer may elect to pay one hundred dollars (\$100.00) at the time the work order is executed and pay the balance of the deposit along with payment for the first month's service. When the required deposit exceeds two hundred dollars (\$200.00), the deposit may be paid in two equal installments with one half due when the work order is signed and pay the remaining half along with the payment for the first month's service.

INTEREST AND REFUNDS

Deposits shall be held in an interest-bearing account.

Deposit plus interest shall be refunded either: (1) upon termination of the service account in an amount equal to the deposit and accrued interest minus any amount deducted to satisfy customer arrearages or other debts owing to the Town; or (2) upon the customer's request after a period of twelve months of service during which there were no more than four delinquent payments. Upon request of a refund, the Director of Finance shall first ensure that customer does not have any debts owing to the Town. If the customer is indebted to the Town, the Director of Finance will apply any refund toward satisfaction of these debts prior to the refund of any money to the customer.

COMPLIANCE WITH LAW

Customer agrees to comply with all local ordinances concerning these services including all new rate schedules and fees that the Town Council may adopt.

PAYMENTS

Due Date - Fines and Charges

All payments for water, sewer, electric, and garbage collection services shall be due within 20 days of the date of billing. Accounts, for which full payment is not received within 20 days, are delinquent. A late charge of 2% of the delinquent bill immediately shall be charged to the delinquent account. If the account remains delinquent for 10 days after the original notice, an additional service charge of \$10.00 shall be charged. Finally, a service charge will be required to reconnect service that has been discontinued due to non-payment. If the reconnection occurs during normal business hours, the reconnection fee shall be \$20.00-first reconnection fee; \$30.00-second reconnection fee; \$40.00-third reconnection fee; \$50.00-reconnection fee for all other times.

Place of Payment

Payments shall be made by mail, at the deposit box located near the drive-thru window at Town Hall (102 E Main St.), in person at the Department of Finance, at a Town designated bank, or using the Town of Front Royal's website www.frontroyalva.com

Customers may elect to sign up for the Town of Front Royal's auto-draft program to have the full amount of utility bill automatically deducted from a checking or savings account on the due date of the utility bill. Authorization forms are available from the Finance Department or www.frontroyalva.com

Allocation of Payments

During a delinquency in the payment for any service any subsequent payment received for services will be applied first against the most delinquent account which is not subject to a defense of any applicable statute of limitations.

Budget Billing

Notwithstanding the foregoing, the Director of Finance, in his discretion, may enter into agreements with customers for alternative billing and payment schedules with persons on fixed or limited incomes. Utility account to be enrolled must have one year of services and be in good credit standings. Budget billing payment contract must be signed annually by account holder. Monthly payment plan will be in effect for eleven (11) months beginning with the June billing, which is paid in July, and ending with the April billing, which is paid in May. The billing for May, which will have a due date of June, will be an actual bill with the actual readings and amount due brought forward. If three (3) or more payments are delinquent, the plan may be terminated.

TERMINATION OF SERVICES

Notice

The Director of Finance shall notify the customer in writing of all delinquencies, imminent service termination, and right to contest as set forth below. Notice also shall be posted on the door of the premise with the delinquent account.

Protest

The customer may contest the bill by contacting the Director of Finance for the Town of Front Royal who will immediately schedule a hearing on the customer's claim that his account is not delinquent.

Disconnection of Service

If the matter is not successfully contested by the customer and arrearages remain 10 days after the date of the aforementioned notices, water and electric service shall be disconnected. Notwithstanding the foregoing, no services shall be disconnected prior to a requested hearing.

Persons in Poor Health

Customer may seek an additional 30 days before water and electric services are disconnected if the Director of the Warren County Health Department certifies in writing to the Town of Front Royal Director of Finance that the customer has a serious medical condition or the customer resides with a family member with a serious medical condition. Upon providing certification the service termination may be delayed twice within a 12-month period, but may not be consecutive, certification shall be valid for period of 365 days. A Serious Medical Condition Certification Form can be obtained from the Department of Finance or www.frontroyalva.com

Conditions for Reconnection of Service

Once disconnected, services shall not be restored to that customer until the outstanding balance (service fee(s), penalty, and reconnection fee(s)) for that service location is paid in full, unless the Director of Finance, or designee, has approved other arrangements for payment in full.

RETURNED PAYMENT POLICY

If a payment is returned to the Town for any reason, the Director of Finance shall notify, in the same manner as provided above, the Customer. If payment, in full, plus a \$35.00 service charge is not received by the close of business three days after the date on the notice, all utility services to the customer's service location shall be disconnected. If the customer presents the Town with more than two bad checks during any twelve month payment, payment by check will no longer be accepted.

METER TAMPERING

Meter tampering is illegal, dangerous and is strictly prohibited. All known occurrences of meter tampering will result in immediate disconnection of service with or without prior notification. The Town of Front Royal will notify law enforcement of all instances of meter tampering and will assess a \$1,000 penalty. Tampering with or bypassing the Town of Front Royal's electric or water meter, or other instances of service diversion such as physically disorienting the meter, attaching objects to the meter to divert or bypass service or, insertion of objects into the meter, and other means of tampering shall be assessed a \$1,000 penalty. Necessary repairs, payment for delinquent services, payment for tampering penalty, and payment for illegal usage shall be made before service will be restored.

BUSINESS ACCOUNTS.

The Town shall require any entity not a natural person requesting a utility account to either: (1) provide the written personal guaranty of payment from a natural person holding an ownership interest in the entity or, (2) pay an additional deposit amount equal to the greater of: (a) twice the average monthly utility bill during the preceding twelve (12) month period for utilities provided at the service location or, (b) \$375.00. Any additional deposit paid pursuant to (2), above, after applying same to any past due balances, shall be refunded to the entity within a reasonable time after the utility account is closed.

PROOF OF INCOME

Customer shall furnish Town with documentation necessary to verify source of income to prove ability to pay average monthly utility bill for that location for the preceding 12 month period; such proof may include, pay stub, bank statement, copy of last year's federal tax return, wages and tax statement (W-2 and/or 1099's), pension payment, social security payment, child/spousal support agreement, and/or other documentation deemed acceptable.

By signing below, the Customer certifies that he/she has read this Service Agreement, fully understands this Service Agreement, is entitled to lawful possession of the premises to which this Agreement relates, and agrees to comply with its terms.

Signed: _____ Date: _____

Printed: _____

Signed: _____ Date: _____

Printed: _____

Notary:
State of _____ City/County of _____

On _____

The individual(s) whose name is signed to the foregoing instrument appeared before me, acknowledged the foregoing signature to be his/hers, and having been duly sworn by me, made an oath that the statements in the said instrument are true.

My commission expires _____ Signature _____



OWNER/LANDLORD AUTHORIZATION FORM

(Not required if valid lease presented)

AUTHORIZING TENANT TO OBTAIN SERVICES

WITH THE TOWN OF FRONT ROYAL

Pursuant to the Code of Virginia, Sections 15.2-2119 & 15.2-5139

Service Address: _____

Current Owner's Name(s): _____

Owner's Mailing Address _____

City, State, Zip: _____

Telephone# _____

Tenant's Name: _____

Tenant Move-In Date: _____

The Town of Front Royal must receive a copy of a valid lease or authorization from current owner prior to establishing new service account. This agreement authorizes the Town of Front Royal to provide:

(Check all that apply)

___ Electric Service

___ Water Service

___ Sewer Service

___ Garbage Service

To the above tenant, and to establish an account in the tenant's name.

Signature of Owner/Landlord: _____

Printed Name: _____

Date: _____



PERSONAL GUARANTY OF INDEBTEDNESS

(Required on business accounts, unless additional deposit is paid)

The undersigned Guarantor(s) in order to induce the Town of Front Royal to extend credit to applicant herein does hereby unconditionally personally guarantee all sums which may be owed by applicant, _____, to the Town of Front Royal, whether said indebtedness is due now or hereafter incurred. This Guaranty is continuing guarantor(s). The Town of Front Royal may joint or independently modify indebtedness, accept or release collateral, or release the undersigned Guarantor(s), any of all of which actions may be taken without to Guarantor(s). If the Guaranty is executed by more than one Guarantor, one or more Guarantors may be released, and such release shall not release the other Guarantor(s), and such release may be done without notice to the other Guarantor(s). The undersigned Guarantor(s) waive notice of execution of this Guaranty. Performance of this Guaranty shall be at Front Royal, Virginia.

This Guarantee shall remain in full force and effect until the earlier of (1) the termination of all Service Agreement between Town of Front Royal and applicant subject to this Guarantee, or (2) Sixty (60) days after Town of Front Royal's receipt of written notice of revocation of this Guarantee from Guarantor. Termination or revocation of this Guarantee shall not eliminate any liability or obligation of Guarantor relating to or arising out of any Obligations or transaction under or pursuant to Service Agreement occurring prior to the effective date of such termination, including, without limitation, subsequent interest, late charges, or balancing account adjustments.

Until all Obligations have been paid in full, Guarantor waives any rights to succeed to or enforce any rights which Town of Front Royal may have with respect to applicant or to any collateral which Town of Front Royal may have to secure payment of the Obligations. Until all Obligations have been paid in full, Guarantor shall not claim or enforce any right of subrogation, reimbursement, indemnity or any similar right against Town of Front Royal on account of any payment or action by Guarantor under this Guarantee. Guarantor waives all defenses based on any loss or deferral of such rights.

Guarantor waives the defense of the statute of limitations on any action hereunder or for the collection of any indebtedness or the performance of any of the Obligations hereby guaranteed.

This Guarantee shall be governed by, and construed in accordance with, the laws of the State of Virginia. Any and all litigation or alternative dispute resolution proceeding that may arise as a result of this Guarantee shall be brought and litigated in the courts of the State of Virginia.

Guarantor acknowledges that it is able to and will keep itself fully informed of applicant's financial condition and waives any responsibility of Town of Front Royal to inform Guarantor of any matter relating thereto.

Guarantor's
Signature _____ Printed Name _____

Address: _____

City/State/Zip: _____ Phone# _____

Social Security# _____ Date: _____

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Work Session Agenda Form

Item # 3

DATE: June 24, 2019

AGENDA ITEM: Code Enforcement Update

SUMMARY: During the June 24, 2019 Town Council Work Session, Town Staff will provide a presentation on the Code Enforcement Program to Town Council for information purposes and discussion.

BUDGET/FUNDING: No funding requested.

STAFF RECOMMENDATION: No action required.

Work Session

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Work Session Agenda Form

Item # 4

DATE: June 24, 2019

AGENDA ITEM: Fiscal Year 2020-2021 Budget Calendar

SUMMARY: The FY2020-21 budget calendar that staff is proposing provides preliminary budget discussions with Town Council beginning in August 2019. The first work session in January 2020 staff will provide Town Council with a list of major items that could possibly impact the budget, along with providing the proposed FY20-21 budget to council by February 1, 2020. This will allow three work sessions to discuss the proposed budget before council is requested to vote on the 2020 tax rates and a little more than 3 months before the second and final reading of the appropriation ordinance.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: Staff recommends for council to discuss any changes they would like to see to the FY2020-21 budget calendar.

Work Session

Fiscal Year 2020-2021 Proposed Budget Calendar

Aug 19, 2019	Council Work Session Discussion for FY21 Budget Goals
Sept 25, 2019	Finance Department distributes FY20 Budget forms to Departments (FY19 Figures provided will not be final/audited figures)
Sept 27 2019	Departments requests for 5 year CIP due to Finance with justifications
Oct 4, 2019	CIP related to properties sent to Planning Commission for Review
Oct 7 th -11 th	Review CIP with Departments
Oct 31, 2019	FY20 Departmental spending requests due back to Finance
Nov 13-20, 2019	Town Manager preliminary review spending with Departments
Dec 13, 2019	Mid-year FY20 Budget transfers due from departments
Jan 6, 2020	Work Session – review of capital projects & other possible major items that may be included in FY21 proposed budget
Jan 21, 2020	Revenue Forecast Review
Feb 3, 2020	Town Manager’s Recommended Budget to Town Council
Feb 3, 2020	Work Session. Revenues & General Fund Expenditures Review
Feb 18, 2020	Work Session – Review Enterprise Fund Expenditures and discuss tax rates to advertise for Real and Personal Property
Feb 18, 2020	Advertisement submitted for annual tax rate for Real and Personal Property – rate has to be set prior to April 1
March 2, 2020	Additional Budget Work Session (If requested)

Mar 9, 2020	Public Hearing & First Reading of Town Tax rates for both Real Estate and Personal Property
Mar 23, 2020	Second and Final Reading of Town Tax rates for both Real Estate and Personal Property
April 2, 2020	Advertisement submitted for Annual Appropriation Ordinance
April 27, 2020	Public Hearing & First Reading of Appropriations Ordinance and Rate Ordinances
May 4, 2020	Budget Work Session (If requested)
May 11, 2020	Second and Final Reading of Appropriation Ordinance and Rate Ordinances

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Work Session Agenda Form

Item # 5

DATE: June 24, 2019

AGENDA ITEM: Liaison Committee Agenda Items

SUMMARY: Council is requested to add items to the Liaison Committee Agenda for July 18, 2019.

The April 18 Liaison Committee Agenda is attached for your convenience.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: Council approves final items at the July 8, 2019 Regular Meeting

Work Session



TOWN/COUNTY LIAISON COMMITTEE MEETING AGENDA



**Town Hall Conference Chambers
102 E. Main Street
Thursday, April 18, 2019
6:00 p.m.**

Call to Order – William A. Sealock, Vice Mayor, Front Royal Town Council

- 1) IT Federal Main Street Project – Joe Waltz**
- 2) Route 522 Corridor Water Upgrade Project – Joe Waltz**
- 3) Crooked Run Water Request – Doug Stanley**
- 4) Phase II & III Happy Creek Road Project Update – Joe Waltz**
- 5) Property Maint. Code/Blighted and Derelict Structures – Joe Waltz**
- 6) WWTP Septage Receiving Station Issues Update – Joe Waltz**
- 7) Development Review Committee – Doug Stanley**
- 8) Building Inspections Software – Doug Stanley**
- 9) Warren County's In-Town Projects – Doug Stanley**
- 10) Joint Towing Board – Joe Waltz / Doug Stanley**

Adjournment

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Work Session Agenda Form

Item # 6

DATE: June 24, 2019

AGENDA ITEM: Planning Commission Terms Expire

SUMMARY: Two Planning Commission terms expire August 31, 2019.

- Darryl Merchant was appointed to an unexpired term June 11, 2018
- Connie Marshner was appointed to an unexpired term March 28, 2016.

They both would like to be considered for re-appointment. If re-appointed their terms would expire August 31, 2023.

BUDGET/FUNDING: N/A

STAFF RECOMMENDATION: Council would reappoint at the July 8, 2019 Regular Meeting.

Work Session