



**WINTERVILLE TOWN COUNCIL AGENDA
MONDAY, APRIL 12, 2021 - 7:00 PM
WINTERVILLE TOWN HALL ASSEMBLY ROOM
REMOTE VIA ZOOM**

- I. CALL TO ORDER.**
- II. INVOCATION.**
- III. PLEDGE OF ALLEGIANCE.**
- IV. WELCOME.**
- V. APPROVAL OF AGENDA.**
- VI. PROCLAMATIONS:**
 1. Rebuilding Together Month - April 2021
 2. Spring Litter Sweep Week - April 10-24, 2021
 3. Volunteer Appreciation Week - April 18-24, 2021
 4. Earth Day – April 22, 2021
 5. Arbor Day - April 30, 2021
 6. Municipal Clerks Week - May 2-8, 2021
- VII. PUBLIC COMMENT:** *The Public Comment period of thirty minutes provides an opportunity for residents to comment on any item included in the agenda or to address the Town Council on any other matter related to the Town of Winterville. For an item included in the Public Hearing section of the agenda, residents should address the Council at the time the Mayor invites public comment on the item. No public comment may be made to the Council during the meeting, except during the Public Comment period or as part of a Public Hearing. Individual speakers are limited to a maximum of three minutes, and no more than three speakers may address the Council on a single matter. The Town Council may elect to take no action on the matter addressed by a speaker, may schedule the matter for further consideration at a future Council meeting, or may refer the matter to Town staff for disposition. Copies of the Town Public Comment Policy are available in the rear of the Assembly Room.*
- VIII. CONSENT AGENDA:** *The following items are considered routine in nature and will not be discussed by the Town Council unless a Councilman or citizen requests that an item be removed from the Consent Agenda for further discussion. The Mayor may allow citizens to address an item or ask questions.*
 1. Approval of the following sets of Council Meeting Minutes:
 - March 8, 2021 Regular Meeting Minutes.
 2. Schedule Public Hearing for the Zoning Ordinance Amendments on May 10, 2021.
 3. Release and Refund of Taxes.
 4. Stop Sign and Speed Limit Ordinance (21-O-041) for Villa Grande and Eli's Ridge Subdivisions.

IX. OLD BUSINESS:

1. Human Relations Board By Laws.

X. NEW BUSINESS:

1. MetroNet Agreements
 - Letter Agreement.
 - Pole Attachment Agreement.
 - Right-of-Way Agreement
2. COLA Adjustment for Employees

XI. OTHER AGENDA ITEMS:

1. Downtown Parking (Councilman Moore).

XII. ITEMS FOR FUTURE AGENDAS/FUTURE WORK SESSIONS:

XIII. REPORTS FROM DEPARTMENT HEADS:

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Project - Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (BW)
- ❖ 2018 Sewer Rehabilitation (BW)
- ❖ Church Street Pump Station Rehabilitation Project (BW)
- ❖ Cemetery Expansion Project (BW)

XIV. ANNOUNCEMENTS:

1. Planning and Zoning Board Meeting: Monday, April 19, 2021 @ 7:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
2. Board of Adjustment Meeting: Tuesday, April 20, 2021 @ 7:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
3. CityVision 2021 Virtual Summit: Tuesday, April 20, 2021 @ 9:30 am – Thursday, April 22, 2021 @ 4:30 pm (Virtual Conference-See Attached Preliminary Agenda).
4. Town Council Closed Session for Manager's Evaluation: Monday, April 26, 2021 @ 5:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
5. Town Council and Manager Budget Progress Meeting: Monday, April 26, 2021 @ 6:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
6. Recreation Advisory Board: Tuesday, April 27, 2021 @ 6:30 pm - Town Hall Assembly Room (Electronic via ZOOM).

XV. REPORTS FROM THE TOWN ATTORNEY, MAYOR AND TOWN COUNCIL, AND TOWN MANAGER.

XVI. ADJOURN.

SPECIAL NOTICE: *Anyone who needs an interpreter or special accommodations to participate in the meeting should notify the Town Clerk, Don Harvey at (252) 215-2344 at least forty-eight (48) hours prior to the meeting. (Americans with Disabilities Act (ADA) 1991.).*



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Proclamations

Meeting Date: April 12, 2021

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: Proclamations - April 2021.

Action Requested: None.

Attachment: Proclamations.

Prepared By: Donald Harvey, Town Clerk

Date: 3/31/2021

ABSTRACT ROUTING:

TC: 4/6/2021

TM: 4/8/2021

Final: tlp - 4/8/2021

Supporting Documentation

Summary of the attached Proclamations:

1. **Rebuilding Together Month - April 2021:** the month to recognize Rebuilding Together Pitt County, dedicated for their help to low income homeowners with critical home repairs and modifications for accessibility and aging in place.
2. **Spring Litter Sweep Week - April 10-24, 2021:** to urge the residents of our community to participate in activities to commemorate this event and help make Winterville a more beautiful place to live, work, and play.
3. **Volunteer Appreciation Week - April 18-24, 2021:** a time to celebrate Volunteer Appreciation Week and to honor volunteers for the irreplaceable impact of their time and energy all year round.
4. **Earth Day - April 22, 2021:** to encourage all residents to join the Town in celebrating the earth, recognizing climate change as a challenge that needs solutions, and choosing small ways to combat climate changes each day.
5. **Arbor Day - April 30, 2021:** to urge all citizens to celebrate Arbor Day by planting trees to gladden the heart and promote the well-being of this and future generations and to support efforts to protect our trees and woodlands.
6. **Municipal Clerk Week - May 2-8, 2021:** to recognize and extend appreciation to Municipal Clerks for the vital services they perform and their dedication to the communities they represent.

Budgetary Impact: NA.

Recommendation: Allow Staff to present as a group and suggest not having Mr. Harvey read individually.



PROCLAMATION
Rebuilding Together Month - April 2021

WHEREAS, Rebuilding Together was founded in as a leading nonprofit in safe and healthy housing; and

WHEREAS, Rebuilding Together Pitt County has been transforming communities in Pitt County, NC; and

WHEREAS, Rebuilding Together Pitt County has been dedicated to helping low income homeowners with critical home repairs and modifications for accessibility and aging in place; and

WHEREAS, Rebuilding Together Month is our signature event and typically occurs in April. It is a day when affiliates from all parts of the country plan projects to celebrate the organization's mission and to bring attention to the plight of America's low-income homeowners; and

WHEREAS, Rebuilding Together has the goal to broaden public awareness of the need for home safety and accessibility modifications and advocate for the needs of low-income homeowners, particularly the elderly, disabled, and veterans; and

WHEREAS, teams of volunteers are mobilized to work in partnership with the community to repair the homes and improve the neighborhoods of our low income residents of Pitt County so they may continue to live in safety and independence; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville do hereby proclaim April 2021, as Rebuilding Together Month in Pitt County, NC, and urge all the people of the Town of Winterville to volunteer their time and support the projects and efforts of Rebuilding Together Pitt County during Rebuilding Together Month.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the great seal of the Town of Winterville, North Carolina this the 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



PROCLAMATION

Spring Litter Sweep Week - April 10-24, 2021

WHEREAS, the Town of Winterville is rich in beauty and natural resources; and

WHEREAS, the Town Council of the Town of Winterville strives to improve the quality of life in our community through enhanced community awareness, education, and the collaboration of public and private partnerships to work on projects that keep our environment clean and free of debris, beautify our neighborhoods and public spaces, and instill pride and a sense of ownership in our community; and

WHEREAS, citizens of Winterville realize a cleanup effort is needed to display pride in our community for ourselves, our visitors, and for business prospects; and

WHEREAS, all people, regardless of race, gender, income, or geography, have a moral right to a healthy, sustainable environment capable of economic growth; and

WHEREAS, the residents of the Town of Winterville have a citizenship responsibility to protect and care for the beauty and natural resources of Winterville, and a county-wide cleanup campaign will encourage individuals to participate in the improvement of their community's environment through the three main focus areas of litter prevention: waste reductions, recycling, and beautification; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby proclaim April 10-24, 2021 as Spring Litter Sweep Week and urge the residents of our community to participate in activities to commemorate this event and help make Winterville a more beautiful place to live, work, and play.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



PROCLAMATION

Volunteer Appreciation Week - April 18-24, 2021

WHEREAS, the celebration of Volunteer Appreciation Week, April 18-24, 2021, is a time to honor volunteers for the irreplaceable impact of their time and energy all year round; and

WHEREAS, Volunteer Appreciation Week is an opportunity to celebrate the impact of volunteer service and the power of volunteers to tackle society's greatest challenges, to build stronger communities and be a force that transforms the world; and

WHEREAS, Each year, we shine a light on the people and causes that inspire us to serve, recognizing and thanking volunteers who lend their time, talent and voice to make a difference in their communities; and

WHEREAS, Volunteer Appreciation Week was established in 1974 and has grown exponentially each year, with thousands of volunteer projects and special events scheduled throughout the week. Today, as people strive to lead lives that reflect their values, the expression of civic life has evolved; and

WHEREAS, all Americans are called to observe this week by volunteering in service projects across our country and pledging to make service a part of their daily lives; and

WHEREAS, experience teaches us that government alone cannot solve all of our nation's social problems, so we have focused on partnerships with businesses, faith-based organizations, non-profit organizations and individuals to make a difference; and

WHEREAS, the Town of Winterville believes that a tangible and sustained effort must be made to meet the diverse needs and challenges our residents may be facing because emergencies or economic crisis, and

WHEREAS, the Town of Winterville is committed to encouraging volunteerism among its employees, partners, businesses, organizations, and citizens; and

WHEREAS, volunteers are vital to our future as a caring and productive Town. Dozens of volunteers through non-profit charities and faith based organizations working in our community utilize their time and talents daily to make a difference in the lives of children, adults and the elderly, and

WHEREAS, on the celebration of Volunteer Appreciation Week, April 18-24, 2021, and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby honor the volunteers.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



PROCLAMATION
Earth Day – April 22, 2021

WHEREAS, on April 22, 1970, millions of people took to the streets to protect the negative impacts of 150 years of industrial development and, since then, millions of people have celebrated Earth Day in order to increase the awareness among people of the issues affecting the environment in which we live; and

WHEREAS, the Town of Winterville wishes to join all of the other environmentally- minded jurisdictions around the world celebrating Earth Day; and

WHEREAS, climate change represents the biggest challenge to the future of humanity and the life-support systems that make our world habitable, so this enormous challenge - but also the vast opportunities - of action on climate change have distinguished the issue as the most pressing topic; and

WHEREAS, the Town recognizes the benefit of promoting climate change awareness and the effect that even small changes can have on our climate, including: change lightbulbs to LEDs, replace HVAC filters every 3 months, unplug unused electronics, participate in the Town's recycling service, drink great quality tap water produced by the Town instead of buying bottled water, opt for reusable bags, decline plastic drinking straws, create a pollinator garden, plant a tree, shop and eat in Winterville.

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby proclaim Monday, April 22, 2021, as Earth Day and encourage all residents to join the Town in celebrating the earth, recognizing climate change as a challenge that needs solutions, and choosing small ways to combat climate change each day.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



PROCLAMATION
Arbor Day - April 30, 2021

WHEREAS, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

WHEREAS, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

WHEREAS, Arbor Day is now observed throughout the nation and the world, and

WHEREAS, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

WHEREAS, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

WHEREAS, trees in our Town increase property values, enhance the economic vitality of business areas, and beautify our community, and

WHEREAS, trees, wherever they are planted, are a source of joy and spiritual renewal; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby proclaim April 30, 2021 as Arbor Day in the Town of Winterville, and urge all citizens to celebrate Arbor Day by planting trees to gladden the heart and promote the well-being of this and future generations and to support efforts to protect our trees and woodlands.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



PROCLAMATION
Municipal Clerks Week - May 2-8, 2021

WHEREAS, the Municipal Clerk, a time honored and vital part of local government exists throughout the world, and

WHEREAS, the Municipal Clerk is the oldest among public servants, and

WHEREAS, the Municipal Clerk provides the professional link between the citizens, the local governing bodies and agencies of government at other levels, and

WHEREAS, the Municipal Clerk has pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all, and

WHEREAS, the Municipal Clerk serves as the information center on functions of local government and community, and

WHEREAS, the Municipal Clerk continually strives to improve the administration of the affairs of the Municipal Clerk through participation in education programs, seminars, workshops and the annual meetings of their state organization, and

WHEREAS, It is most appropriate that we recognize the accomplishments of the Municipal Clerk; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby recognize the week of May 2 through May 8, 2021, as Municipal Clerks Week, and further extend appreciation to our Town Clerk, Donald Harvey and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 12th day of April 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: April 12, 2021

Presenter: Donald Harvey, Town Clerk

Item to be Considered

Subject: Council Meeting Minutes.

Action Requested: Approval of Minutes.

Attachment: Draft Minutes of the Council meeting listed below.

Prepared By: Donald Harvey, Town Clerk

Date: 3/31/2021

ABSTRACT ROUTING:

TC: 4/6/2021

TM: 4/8/2021

Final: tlp - 4/8/2021

Supporting Documentation

Approval of the following set of Council Meeting Minutes:

- March 8, 2021 Regular Meeting Minutes.

Budgetary Impact: NA.

Recommendation: Approval of Minutes.



**WINTERVILLE TOWN COUNCIL
MONDAY, MARCH 8, 2021 – 7:00 PM
REGULAR MEETING MINUTES
REMOTE VIA ZOOM**

The Winterville Town Council met in a Regular Meeting on the above date at 7:00 PM in the Town Hall Assembly Room, with Mayor Douglas A. Jackson presiding. The following were present:

Douglas A. Jackson, Mayor (remote)
Richard (Ricky) E. Hines, Mayor Pro Tem
Tony P. Moore, Councilman
Johnny Moye, Councilman
Veronica W. Roberson, Councilwoman
Mark C. Smith, Councilman
Keen Lassiter, Town Attorney
Terri L. Parker, Town Manager
Ben Williams, Assistant Town Manager
Ryan Willhite, Police Chief
David Moore, Fire Chief
Robert Sutton, Electric Director
Anthony Bowers, Finance Director
Evan Johnston, Parks and Recreation Director
Bryan Jones, Planning Director
Donald Harvey, Town Clerk

CALL TO ORDER: Mayor Jackson called the meeting to order.

INVOCATION: Councilman Moore gave the Invocation.

PLEDGE OF ALLEGIANCE: Mayor Jackson introduced a video provided by the Girl Scouts reciting the Pledge of Allegiance.

WELCOME: Mayor Jackson welcomed the public.

APPROVAL OF AGENDA:

Motion made by Mayor Pro Tem Hines and seconded by Councilman Smith to approve the agenda as presented. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

PROCLAMATIONS:

Town Clerk Harvey read the following Proclamations:

1. Women's History Month:



PROCLAMATION
Women's History Month

WHEREAS, American women of every race, class, and ethnic background have made historic contributions to the growth and strength of our Nation in countless recorded and unrecorded ways; and

WHEREAS, American women have played and continue to play critical economic, cultural, and social roles in every sphere of the life of the Nation by constituting a significant portion of the labor force working inside and outside of the home; and

WHEREAS, American women have played a unique role throughout the history of the Nation by providing the majority of the volunteer labor force of the Nation; and

WHEREAS, American women were particularly important in the establishment of early charitable, philanthropic, and cultural institutions in our Nation; and

WHEREAS, American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement; and

WHEREAS, American women have served our country courageously in the military; and

WHEREAS, American women have been leaders, not only in securing their own rights of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements, especially the peace movement, which created a more fair and just society for all; and

WHEREAS, despite these contributions, the role of American women in history has been consistently overlooked and undervalued, in the literature, teaching and study of American history; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby designate March as "Women's History Month" honoring the contribution and legacy of women.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 8th day of March 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk

2. Girls Scouts Week 2021:



PROCLAMATION
Girl Scout Week 2021

WHEREAS, March 12, 2021 marks the 109th anniversary of Girl Scouts of the USA, the largest and most successful leadership program for girls in the world; and

WHEREAS, as the world's premier leadership development organization for girls, Girl Scouts has emphasized public service, civic engagement, and fostering a sense of community in girls for over a century; and

WHEREAS, Girl Scouts works to champion the ambitions, cultivate the talents, and develop the skills of girls to be leaders in their own world, and in ours; and

WHEREAS, in these incredibly challenging times, Girl Scouts provides community, consistency, and connection for girls, and is a safe haven in all the uncertainty; and

WHEREAS, in the time of COVID-19, Girl Scouts offers girls skill-building digital programming and experiences girls can participate in safely from home as they continue their Girl Scout journeys; and

WHEREAS, at a time when civics education is missing from many schools, Girl Scouts has introduced new K-12 Civics badges to bring girls more experiences that deepen their understanding of democracy and government, prepare them for a lifetime of civic engagement, and motivate them to be catalysts for change; and

WHEREAS, Girl Scouts offers girls 21st century programming in science, technology, engineering, and math (STEM); the outdoors; entrepreneurship; and beyond, helping girls develop invaluable life skills and take the lead early and often; and

WHEREAS, Gold Award Girl Scouts already take on projects that have a measurable and sustainable impact on a community by first assessing a need, designing a solution, completing a project, and inspiring others to sustain it; and

WHEREAS, today, more than 50 million women are Girl Scout alums; and

WHEREAS, Girl Scouts – North Carolina Coastal Pines serves girls across Central and Eastern North Carolina; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby applaud the Girl Scout Movement and Girl Scouts – North Carolina Coastal Pines for providing girls with a safe, inclusive, all-girl space where they can hone their skills and develop leadership abilities, and I declare the second week of March to be Girl Scout Week in Winterville, North Carolina.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 8th day of March 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk

3. Pastor Darron Carmon:



PROCLAMATION
Pastor Darron Carmon

WHEREAS, Pastor Carmon has reached beyond the doors of ministry and into the streets of our local community; and

WHEREAS, Pastor Carmon has demonstrated an extraordinary commitment to the needs of the community during this worldwide crisis; and

WHEREAS, Pastor Carmon stepped up and formed a team of essential workers during the pandemic; and

WHEREAS, Pastor Carmon has provided hot meals and care packages reaching more than hundreds affected during this ongoing pandemic; and

WHEREAS, Pastor Carmon has preached a renowned word to give hope as well as resources to those in trouble when words cannot explain nor express the dynamic impact he has made on the communities near and far; and

WHEREAS, Pastor Carmon has started a mentoring program called Sikono, which is Greek for lift up. Within this program, he works closely with kids that range from three years old to young adult which has a breathtaking 100% success rate; and

WHEREAS, Pastor Carmon has started a gun awareness program called "Winning Without Violence", which educates our children on the wrong and right uses of a weapon; and

WHEREAS, Pastor Carmon focuses to be proactive and to educate our youth now to save a life later; and

WHEREAS, Pastor Carmon was instrumental in the founding of "People Against Racism", which has spoken to issues that most do not like to speak about; and

WHEREAS, Pastor Carmon has gracefully pioneered the success of two murals which has brought peace, unity, and togetherness to the community; and

WHEREAS, Pastor Carmon includes everyone and most of all loves everyone, and is a well honored man for all his hard work and dedication to his church and community; and

WHEREAS, we celebrate Pastor Carmon as a Hero of the Year of 2021 in recognition for his outstanding performance and service; and

NOW THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville hereby deem it an honor and pleasure to extend this Proclamation of Recognition in celebrating Pastor Darron Carmon.

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 8th day of March 2021.

Douglas A. Jackson, Mayor

Attest:

Donald Harvey, Town Clerk

4. Month of the Young Child and Week of the Young Child Week:



PROCLAMATION
Month of the Young Child and Week of the Young Child

WHEREAS, the Martin-Pitt Partnership for Children, in conjunction with the North Carolina Association for the Education of Young Children (NCAEYC) and National Association for the Education of Young Children (NAEYC), are celebrating the Week of the Young Child, April 10-16, 2021; and

WHEREAS, these organizations are working to promote and inspire high quality early childhood experiences for our city's youngest citizens, that can provide a foundation of learning and success for children in Winterville, North Carolina; and

WHEREAS, teachers and others who work with or on behalf of young children birth through age five, who make a difference in the lives of young children in Winterville, North Carolina deserve thanks and recognition; and

WHEREAS, public policies that support early learning for all young children are crucial to young children's futures and to the prosperity of our society; and

WHEREAS, all young children and their families across the country and in Winterville, North Carolina deserve access to high-quality early education and care; and

WHEREAS, in recognizing and supporting the people, programs, and policies that are committed to high-quality early childhood education as the right choice for kids; and

NOW, THEREFORE, I, Douglas A. Jackson, Mayor of the Town of Winterville, do hereby proclaim April 2021 as "Month of the Young Child" and April 10-16, 2021 as "Week of the Young Child" in Winterville, North Carolina and commend observance to all citizens; and

IN WITNESS WHEREOF, I do set my hand, and cause the seal of Winterville to be affixed this 8th day of March 2021.

Douglas A. Jackson, Mayor

Attest

Donald Harvey, Town Clerk

PUBLIC HEARINGS:

1. Eli's Ridge, Phases 1 and 3 (Storm Water Detention Area) - Annexation. Planning Director Jones gave the following presentation:

Town of
WINTERVILLE
A slice of the good life!

Town Council– March 8, 2021

**ELI'S RIDGE, PHASES 1 AND 3
(Stormwater Detention Area)
Annexation**

Presenter:
Bryan Jones,
Planning Director



Town of
WINTERVILLE
A slice of the good life!

Eli's Ridge, Phases 1 and 3 - Annexation

- Applicant/Petitioner: Bill Clark Homes of Greenville, LLC
- Location: Worthington Road east of its intersection with Old Tar Road
- Parcel Number: Portion of Parcel 25777
- Site Data: 10.03 acres
- Zoning District: R-10



NOTIFICATIONS:

- Adjacent properties owners were mailed notification of the Public Hearing for annexation on February 22, 2021.
- Notice of the Public Hearing for annexation was published in the Daily Reflector on February 24, 2021 and March 3, 2021.



PUBLIC HEARING
(Effective 3/31/2021)



Mayor Jackson declared the public hearing open, asked if anyone would like to speak in favor of the annexation request. Council discussed particulars of the annexation. Landon Weaver, representing Bill Clark Homes of Greenville, LLC spoke in favor of the annexation. Mayor Jackson asked if anyone would like to speak in opposition of the annexation request. There were none.

Mayor Jackson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

Motion made by Mayor Pro Tem Hines and seconded by Councilman Smith to approve the annexation of Eli's Ridge, Phases 1 and 3 (Storm Water Detention Area), subject to the 24-hour public comment period. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

***(Note to the minutes) No comments were received within 24 hours of the conclusion of the meeting, thus the annexation of Eli's Ridge, Phases 1 and 3 (Storm Water Detention Area) motion is approved.**

PUBLIC COMMENT: None.

CONSENT AGENDA:

Items included in the Consent Agenda:

1. Approval of the following set of Council Meeting Minutes:
 - February 8, 2021 Regular Meeting Minutes.
2. Budget Amendment 2020-2021-3.

Motion made by Councilman Moore and seconded by Councilwoman Roberson to approve the consent agenda. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

NEW BUSINESS:

1. Pitt County Human Relations Commission – Appoint Member.

Below is the letter from D. Scott Elliott, Pitt County Manager extending an opportunity for the Town of Winterville to appoint a municipal representative to the County's newly created Human Relations Commission. Also attached is a copy of the Ordinance Establishing the Pitt County Human Relations Commission.



**PITT COUNTY
OFFICE OF THE COUNTY MANAGER**

1717 W. 5TH STREET
GREENVILLE, NORTH CAROLINA 27834-1696
TELEPHONE: (252) 902-2950 FAX: (252) 830-6311

D. Scott Elliott
County Manager
scott.elliott@pittcountync.gov

January 25, 2021

Terri Parker, Town Manager
Town of Winterville
PO Box 1459
Winterville, NC 285950

Dear Terri:

The Pitt County Board of Commissioners would like to extend the opportunity to the Town of Winterville to appoint a municipal representative to the County's newly created Human Relations Commission (HRC). Of the 21 seats created by the Board of Commissioners, ten seats are designated to represent each of Pitt County's municipalities.

At this point we are just in the initial phase of advertising for the remaining designated seats. Please take this before the Council and ask for their consideration on this appointment. For your reference, I am attaching a copy of the ordinance that established the County's HRC.

Thanks in advance!

A handwritten signature in black ink that reads "D. Scott Elliott".

D. Scott Elliott, County Manager

Attachment

rcvd 2/25/2021
HP

ORDINANCE ESTABLISHING PITT COUNTY HUMAN RELATIONS COMMISSION

Be it ordained by the County of Pitt, North Carolina, as follows:

Section 1. In Pitt County we seek to strive for a community in which the dignity and worth of each individual is respected on his/her own merits, a community in which genuine equality of opportunity for all persons is a recognizable fact. A Commission is hereby created to identify concerns in the area of human relations, make recommendations regarding these issues and engage in activities which shall effectively; (a) promote equality in such areas as economic, educational, governmental and cultural life of the community for all citizens without regard to race, creed, national origin, sex, age, sexual orientation or disability, and work to eliminate discrimination on any of these bases; (b) encourage fair treatment and mutual understanding and respect among all citizens; (c) discover and seek to counter practices and customs which create animosity and unrest; and (d) make recommendations to the appointing authority for action it deems necessary for harmonious relationships among the citizens.

Section 2. There is hereby created a Human Relations Commission for the County of Pitt (HRC). It shall consist of twenty-one (21) members appointed by the Pitt County Board of Commissioners serving without compensation:

- Ten (10) representatives, one from each of Pitt County's municipalities,
- One (1) representative of law enforcement
- One (1) representative of the Department of Social Services
- One (1) representative from the Latinx community
- One (1) representative from the African American community
- One (1) representative from the Asian American Community
- One (1) representative from the LGBTQ community
- One (1) representative from Public Health
- One (1) representative from the faith community
- One (1) representative from Pitt County Board of Commissioners
- Two (2) members at-large

A majority of seats filled shall constitute a quorum for the transaction of business. Of the twenty-one (21) members first appointed, 7 shall be appointed for one year, 7 for two years, and 7 for three years. Thereafter, all appointments to the HRC shall be for a term of three years. Appointments are subject to the Pitt County Board Appointment Policy. In the event of the death, resignation or removal of any member, his/her successor shall be appointed by the Pitt County Board of Commissioners to serve for the unexpired period of the term for which such member had been appointed, provided however, that all members shall continue in office until their successors shall have been appointed. It is encouraged that members appointed by the Pitt County Board of Commissioners be actively engaged with an organization advancing inclusivity in the community.

Section 3. The HRC at its organizational meeting and each annual meeting thereafter shall elect from its membership: a Chair, Vice Chair; and Secretary for a term of one year. These officers shall have and perform such duties as are commonly associated with their respective titles and shall be and

constitute the executive committee of the HRC which shall exercise such powers of the HRC between its regular meetings as may be authorized by the HRC. The HRC shall be further authorized to appoint and determine the membership of such number of standing and temporary committees as it may find expedient for the performance of its duties.

Section 4. The Human Relations Commission shall meet at least once each month at such time and place as shall be determined by the HRC in its bylaws. Special called meetings may be called by the Chair and noticed in accordance with law. An emergency meeting may be called by the Chair because of generally unexpected circumstances that require immediate consideration by the Human Relations Commission.

Section 5. The functions, powers, and duties of the HRC shall be as follows:

- a. Study and recommend strategies for the prevention of potential human relations problems and crises and the promotion of good relations.
- b. Identify, study and document areas of human need (housing, employment, education, transportation, etc.) in the County and recommend strategies for meeting those needs.
- c. Endeavor to make the Human Relations Commission itself a model of good human relations at work.
- d. Prepare and submit at least annually a report to the Pitt County Board of Commissioners.
- e. Cooperate with State, Federal and local governmental agencies.
- f. Communicate regularly the work, observations and recommendations of the Human Relations Commission to the Pitt County Board of Commissioners.
- g. Advise the Pitt County Board of Commissioners of recommended actions to aid and carry out the purposes of this Ordinance.
- h. Promote and provide training/workshops for community advancement.
- i. Advocate for equal employment opportunity.
- j. Promote and provide education on equal housing opportunity.
- k. Perform duties assigned by the Pitt County Board of Commissioners.
- l. Provide opportunities for meaningful discussion on human relations throughout the community.
- m. Provide information and referrals related to Human Relations issues.

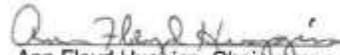
Section 6. The services of all other county departments and agencies shall be made available to the HRC for the carrying out of the functions herein stated.

Section 7. If any section of this Ordinance be held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, then such section shall be considered separately from the remaining provisions of this Ordinance; said section to be completely severable from the remaining provisions of this Ordinance and the remaining provisions of this Ordinance shall remain in full force and effect.

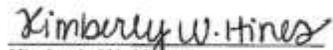
Section 8. That all Ordinances, or the parts of Ordinances, in conflict with this Ordinance, are hereby repealed to the extent of such conflict.

Section 9. That this Ordinance shall be effective upon adoption by the County of Pitt from and after its passage.

Adopted this the 11th day of January, 2021.


Ann Floyd Huggins, Chairwoman
Pitt County Board of Commissioners

Attest:


Kimberly W. Hines
Clerk to the Board



Mayor Jackson asked for any further discussion or any more questions. Hearing none what is the Board's pleasure.

Motion made by Mayor Pro Tem Hines and seconded by Councilman Smith to appoint Councilman Moore to the Pitt County Human Relations Commission. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

2. Eli's Ridge, Phases 1 & 2 - Final Plat. Planning Director Jones gave the following presentation.

**Eli's Ridge, Phases 1 and 3
Final Plat**

Presenter:
Bryan Jones,
Planning Director

Site Data

- Location: Worthington Road east of its intersection with Old Tar Road
- Parcel Number: 86615, 25777
- Site Data: 42 Lots, 25.7776 acres
- Zoning District: R-10



Staff Recommendation:

- Approval of the Final Plat



Council and Staff discussed the particulars of the final plat including retention pond, flooding, maintenance, and HOA responsibilities. Landon Weaver with Bill Clark Homes of Greenville, LLC addressed flooding and FEMA process.

Mayor Jackson asked for any further discussion or questions. Hearing none what is the Board's pleasure.

Motion made by Mayor Pro Tem Hines and seconded by Councilman Smith to approve Eli's Ridge, Phases 1 & 2 - Final Plat. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

3. Villa Grande, Phase 2 – Final Plat. Planning Director Jones gave the following presentation.

**Villa Grande, Phase Two
Final Plat**

Presenter:
Bryan Jones,
Planning Director



Site Data

- Location: Red Forbes Road north of its intersection with NC 903 S
- Parcel Number: 82581, 10262
- Site Data: 55 Lots, 26.10 acres
- Zoning District: R-10



History of Site:

- Preliminary Plat was approved by Town Council on May 14, 2018.
- Construction Plans approved by Winterville DRC on October 22, 2018.
- Final Plat unanimously recommended for approval by Planning and Zoning Board on February 15, 2021.





Staff Recommendation:

- Approval of the Final Plat



Council and Staff discussed the particulars of the final plat including berms, and common areas.

Mayor Jackson asked for any further discussion or questions. Hearing none what is the Board's pleasure.

Motion made by Mayor Pro Tem Hines and seconded by Councilman Moye to approve Villa Grande, Phase 2 – Final Plat. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

4. Standard Construction Specifications and Details Update. Assistant Town Manager gave the following presentation.

Council entered into an agreement with the Wooten Company for updating the Town's existing Standard Specifications Manual and Details for Water, Sewer, Roadways and Storm Drainage Systems. The previous Manual was outdated, and staff did not have any way to modify it or update as needed.

The purpose of the Manual is to provide a standard guideline to the contractor, developer and engineer for the design and construction of water and wastewater utility system extensions that will become a part of the Town of Winterville's water and wastewater systems. In addition, the manual also provides guidelines to the design and construction of stormwater drainage systems, pedestrian walkways, and roadway structures. The publication serves to consolidate the multitude of information on policy, design, materials, construction and standard detail drawings used by the Town. The materials, design and construction standards contained within the Manual are established as the minimum for water and sewer extensions which will be accepted for ownership and maintenance by the Town. It is the intent and purpose of the Manual to explain the requirements of the Town relating to utility system extensions such that all can comprehend these requirements and to provide a consistent, orderly, and sound extension of the Town's utility systems. Finally, the Manual contains the minimum design criteria for stormwater drainage and construction requirements for roadway designs, as well as standard details to be included on preliminary and final plats.

The Town has been provided with a new comprehensive manual in an editable format. The consultant has also provided a pdf that can be distributed to local developers, engineers, and contractors, as well as added to the Town's website for easy access

Mayor Jackson asked for discussion or questions. Hearing none what is the Board's pleasure.

Motion made by Councilwoman Roberson and seconded by Councilman Smith to approve the Standard Construction Specifications and Details Update. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

OTHER AGENDA ITEMS:

1. Municipal Elections (Councilwoman Roberson).

Delays in receiving Census data, a key information required for redistricting, threw the municipal elections calendar into doubt and has prompted the state's elections board to recommend that all municipal elections be moved to 2022. The issue, explored this week in an Advancing Advocacy educational session held by the NC League of Municipalities, became more acute with the recent announcement by the U.S. Census Bureau that redistricting data would not be available until September 30th. Receiving data this late in the year will not allow time for the cities that must redistrict to complete that process and hold elections this fall as planned. Around four dozen municipal boards

use “true electoral districts” and are constitutionally required to redistrict when their districts’ populations become unbalanced following a census. The elections calendar complications in those municipalities, however, could sweep up other municipal races on the ballot this fall. To that end, a recommendation was made by the executive director of the State Board of Elections would, if enacted by the N.C. General Assembly, move all municipal elections to 2022, whether or not they were required to redistrict. Cities and Towns oppose such a one-size-fits-all recommendation, and several members of the state elections board, as well as some legislators, voiced concerns. Consideration of voter interest and election fairness should be the highest priority in determining how best to address the effects of census data delays on local elections. It is likely that the legislature will act to alter the elections calendar for at least those cities that use “true electoral districts.” At the same time, and for the same reasons related to Census data delays, the legislature will likely have a need to push back its own elections calendar, which currently has the filing period beginning in December for races on the ballot in 2022.

DRAFT

Town of Winterville
Don Harvey, Town Clerk
PO Box 1459
Winterville, NC 28590

March 4, 2021

Dear Town Clerk:

We have calculated the Town of Winterville's estimated costs for the 2021 Municipal Election to be \$9,723.95. This estimate is based on the maximum utilization of all possible resources. If the Town of Winterville wishes to host an additional One-Stop site, the estimated cost of said site is \$6,588.24; bringing the total estimate to \$16,312.19.

Additional sites must be approved by the Pitt County Board of Elections, who will determine the locations and hours of operation. If the Town of Winterville wishes to host any additional One-Stop sites, please let me know and I will present it to the Board for their consideration.

Important dates for the election are:

- Candidate filing: July 2 to July 16
- Absentee mail-out begins: October 1
- One-Stop early voting: October 14 to October 30
- Election Day: November 2
- Canvass: November 12

On the enclosed form, verify the current elected officials and their years of election. If there are any errors, please provide us with the correct information. Also, indicate the filing fees that are to be charged to candidates for the 2021 election.

If you have any questions please feel free to contact me.

Sincerely,

David P. Davis



Town of Winterville

Office	Elected Official	Last Election	Next Election	Correct?
Mayor	Douglas (Doug) Jackson	2017	2021	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council	Ricky Hines	2019	2023	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council	Tony P. Moore	2019	2023	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council	Johnny Moye	2017	2021	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council	Veronica W. Roberson	2019	2023	<input type="checkbox"/> Yes <input type="checkbox"/> No
Council	Mark C. Smith	2017	2021	<input type="checkbox"/> Yes <input type="checkbox"/> No

Office	Previous Filing Fee	2021 Filing Fee
Mayor	\$25.00	
Council	\$12.00	

§ 163-294.2. Notice of candidacy and filing fee in nonpartisan municipal elections.

(e) The filing fee for the primary or election shall be fixed by the governing board not later than the day before candidates are permitted to begin filing notices of candidacy. There shall be a minimum filing fee of five dollars (\$5.00). The governing board shall have the authority to set the filing fee at not less than five dollars (\$5.00) nor more than one percent (1%) of the annual salary of the office sought unless one percent (1%) of the annual salary of the office sought is less than five dollars (\$5.00), in which case the minimum filing fee of five dollars (\$5.00) will be charged. The fee shall be paid to the board of elections at the time notice of candidacy is filed.

Signature of authorizing agent

Date

Title of authorizing agent

Council discussed the particulars of the 2021 municipal elections.

Motion made by Mayor Pro Tem Hines and seconded by Councilman Moore that the 2021 filing fees be the same as the previous filing fees. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

Motion made by Councilman Moore and seconded by Mayor Pro Tem Hines to send a letter to all representatives requesting that the 2021 municipal elections be held as scheduled. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

Motion made by Councilwoman Roberson and seconded by Mayor Pro Tem Hines to send a letter to the Pitt County Board of Elections that One-Stop voting be held only in the Community Room for one (1) week, dependent on any overriding State Regulations. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moye, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

ITEMS FOR FUTURE AGENDA/FUTURE WORK SESSIONS:

Councilman Moore raised the question on the uses of stimulus money.

Mayor Jackson noted the death of long time Planning and Zoning Board member Robert Briley.

REPORTS FROM DEPARTMENT HEADS:

- ❖ Minimum Housing/Code Enforcement (TLP)
- ❖ Tar Road Widening Project – Electric Engineering/Relocation (RS)
- ❖ New Electric Territory Project - Engineering/Installation (RS)
- ❖ Fork Swamp Greenway Project (EJ)
- ❖ Multi-Purpose Building Site Plan (EJ)
- ❖ Winterville Market/Town Common Plan (BW)
- ❖ Chapman Street Culvert - Nobel Canal Drainage Basin Study (BW)
- ❖ 2018 Sewer Rehabilitation (BW)
- ❖ Church Street Pump Station Rehabilitation Project (BW)
- ❖ Cemetery Expansion Project (BW)

Town Manager Parker discussed code enforcement efforts, grass mowing procedures, mowing the railroad track area, and nuisances being impacted.

Assistant Town Manager Williams noted that the railroad crossings will all be open tomorrow morning, and that Laurie Ellis Road potholes are a mess. He has been in contact with NCDOT to give attention to those pothole issues.

Councilman Moye asked about cleaning around fire hydrants. Town Manager Parker noted that this is the homeowner's responsibility.

Councilman Moore asked about fixing holes along Railroad Street. Assistant Town Manager Williams noted they we will contact the railroad to attempt to get some cost sharing.

Councilwoman Roberson noted it is difficult to pass a car where parked vehicles are on some streets.

Motion made by Councilman Moore and seconded by Mayor Pro Tem Hines to schedule the Town Manager review, in closed session, for Monday, April 26, 2021 at 5:00 pm. The poll vote

results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moyer, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0

The Budget Progress meeting will follow at 6:00 pm.

ANNOUNCEMENTS: Town Clerk Harvey gave the following announcements.

1. Daylight Saving Time Begins Sunday, March 14, 2021 - turn clocks forward one hour.
2. Planning and Zoning Board Meeting: Monday, March 15, 2021 @ 7:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
3. Board of Adjustment Meeting: Tuesday, March 16, 2021 @ 7:00 pm - Town Hall Assembly Room (Electronic via ZOOM).
4. Recreation Advisory Board: Tuesday, March 23, 2021 @ 6:30 pm - Town Hall Assembly Room (Electronic via ZOOM).
5. Town Offices Closed: Friday, April 2, 2021 for Good Friday Holiday.

REPORTS FROM THE TOWN ATTORNEY, MAYOR, AND TOWN COUNCIL, AND TOWN MANAGER:

Attorney Lassiter: None

Councilman Moyer: Youth Council has \$2,500 funds available for use, what is the status? Town Manager Parker noted that no progress this year due to Covid-19, will be looking at ways to proceed.

Councilman Smith: None

Mayor Pro Tem Hines: B-IMPACT has been working with ECU Brody School to administer 100 vaccinations at Pastor Carmon's Rebuild Christian Center Church on Jones Street on March 11th, from 9am-1pm. The vaccines will target historically marginalized communities that cannot get to other sites. They will be back in 28 days for the 2nd shot.

Councilwoman Roberson: The Library has a new Wi-Fi system for public use, they can change the hours it is operational. She noted the police had helped with domestic situations this month. She contacted County Commissioner White with a tax situation, and it was solved.

Councilman Moore: Talked with James Rhodes to get a whole County Commissioner and State House Representatives not split in the Town. Buildings bought along Railroad Street for restaurants, we need to look at improvements to the noise ordinance. He thanked the police with junk cars removal. Town Manager Parker said it is the time of year to ramp up those activities. He also noted that the railroad track pedestrian crossings downtown need improvements.

Councilman Moyer asked if Economic Development efforts help our Town. Town Manager Parker said Staff has worked hard to make improvements.

Mayor Pro Tem Hines said his neighbors in Manchester Subdivision have a desire and the problem for speed bumps. He noted to be careful traveling through neighborhoods. Town Manager Parker said a petition would be the best process. Police and Public Works then look at an area and make a recommendation.

Councilman Smith asked for an update status and opening of Town buildings. Town Manager Parker referenced her vaccine email, the status update, and that we continue to follow Governor's Executive Orders.

Councilwoman Roberson asked about speed bumps and the different kinds. Assistant Town Manager Williams said we have tried different kinds for different places, and costs. Councilman Smith asked Staff to check Primrose Lane speed bump bolts coming up. Assistant Town Manager Williams said he would check, move some around, and make repairs as needed.

Manager Parker: Updated the partial reopening of Town offices, Human Resources has ramped up to fill open positions. Councilman Moyer asked about the summer work program, status. Town Manager Parker noted we have the funding; however, people are not interested when they hear the type of work. The program runs June, July, and August, 15-25 hours per week. Council discussion followed on the Summer Work Program.

Mayor Jackson: None

ADJOURN:

Motion made by Mayor Pro Tem Hines and seconded by Council Moore to adjourn the meeting. The poll vote results are as follows: Mayor Pro Tem Hines, yes; Councilman Moore, yes; Councilman Moyer, yes; Councilwoman Roberson, yes; and Councilman Smith, yes. Motion carried unanimously, 5-0. Meeting adjourned at 9:14 pm.

Adopted this the 12th day of April 2021.

Douglas A. Jackson, Mayor

ATTEST:

Donald Harvey, Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: April 12, 2021

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Zoning Ordinance Amendments.

Action Requested: Schedule Public Hearing for the Zoning Ordinance Amendments on May 10, 2021.

Attachment: Zoning Ordinance Amendments Summary.

Prepared By: Bryan Jones, Planning Director

Date: 3/31/2021

ABSTRACT ROUTING:

TC: 4/6/2021

TM: 4/8/2021

Final: tlp - 4/8/2021

Supporting Documentation

Zoning Ordinance Amendments

Planning Staff is recommending the following amendments be made to the Zoning Ordinance:

- Mini-Warehouses: remove from all zoning districts except Industrial (I) and add “Self-Storage Units” to the use type description for clarification.
- Remove reference to Pitt County (“County of Pitt”) in Section 14.2. This language was still included in the Ordinance from when the County administered building inspections within the Town’s jurisdiction.
- Add language to “SR 23. ABC Sales for On Premise Consumption; Bars” to exclude property within the Central Business District from separation requirements.
- Add “Section 10.5 – Multifamily Residential Design Standards”. This section provides design and configuration requirements for multi-family developments.

**Planning and Zoning board unanimously recommended approval of the Zoning Ordinance Amendments.

Budgetary Impact: TBD.

Recommendation: Schedule the Public Hearing for May 10, 2021.



ZONING ORDINANCE AMENDMENTS - SUMMARY

~~Text Removed~~ (red letter/strike through)

Text Added/Amended (bold/highlighted)

Section 6.4 – Table of Permitted and Special Uses (Business, Professional & Personal Services)

- “Mini Warehouses”
 - Only allow in Industrial Zoning District (permitted by right in I)
 - Add “Self-Storage Units” to Use Type description
 - Change SR 21 – Remove “MR Residential District”

USE TYPES	LUC	SIC	A-R	R-20	R-15	R-12.5	R-10	R-8	R-6	M-R	O-I	C-B	G-B	I-C	C-N	I	SR
Business, Professional & Personal Services																	
mini-warehouses, self-storage units	4	0000								S		X	X	X	X	X	21

SR 21. Mini-Warehouse/Self-Storage Units****

~~In the MR Residential District:~~

- a. All of the property for this activity shall be surrounded by a chain link fence not less than eight (8) feet in height, and shall have a planting strip of evergreen shrubs along the perimeter of the fence except the side adjacent to the access street. Said shrubs shall be at least four (4) feet in height after two (2) years growing seasons.
- b. There shall be only one (1) means of ingress and egress, with a direct connection to a public street. The buildings shall be arranged as to allow internal circulation around all buildings.
- c. All buildings shall have a minimum front setback of forty (40) feet and side and rear setbacks of twenty (20) feet.
- d. Spaces are to be used only for storage. In no case shall a rental space be used for offices, garages, music rehearsal halls or any use other than storage. Space shall be available for a managers or security patrol officer.
- e. Lighting shall be required to ensure the safety of the contents and patrons of the

- establishment.
- f. The driveway shall be at least fifteen (15) feet wide and shall have either a four (4) inch crushed stone surface or an adequate surface of either concrete or asphalt.
 - g. The outside storage of boats, campers or other large-scale items shall be allowed within a designated area enclosed with a chain link fence at least eight (8) feet high. This designated area shall be paved or shall have a crushed stone surface at least four (4) inches deep. No junked items may be stored outside.

Section 14.2 – Zoning Compliance Certificates: Building Permits: Certificates of Occupancy Required

Section 14.2 Zoning Compliance Certificates; Building Permits; Certificates of Occupancy Required

~~The County of Pitt is responsible for the provision of building inspection services within the Corporate limits and within the extraterritorial jurisdiction of the Town of Winterville.~~

Application for a Building Permit and Certificate of Occupancy shall be filed with the Building Inspector.

Section 6.5 – Special Requirements to the Table of Permitted and Special Uses

SR 23. ABC Sales for On Premises Consumption; Bars

- a. Property Separation. No such establishment shall be located within two hundred (200) feet of a church, elementary or secondary school, public park, or residentially zoned property. **Property separation shall not be required in the Central Business District.**
- b. Frontage. The main entrance of the building shall be toward property zoned for nonresidential uses.
- c. Parking. Parking areas related to the establishment shall be located no closer than thirty (30) feet to the property line of abutting residentially zoned property.

ARTICLE X. ARCHITECTURAL STANDARDS

Section 10.5 MULTI-FAMILY RESIDENTIAL DESIGN STANDARDS

A. PURPOSE AND INTENT

These multi-family residential design standards supplement the applicable zoning district and use-specific standards of this Ordinance by providing the minimum requirements for design and configuration of multi-family development within the Town's planning jurisdiction. They are intended to:

- 1) Ensure multi-family development takes place in a manner consistent with the contexts, scale, and proportion of surroundings;
- 2) Promote greater compatibility between new multi-family development and other allowable use types, particularly adjacent residential single-family detached dwellings;
- 3) Establish expectations for minimum level of quality for multi-family development;
- 4) Encourage creativity in design and promote individual project identity;
- 5) Create neighborhoods with enhances architectural and visual interest; and
- 6) Preserve property values and project public and private investment.

B. APPLICABILITY

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

- a. New multi-family dwellings;
- b. New triplex and quadplex dwellings; and
- c. New multi-unit residential structures within a continuing care retirement community use type; and
- d. New assisted living facilities and nursing homes.

C. TIMING OF REVIEW

Except where expressly exempted in writing in this Ordinance, the standards in this section shall apply to the following forms of development:

D. DESIGN REQUIREMENTS

Development subject to these standards shall be designed in accordance with the following:

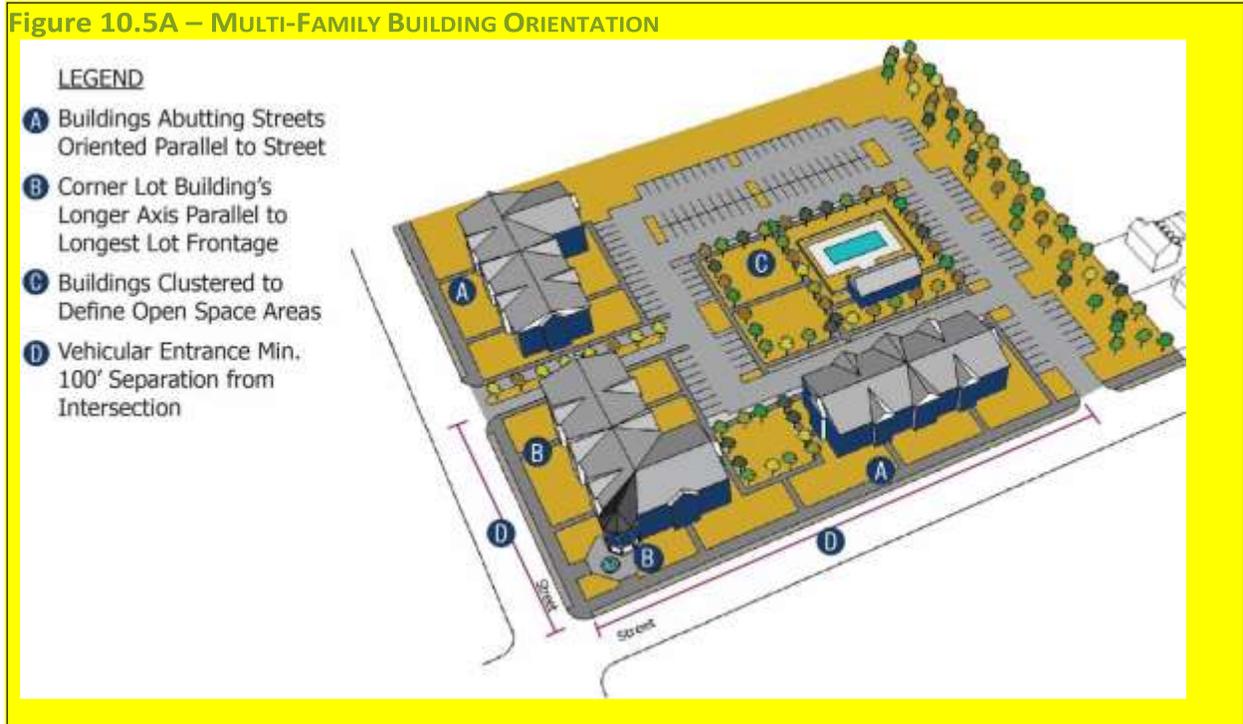
1) STREET NETWORK

- a. On sites including new streets, an interconnected network of streets shall be provided, to the maximum extent practicable, and streets shall connect to adjacent existing streets outside of the development.

- b. Vehicular driveways into a development with 10 or more dwelling units shall be at least 100 feet away from any major intersection, to the maximum extent practicable.
- c. Driveways shall be consolidated in order to reduce curb cuts, to the maximum extent practicable.

2) BUILDING ORIENTATION

- a. Building that abut streets shall be oriented parallel to the street front rather than being oriented at an angle to the street.
- b. On corner lots, the long axis of the building shall be parallel to the longest lot frontage unless such orientation is incompatible with adjacent, existing development along the same street (see Figure 10.5A: Multi-family Building Orientation).
- c. Building within multiple-building developments shall be clustered in order to define open space recreation areas and development entry points.



3) BUILDING ENTRANCES

- a. The facades of building abutting streets shall be configured so that entryways to individual dwelling units or shared entrances face the street.
- b. Access to upper-floor dwelling units shall be obtained from shared internal entries. In no instance shall walkways to individual upper-story dwelling units take place on the exterior of the building.
- c. Individual ground-floor and shared entryways shall be sheltered from the weather either by:
 - 1) Recessing the entrance at least three feet to the inside of the primary ground floor façade plane; or

- 2) Inclusion of an overhead architectural treatment that extends outward at least three feet from the primary façade plane.

4) BUILDING FACADES

- a. Buildings subject to these standards shall maintain a consistent level of architectural detailing and composition on each building façade visible from a public street or state-maintained road.
- b. Building facades facing or abutting streets shall provide a minimum of three of the following architectural elements (see Figure 10.5B: Multi-family Building Facades):
 - 1) A covered porch or terrace;
 - 2) One or more dormer windows or cupolas;
 - 3) Eyebrow windows;
 - 4) Awnings or overhangs;
 - 5) Decorative moldings;
 - 6) Shutters;
 - 7) Pillars, posts, or pilasters;
 - 8) One or more bay windows with a minimum twelve-inch projection from the façade plane;
 - 9) Multiple windows with a minimum of four-inch-wide trim;
 - 10) Corniced parapets;
 - 11) Eaves with a minimum of four-inch-wide trim; or
 - 12) Integral planters that incorporate landscaped areas and/or places for sitting.
- c. Garage entries, loading and service entries, utility rooms, stairs, elevators, or similar features shall not occupy more than 20 percent of the width of a building façade facing a street.
- d. Attached street-facing garages serving individual dwelling units shall be recessed at least three feet inwards from the primary first floor façade plane or be associated with an upper-story projection that exists above the garage.
- e. Developments with three or more principal buildings shall provide variation in building size, shape, height, color, and roofline in a manner that allows different building to be distinguished from one another.

Figure 10.5B – MULTI-FAMILY BUILDING FACADES

LEGEND

- A** Covered Porch or Terrace
- B** Dormer Windows or Cupolas
- C** Eyebrow Windows
- D** Awnings or Overhangs
- E** Decorative Moldings
- F** Shutters
- G** Pillars, Posts, or Pilasters
- H** Bay Window(s) (Min. 12" Projection)
- I** Windows With Minimum 4" Wide Trim
- J** Corniced Parapets
- K** Eaves With Min. 4" Wide Trim
- L** Integral Planters or Seating Areas

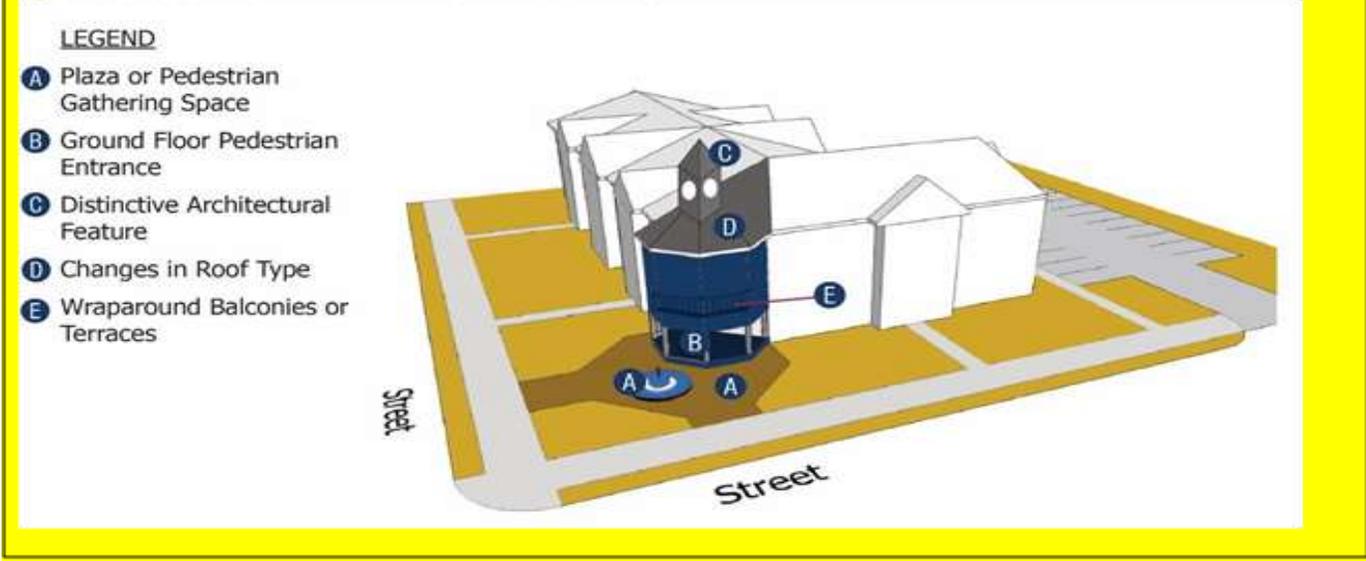


5) BUILDING CORNERS

Building corners that are adjacent to one or more streets shall include at least one of the following features (see Figure 10.5C: Multi-family Building Corners):

- a. A plaza or other gathering space;
- b. A shared ground-floor pedestrian entryway;
- c. A distinctive roof feature such as a tower, turret, spire, pediment, or other architectural feature with a height above the roofline of adjacent dwelling units;
- d. Changes in roof type or pitch from the adjacent building sides; or
- e. Upper-story balconies or terraces that wrap both sides of the corner.

Figure 10.5C – MULTI-FAMILY BUILDING CORNERS



6) BUILDING MASSING

- a. Upper story façade walls shall not project beyond the ground floor footprint except to accommodate bump-outs with windows.
- b. In the case of two-story buildings, the exterior façade walls of the second floor shall be in line with or setback from the first-floor façade walls.
- c. In the case of three- (or more) story buildings, upper story façade walls shall be setback from the second or ground-floor floor façade walls to preserve light and air and avoid casting shadows (see Figure 10.5D: Multi-family Building Massing).

Figure 10.5D – MULTI-FAMILY BUILDING MASSING



7) BUILDING ARTICULATION

- a. Street-facing or abutting building facades shall be articulated with wall offsets, in the form of recesses or projections from the primary façade plane, of at least two feet for every 35 linear feet of façade frontage (see Figure 10.5E: Multi-family Façade Articulation).
- b. Where provided, projections or recesses shall extend from the grade to the top of the highest story in line with the ground-floor footprint.

Figure 10.5E – MULTI-FAMILY FAÇADE ARTICULATION



8) ROOF FORM

- a. Development shall incorporate roof pitches between 3:12 and 12:12 or shall incorporate parapet walls with a dimensional cornice around a flat roof.
- b. Alternative roof forms or pitches are encouraged for small roof sections over porches, entryways, or similar features.
- c. Buildings with eaves shall be configured such that no single horizontal eave continues for more than 60 linear feet without being broken up by a gable, building projection, and articulation feature.
- d. Buildings with overhanging eaves and roof rakes shall extend at least six inches past supporting walls.

9) BUILDING MATERIALS AND COLORS

Configuration

- a. The predominate exterior material shall be brick, stone, cementitious, or other masonry material.
- b. Buildings subjects to these standards shall include at least two primary exterior materials on any single building.
- c. Changes in colors and materials shall take place at internal corners or in logical locations, such as: building wings, bays, bump-outs, or recesses (see Figure 10.5 F: Multi-family Building Materials). In no instance shall exterior materials or colors change at outside corners.
- d. Heavier or more bulky exterior materials shall be located beneath or below lighter materials.

Prohibited Materials

The following materials shall be prohibited on any façade facing or abutting a street, open space, or district intended primarily for single-family detached development:

- a. Smooth-faced concrete block;
- b. Corrugated metal siding;
- c. Vinyl siding (excluding windows or soffits); or
- d. Synthetic stucco within two feet of the grade.

Figure 10.5F – MULTI-FAMILY BUILDING MATERIALS



10) ACCESSORY STRUCTURES

Accessory uses and structures associated with a development subject to these standards shall comply with the following:

- a. Street-facing detached garages on corner lots shall be located to the side or rear of buildings.
- b. Access to accessory structures (such as garages, carports, storage areas, etc.) shall be provided from alleys or secondary streets, to the maximum extent practicable.
- c. Accessory buildings shall include exterior materials, colors, and roof form designed to be consistent with the principal structure.
- d. Accessory structures shall not physically obstruct pedestrian entrances.
- e. Centralized refuse collection containers, if provided, shall be in an enclosed area located to the rear of principal buildings.

11) SITE FEATURES

- a. Except for nursing homes, development subject to the standards shall not include a gate or obstruction that blocks access to the site for vehicles, bicycles, or pedestrians.
- b. Off-street parking serving guests shall be evenly distributed throughout the development.
- c. Shared refuse collection containers shall be evenly distributed throughout the development or be centrally located.
- d. Detached garages or carports shall not be located between a principal building and the street in faces.
- e. Utilities shall be provided underground, and utility vaults shall be clustered in areas outside of required landscaping.



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: April 12, 2021

Presenter: Anthony Bowers, Finance Director

Item to be Considered

Subject: Release and Refund of Taxes.

Action Requested: Approve the Release and Refund of Taxes.

Attachment: Listing of owner's due release and refunds.

Prepared By: Anthony Bowers, Finance Director

Date: 3/30/2021

ABSTRACT ROUTING:

TC: 4/6/2021

TM: 4/8/2021

Final: tlp - 4/8/2021

Supporting Documentation

In general, tax refunds do not have a budgetary impact on the Town due to the fact that payments have been received twice for the same property. The total refunds are in the amount of \$46,846.38 and the total amount of releases are \$1,230.14.

The Town Council has approved a resolution authorizing the Finance Officer to be able to approve the request for releases and refunds in amounts less than \$100.00 dollars.

Please see the attached information as submitted by the Tax collector.

Budgetary Impact: None, as we will not amend the budget due to this small amount of releases.

Recommendation: Approve the Release and Refund of Taxes.

**Town of Winterville
Tax Refunds and Releases
2/25/2021**

Real Property Tax Refunds

Name	Year	Parcel	Date	Amount	Reason
CAINE, CIARA GABRILLE		31948	12/11/2020	\$558.40	Overpayment by mortgage company
HOLLOMAN, TONY R.		39583	12/11/2020	\$576.15	Overpayment by mortgage company
DANIELS, SHERRY BELL		61275	12/11/2020	\$777.45	Overpayment by mortgage company
FEDERAL NATIONAL MORTGAGE		56826	12/11/2020	\$221.91	Overpayment by mortgage company
HARVILLE, PERNELL K.		13002	12/11/2020	\$9.56	Overpayment by mortgage company
MILLS, SAMMY R.		79211	12/11/2020	\$914.02	Overpayment by mortgage company
ROUSE, MICHAEL		73161	12/11/2020	\$1,272.84	Overpayment by mortgage company
MCKEEL, TAMARA G		66603	12/11/2020	\$647.88	Overpayment by mortgage company
MOLINA, ESDRAS GUZMAN		14736	12/11/2020	\$298.23	Overpayment by mortgage company
FIELDS, BRIAN R		74303	12/11/2020	\$1,164.38	Overpayment by mortgage company
PERKOVICH, PAUL F		82968	12/11/2020	\$1,202.83	Overpayment by mortgage company
JOHNSTON, COURTNEY L		67516	12/11/2020	\$628.90	Overpayment by mortgage company
GADDY, MAREK D		68568	12/11/2020	\$820.25	Overpayment by mortgage company
MCGREGOR JR, JOHN H.		54066	12/11/2020	\$776.20	Overpayment by mortgage company
HADDOCK, LARRY CHRISTOPHER		68462	12/11/2020	\$1,271.13	Overpayment by mortgage company
ROBERSON, JENNIFER		68441	12/11/2020	\$840.13	Overpayment by mortgage company
COATS, GREGORY KENNETH		68501	12/11/2020	\$1,346.06	Overpayment by mortgage company
GARNER, DANNY J.		83235	12/11/2020	\$1,160.94	Overpayment by mortgage company
WHICHARD, JUSTIN TYLER		68530	12/11/2020	\$499.29	Overpayment by mortgage company
PELT, RUDOLPH		58561	12/11/2020	\$749.06	Overpayment by mortgage company
DAIVS, TRENTON MICHAEL		67665	12/11/2020	\$906.91	Overpayment by mortgage company
BECK, ROBERT P		82988	12/10/2020	\$962.99	Overpayment by mortgage company
KELEHER, BRENDAN N.		74315	12/10/2020	\$1,173.15	Overpayment by mortgage company
ARISTY, RAMON F		68654	12/10/2020	\$1,075.72	Overpayment by mortgage company
ABC FAMILY LLC		66602	12/10/2020	\$509.91	Overpayment by mortgage company
WILLIAM C CONSTABLE III		85726	12/10/2020	\$161.50	Overpayment by mortgage company
WARD, VIRGIE		46140	12/10/2020	\$313.38	Overpayment by mortgage company
BARGABOS, RALPH		84517	12/10/2020	\$932.05	Overpayment by mortgage company
EDMONSON, DON H		61607	12/10/2020	\$538.17	Overpayment by mortgage company
EDMONSON, DON H		62714	12/10/2020	\$583.04	Overpayment by mortgage company
MERRILL, JOHN THOMAS IV		55170	12/10/2020	\$746.04	Overpayment by mortgage company
LEAK, GERALD		75158	12/10/2020	\$213.75	Overpayment by mortgage company
MCKINNON, DAVID LOUIS		80747	12/10/2020	\$213.75	Overpayment by mortgage company
JONES, JAMES G		21197	12/10/2020	\$160.44	Overpayment by mortgage company
JOYNER, DOMINIC LAMOND		57103	12/10/2020	\$698.18	Overpayment by mortgage company
BROWN, SADIE BELL HEIRS		27623	12/10/2020	\$341.88	Overpayment by mortgage company
HOUSE, BEATRICE WALLER		23804	12/10/2020	\$9.59	Overpayment by mortgage company
HOUSE, BEATRICE WALLER		23802	12/10/2020	\$384.95	Overpayment by mortgage company
DURAN BADILLO, GABRIEL		27192	12/10/2020	\$491.63	Overpayment by mortgage company
KNOX, JAMES KEITH		20881	12/10/2020	\$366.00	Overpayment by mortgage company
CORBETT, CRYSTAL HARDISON		53807	12/10/2020	\$1,410.45	Overpayment by mortgage company
MORALES, TIMOTHY		68520	12/10/2020	\$213.75	Overpayment by mortgage company
ROBERTS, JOYCE CARMODY		80749	12/10/2020	\$775.56	Overpayment by mortgage company
BECKER, MARSHA CARMEN		56843	12/10/2020	\$525.77	Overpayment by mortgage company
DE JESUS, MATTIE		13054	12/30/2020	\$118.75	Overpayment by customer
LATHAM, LINWOOD		68599	12/31/2020	\$213.75	Overpayment by mortgage company
WYBORN, JOHN D		68438	12/31/2020	\$887.66	Overpayment by mortgage company
FULLER, ELLIOT		54596	12/31/2020	\$936.04	Overpayment by mortgage company
CULLIPHER, MATILDA		42578	12/31/2020	\$1,783.90	Overpayment by mortgage company
CULLIPHER, MATILDA		50256	12/31/2020	\$25.69	Overpayment by mortgage company
THOMPSON, JONATHAN		54081	12/31/2020	\$739.96	Overpayment by mortgage company
HORNE, JANICE		59301	12/31/2020	\$829.35	Overpayment by mortgage company
LEE, TRAVONDA		62860	12/31/2020	\$854.39	Overpayment by mortgage company

Name	Year	Parcel	Date	Amount	Reason
HICKS, RICHARD THOMAS		63838	12/31/2020	\$684.42	Overpayment by mortgage company
CLARK, KENNETH W		67434	12/31/2020	\$843.31	Overpayment by mortgage company
MINTON, ASHLIEGH B		67579	12/31/2020	\$832.72	Overpayment by mortgage company
HURDLE, CHRISTOPHER		70042	12/31/2020	\$1,175.53	Overpayment by mortgage company
BAGGETT, CRAIG A		42088	12/31/2020	\$729.89	Overpayment by mortgage company
MUELLER, CYNTHIA		61260	12/31/2020	\$812.90	Overpayment by mortgage company
ODOM III, GEORGE H		68076	12/31/2020	\$942.51	Overpayment by mortgage company
MILLER, DANIEL		70029	12/31/2020	\$1,105.14	Overpayment by mortgage company
TAGGART, CHRISTOPHER		70036	12/31/2020	\$971.25	Overpayment by mortgage company
MOORE, TINIQUE		56847	12/31/2020	\$536.71	Overpayment by mortgage company
CHM PROPERTY HOLDINGS		72582	12/31/2020	\$538.38	Overpayment by mortgage company
WIGGINS, KANIESHA L		57105	12/31/2020	\$881.08	Overpayment by mortgage company
DECKER, AMBER DAWN		62497	2/11/2021	\$735.19	Overpayment by mortgage company
BREWINGTON, ALICE H		28792	2/11/2021	\$210.00	Overpayment by mortgage company
KUHN CONSTRUCTION LLC		72588	2/11/2021	\$13.69	Overpayment by customer
Total				\$46,846.38	

Personal Property Refunds

Name	Year	Account	Date	Refund	Reason
Total				\$0.00	

Real Property Releases

Name	Year	Parcel	Date	Released	Reason
CRAFT, JOYCE FAYE	2020	44131	11/18/2020	\$474.56	Per Pitt Co. Exemption was removed in error.
PEEBLES, JAMES	2020	59846	12/17/2020	\$213.75	Per Pitt Co. customer qualified for tax exemption.
DE JESUS, MATTIE	2020	13054	12/30/2020	\$118.75	Per Pitt Co. customer qualified for tax exemption.
HILL, JOHN B	2020	10932	12/31/2020	\$209.33	Per Pitt Co. customer qualified for tax exemption.
LATHAM, LINWOOD	2020	68599	12/31/2020	\$213.75	Per Pitt Co. customer qualified for tax exemption.
Total				\$1,230.14	

Personal Property Releases

Name	Year	Account	Date	Released	Reason
Total				\$0.00	

Total Refunds	68	\$46,846.38
Total Releases	5	\$1,230.14

The Release (G.S. 105-381 or 382), Corrections (G.S. 105-325), or Refunds (G.S. 105-381 or 382) of tax bills outlined above are approved by The Town of Winterville Council.

 Douglas Jackson, Mayor

April 12, 2021
 Date Approved



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Consent Agenda

Meeting Date: April 12, 2021

Presenter: Bryan Jones, Planning Director

Item to be Considered

Subject: Stop Signs and Speed Limits in Villa Grande and Eli's Ridge Subdivisions.

Action Requested: Adopt Ordinance 21-O-041 requiring stop signs and speed limits in Villa Grande and Eli's Ridge Subdivisions.

Attachment: Ordinance 21-O-041.

Prepared By: Bryan Jones, Planning Director

Date: 4/5/2021

ABSTRACT ROUTING:

TC: 4/7/2021

TM: 4/8/2021

Final: tjp - 4/8/2021

Supporting Documentation

The final plat has been approved and the Town's Stop Sign and Speed Limit Ordinance needs updating to include these subdivisions. The Planning Department and Public Works Department has coordinated with the Police Department and recommends that the Ordinance adopting the stop signs speed limits as noted. The Police Department believes that the stop signs and speed limits shown are appropriate.

NC General Statute 20-141(b) establishes a speed limit of 35 MPH inside the corporate limits of Winterville for all vehicles unless specifically established otherwise.

Budgetary Impact: TBD.

Recommendation: Approve Stop Sign and Speed Limit Ordinance 21-O-041.

ORDINANCE NO. 21-O-041

**ORDINANCE AMENDING CHAPTER 74 OF THE CODE OF ORDINANCES
OF THE TOWN OF WINTERVILLE, NORTH CAROLINA**

BE IT ORDAINED by the Town Council of the Town of Winterville, North Carolina that Title VII Chapter 74 of the Code of Ordinances of the Town of Winterville is hereby amended as follows:

CHAPTER 74: TRAFFIC SCHEDULES.

SCHEDULE II: STOPS REQUIRED.

The following streets are designated as stop intersections, requiring all vehicles to stop before entering the intersections:

Street	Location	Type of Stop	Ord. or Res. No.	Date Passed
Eli's Drive	At Worthington Road	1-way	21-O-041	4-12-2021
Kaylie's Court	At Eli's Drive	1-way	21-O-041	4-12-2021
Hunter Grace Drive	At Eli's Drive	1-way	21-O-041	4-12-2021
Gloria Jean Drive	At Eli's Drive	3-way	21-O-041	4-12-2021
Vicente View Drive	At Brittia Lane	3-way	21-O-041	4-12-2021
Chalet Circle	At Brittia Lane	1-way	21-O-041	4-12-2021
Luna Lane	At Brittia Lane	4-way	21-O-041	4-12-2021
Miguel Court	At Brittia Lane	1-way	21-O-041	4-12-2021

SCHEDULE IV: SPEED LIMITS.

(E) (1) Pursuant to the authority of G.S. § 20-141(f), it shall be unlawful to operate any vehicle on the following streets at a speed greater than 25 mph.

Street	Location	Ord. or Res. No.	Date Passed
Eli's Drive	Eli's Ridge Subdivision	21-O-041	4-12-2021
Kaylie's Court	Eli's Ridge Subdivision	21-O-041	4-12-2021
Hunter Grace Drive	Eli's Ridge Subdivision	21-O-041	4-12-2021
Gloria Jean Drive	Eli's Ridge Subdivision	21-O-041	4-12-2021
Brittia Lane	Villa Grande Subdivision	21-O-041	4-12-2021
Vicente View Drive	Villa Grande Subdivision	21-O-041	4-12-2021
Luna Lane	Villa Grande Subdivision	21-O-041	4-12-2021
Miguel Court	Villa Grande Subdivision	21-O-041	4-12-2021

This Ordinance shall be effective upon adoption.

Adopted this the 12th day of April 2021.

Douglas A. Jackson, Mayor

ATTEST:

Donald Harvey, Town Clerk



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: Old Business

Meeting Date: April 12, 2021

Presenter: Terri L. Parker, Town Manager

Item to be Considered

Subject: Human Relations Board By-Laws.

Action Requested: Approve By-Laws.

Attachment: Draft Winterville Human Relations Board By-Laws, Winterville Human Relations Board Ordinance 20-O-111, and NC Human Relations Commission Presentation.

Prepared By: Terri L. Parker, Town Manager

Date: 4/5/2021

ABSTRACT ROUTING:

TC: 4/8/2021

TM: 4/9/2021

Final: tlp - 4/9/2021

Supporting Documentation

Attached please send a Final DRAFT of the By-Laws the Winterville Human Relations Board, for your review. Also attached is the Winterville Human Relations Board Ordinance 20-O-111 adopted at the November 2020 Regular Town Council meeting, and a presentation provided by the NC Human Relations Commission.

Budgetary Impact: TBD.

Recommendation: Approve By-Laws.



Winterville Human Relations Board

DRAFT By-Laws

Approved by Town Council on _____.

Section I - Purpose of the Board.

The Winterville Human Relations Board (hereinafter referred to as the WHRB) is devoted to:

- The study of problems in the area of human relations;
- The promotion of equity for all citizens;
- The promotion of understanding, respect, and goodwill among all citizens;
- The provision of channels of communication among diverse groups;
- Encouraging the employment of qualified people without regard to race, color, religion, gender, sex, age, national origin, disability or genetic information.
- Encouraging youth to become better trained and qualified for employment.

Section II - Membership and Attendance.

Membership:

The WHRB shall be selected for membership in the following manner:

- The Mayor shall nominate one (1) member;
- Town Council members will make the additional five (5) nominations;
- All nominees shall be confirmed by the approval of the Town Council; and
- All nominees must reside within the Town of Winterville.

In the event any nominees are not approved by Town Council, the person making the original nomination shall submit an alternate nomination. The Town Council will endeavor to create a composition for the WHRB that fairly represents the social, economic, gender, and ethnic composition of the population of the Town. The Town Council may in its discretion appoint up to two (2) high school and two (2) college/university student representatives from high schools and/or colleges and universities located which serve the Town of Winterville. Such student representatives will be non-voting members of the WHRB. Town Council shall appoint one (1) member of Town Council to act as the liaison to the WHRB. The appointed liaison shall attend the WHRB meetings and keep Town Council informed as to the activities of the WHRB. The Town Clerk shall serve as the Staff liaison to the WHRB.

Terms:

The term of office for each WHRB member shall be as follows:

- All members will serve a two-year staggered term;
- No member shall serve more than three (3) consecutive terms;
- Each member shall hold office until the qualification and appointment of his/her successor or until one (1) year has lapsed since the expiration of the term for which the member was appointed, which first occurs; and
- In order to establish staggered terms, the original voting members of the WHRB shall be appointed as follows:
 - Two members for a one-year term.
 - Two members for a two-year term.
 - Two members for a three-year term.
- Thereafter, each newly appointed voting member shall serve for a two-year term.

Attendance:

Members are expected to attend regular WHRB meetings as required. After review, the Executive Committee may recommend to Town Council whether a member should be retained or removed from the WHRB. The recommendation will be determined by the following:

- Three (3) consecutive absences from regularly scheduled meetings if notification of any such absence has not been submitted to the Chairperson or Staff liaison prior to the meetings where the absence occurred.
- Five (5) absences from regularly scheduled meetings of the WHRB in any calendar year if notification of any such absence has not been submitted to the Chairperson or Staff liaison prior to the meetings where the absence occurred
- In the event that a vacancy occurs by reasons stated in this Section II, the Chairperson of the WHRB shall immediately notify the Town Council liaison, so that the vacancy can be filled in accordance with Town Ordinance by the Town Council.
- Members may also be removed from the WHRB by breach of Section III of the By-Laws governing general conduct of WHRB members.

Section III - General Conduct.

Government appointees are expected to meet high standards of conduct, which enhance and maintain public confidence in the operation of the WHRB. In order to instill public confidence in the actions and decisions of the WHRB, members will adhere to the following:

- Be cognizant of your individual actions as a member of the WHRB.
- WHRB members are expected to act at all times with integrity demonstrating good faith, honesty, and due diligence on behalf of the public interest.
- WHRB members are expected to participate, prepare, and regularly attend meetings in order to adequately carry out the duties expected of them.
- The public conduct and language of WHRB members must be free of discrimination, harassment, and hate acts prohibited by local, state, and federal laws. Conduct should reflect social standards of courtesy, respect, and dignity.
- WHRB members must not reveal or divulge information deemed confidential by the WHRB or liaisons received in the course of their duties. Confidential information must not be used for any purpose outside that of undertaking the work of the WHRB to which they have been appointed.
- WHRB members must comply with the public comment protocols established by the Town or the WHRB. If none exist, WHRB members must refer to the Chairman for guidance before making public comment on WHRB matters.
- WHRB members may not make individual personal statements, editorials, speeches, appearances, or requests for information on behalf of the WHRB.
- WHRB members' work or endeavors should not result in any financial or other substantive gain for personal increase and/or profit, or for organized entities to which the WHRB may have membership or affiliation. (Private gain does not include honoraria for service on other agencies, boards or commissions).
- WHRB members must inform the Chairman or Staff liaison of any circumstance that may have a negative or harmful impact on their respective abilities to perform the duties required of their appointments or that could reflect negatively upon the WHRB.

Section IV - Conflict of Interest.

WHRB members must avoid any activity that might impair or impugn the independence, integrity or impartiality of the WHRB. There must be no apprehension of bias, based on what a reasonable person might perceive.

WHRB members who are in any doubt must disclose their circumstances and consult with the Chairman or Staff liaison. In practical terms, WHRB members should ensure that:

- All personal financial interests, assets, and holdings are distinct from and independent of any decision, information or other matter that may be heard by or acted upon by the WHRB.
- Activities undertaken as a private citizen are kept separate and distinct from any responsibilities held as a member of the WHRB.
- Activities undertaken individually as a member of other agencies, boards, or commissions are kept separate and distinct from the WHRB.
- Recusal is expected when agencies, organizations, boards, and commissions you are affiliated with come before the WHRB for action.
- WHRB members may not receive any form of payment for products, services, or acts done as a part of WHRB sponsored or supported events.
- Other memberships, directorships, voluntary or paid positions or affiliations remain distinct from work undertaken in the course of performing their duties as public appointees. Actions taken in the course of performing duties as public appointees neither cause nor suggest the reality or perception that their ability to perform or exercise those duties has been or could be affected by private gain or interest.

Section V - Election, Tenure, and Duties of the Chair & Vice Chair.

The WHRB shall elect from its membership a Chair and Vice Chair, each for a one-year term and they will be eligible for re-election. Their duties shall be those generally assigned by the nature of their offices. Interim elections may be held if any such office is vacated.

Section VI – Committees.

In accordance Town ordinance, Town Council may, as necessary and upon request from the WHRB, appoint or approve the appointment of committees related to specific human relations issues. These committees shall be composed of adult residents of the Town that are not members of the WHRB and chaired by a member of the WHRB.

Standing Committees of the WHRB shall be appointed by vote of Town Council after suggestions by the WHRB and discussion by Town Council. Each committee shall be chaired by a current WHRB member. Ad hoc committees will be formed as needed. The following shall constitute the Standing Committees:

- Executive
- Interfaith
- Youth Council Advisory

Section VII - Conduct of Business.

- Quorum - A quorum for the official conduct of business shall consist of a simple majority of voting WHRB members.
- Business shall be conducted in accordance with Robert's Rules of Order or Rules of Procedures approved by Town Council.
- Meeting Time _____.
- The WHRB shall hold monthly meetings, which shall be conducted on the _____.
- Meeting times or location can be changed by a majority vote or in case of emergency by the Chair.
- Additional meetings as needed shall be called by the Chair, Vice Chair, or any three (3) WHRB members.
- The WHRB shall hold an annual planning session in November.
- Time Commitment - members have agreed to a minimum time commitment of _____ (this is inclusive of regular WHRB and committee meetings).
- Meetings are open to the public.

Section VIII – Work Plan.

The WHRB shall submit a work plan to Town Council in March of each year. The work plan should list the proposed activities of the WHRB and any associated budget requests.

Section IX – Changes and Amendments.

The By-Laws may be changed and/or amended by motion passed by three-fourths of the entire WHRB, which includes all voting members, provided written notice of the proposed amendment(s) is mailed to all WHRB members at least then (10) days prior to the meeting which action proposed is to be taken. The changes are then submitted to Town Council for approval.



ORDINANCE NO. 20-O-111

HUMAN RELATIONS BOARD

§32.100 HUMAN RELATIONS BOARD.

Under the direction of Council, there is hereby established a six (6)-member Human Relations Board. This Board will be appointed by Council, and will assist the Council and the Town with the following:

- The study of problems in the area of human relations.
- The promotion of equity for all citizens.
- The promotion of understanding, respect, and goodwill among all citizens.
- The provision of channels of communication among diverse groups.
- Encouraging the employment of qualified people without regard to race, color, religion, gender, sex, age, national origin, disability or genetic information.
- Encouraging youth to become better trained and qualified for employment.

§32.101 MEMBERSHIP.

The Human Relations Board shall consist of six (6) members who are residents within the Town corporate limits.

§ 32.102 TERMS, APPOINTMENTS AND COMPENSATION.

(A) *Term and appointment.*

1. Board members shall serve two (2)-year staggered terms and be appointment by Council.
2. The initial terms of appointment for members shall be:
 - Two members for a one (1)-year term.
 - Two members for a two (2)-year term.
 - Two members for a three (3)-year term.
 - Thereafter, each newly appointed voting member shall serve for a two (2)-year term.
3. Members may be reappointed, and no member shall serve more than three (3) consecutive terms. Each member shall hold office until the qualification and appointment of his/her successor or until one (1) year has lapsed since the expiration of the term for which the member was appointed, which first occurs.

(B) The Town Council may in its discretion appoint up to two (2) high school and two (2) college/university student representatives from high schools and/or colleges and universities located which serve the Town of Winterville. Such student representatives will be non-voting members of the Human Relations Board. Town Council shall appoint one (1) member of Town Council to act as the non-voting Liaison to the Human Relations Board. The appointed Liaison shall attend the meetings and keep Town Council informed as to the activities of the Board.

(C) *Compensation.* Members of the Human Relations Board shall serve without compensation.

§ 32.103 VACANCIES AND REMOVAL OF MEMBERS.

(A) Movement from within the Town limits will result in removal from the Human Relations Board. The Council will subsequently appoint a replacement to serve the remainder of the unexpired term.

(B) Meeting Attendance.

(1) Absences caused by illness, injury, death, bereavement, personal emergency, or other similar situations shall be recognized as an excused absence. Excused absences are generally defined as medical or family emergencies or unavoidable business/personal conflicts.

(2) Three (3) consecutive absences from regularly scheduled meetings if notification of any such absence has not been submitted to the Chairperson or Staff Liaison prior to the meetings where the absence occurred will be considered unexcused absences.

(3) Five (5) absences from regularly scheduled meetings of the Human Relations Board in any calendar year if notification of any such absence has not been submitted to the Chairperson or Staff liaison prior to the meetings where the absence occurred shall be considered unexcused absences.

(4) In the event that a vacancy occurs by reasons stated in Section II, the Chairperson of the Human Relations Board shall immediately notify the Town Council liaison, so that the vacancy can be filled in accordance with Town Ordinance by the Town Council.

(5) Members may also be removed from the Board by breach of Section III of the By-Laws governing general conduct of Human Relations Board members.

§32.103 ORGANIZATION.

(A) The Human Relations Board shall choose its own officers.

(1) Officers will serve one (1)-year terms, with no limits on the number of terms that may be served.

(2) Elections will be held at the start of the fiscal year, during the month of July.

(3) The Town Clerk shall serve as the Staff Liaison to the Board.

§32.104 MEETINGS OF THE HUMAN RELATIONS BOARD.

(A) The Human Relations Board will approve a schedule of monthly meetings for each calendar year, including day and time of said meetings. The schedule of meetings will be posted on all applicable Town outlets as well as in the Office of the Town Clerk.

(B) A quorum for the official conduct of business shall consist of a simple majority of voting Human Relations Board members.

(C) The Human Relations Board shall keep meetings of its proceedings.

§32.105 DUTIES AND RESPONSIBILITIES.

(A) *Work Plan.*

(1) The Human Relations Board shall submit a work plan to Town Council in March of each year. The work plan should list the proposed activities of the Board and any associated budget requests.

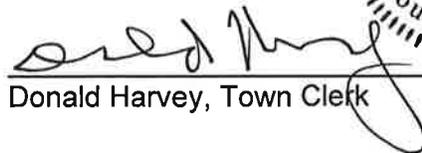
(2) The Plan will be presented annually to the Council during the Town’s Annual Budget process, and upon approval, shall become Human Relations Board Annual Work Plan.

(B) *Other Requested Work.* The Human Relations Board, when requested by Council, shall consider and report upon any matter coming within the scope of its work.

This Ordinance shall be effective upon adoption.

Adopted this the 9th day of November 2020.

ATTEST:



Donald Harvey, Town Clerk





Veronica W. Roberson, Mayor Pro Tem

**ESTABLISHING A HUMAN RELATIONS
COMMISSION IN YOUR LOCAL AREA**

**North Carolina Human Relations Commission
(NCHRC)**

Gene Troy, Program Manager

1318 Mail Service Center

Raleigh, North Carolina 27699-1318

Email Address: gene.troy@oah.nc.gov

1

**DUTIES OF THE N.C. HUMAN RELATIONS
COMMISSION AS IT RELATES TO LOCAL
HUMAN RELATIONS COMMISSIONS**



**NCHRC provides local human/
community relations
departments and commissions
with:**

- **Trainings**
- **Crisis intervention**
- **Technical assistance to Local
HRCs**
- **Hate crime/bias tracking**

2

**NORTH CAROLINA HUMAN RELATIONS
COMMISSION (NCHRC)**

**CREATION OF LOCAL
HUMAN RELATIONS
COMMISSIONS**

3

CREATION OF LOCAL HUMAN RELATIONS COMMISSIONS



Creation of a local HRC is usually done (but not limited to) by one of the following government actions:

- Ordinance
- By-Laws
- Executive Order
- Resolutions
- Motion

4

TYPES OF LOCAL HUMAN RELATIONS COMMISSIONS

LOCAL HRCS THAT HAVE A STAFF LIAISON

- Direct relationship with officials.
- Commission conducts its programs.
- May have liaison between commission and governmental body.
- May have directives from governing body.

LOCAL HRCS THAT HAVE A HUMAN RELATIONS DEPARTMENT

- Local HRC has a Human Relations Department that is staffed.
- Staff maintains Commission/government relationship.
- Staff conducts and produces Commission's programs.

5

DUTIES AND RESPONSIBILITIES OF COMMISSION MEMBERS AND EXECUTIVE DIRECTOR

Role of Commission Members

- Advise government and/or community.
- Serve as a resource.
- Ensure services are implemented.
- May have to provide training to the public.

Role of Executive Director

- Serve clients directly.
- Manage Commission office.
- Advise Commission members.
- May have to provide training to the Commission members and public.

6

WHAT LOCAL HUMAN RELATIONS COMMISSIONS DO

- Promote/provide equal opportunity and diversity appreciation programs.
- Monitor/study/recommend/resolve local human relations problems.
- Monitor/report/deal with local hate crime/bias activity.
- Become a crisis intervener of human relations issues for the local community.
- Be a trainer for crisis intervention to local human relations issues.

7

IMPORTANT "TO DO" ITEMS

- ❖ Schedule HRC orientation.
- ❖ Schedule other Commission trainings as needed (fair housing, cultural diversity, sexual harassment, hate crimes/hate bias incidents).
- ❖ Become a Hate Violence Information Network (HAVIN) affiliate.

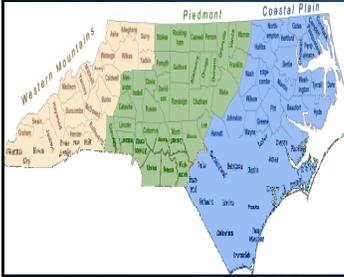
8

IMPORTANT "TO DO" ITEMS

- ❖ Create positive interagency relationships.
- ❖ Reach out to all communities.
- ❖ Reach important understandings with groups.
- ❖ Understand the community's history and the present perceptions in the community.

9

HOW MANY LOCAL HUMAN RELATIONS COMMISSIONS ARE THERE IN NORTH CAROLINA?



- Currently, there are a total of 25 Local Human Relations Commissions/ Councils/ Advisory Committees.
- The N.C. Human Relations Commission (NCHRC) has divided the state into seven (7) regions. Each Local HRC is placed in a certain region
- The seven regions in North Carolina that have Local HRCs are as follows:

10

ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA

REGION ONE (1):

(Consists of Avery, Buncombe, Burke, Caldwell, Cherokee, Clay, Graham, Haywood, Jackson, Macon, McDowell, Mitchell, Poke, Rutherford; Swain, Transylvania and Yancey Counties)

A total of one (1) Local HRC is within this region;

➤ **City of Asheville Local Human Relations Commission (Local HRC with Staff Liaison-Buncombe County)**



11

ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA

REGION TWO (2):

(Consists of Anson, Bladen, Cumberland, Harnett, Hoke, Montgomery, Moore, Richmond, Sampson and Scotland Counties)

A total of one (1) Local HRC is within this region. The Local HRC in this region is:

➤ **Fayetteville-Cumberland Human Relations Department and Commission (Local HRC with Staffed Department-Cumberland County)**



12

ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA

REGION THREE (3):
 (Consists of Alexander, Cabarrus, Catawba, Cleveland, Gaston, Iredell, Lincoln, Mecklenburg, Rowan, Stanley and Union Counties)

- > A total of four (4) Local HRCs are within this region.
- > City of Morganton Human Relations Commission (Local HRC with Staff Liaison- Catawba County);
- > City of Statesville HRC (Local HRC with Staff Liaison- Iredell County);
- > Charlotte-Mecklenburg Community Relations Department and Committee (Local HRC with Staffed Department- Mecklenburg County);
- > City of Salisbury HRC (Local HRC with Staff Liaison- Rowan County)



13

ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA



REGION FOUR (4):
 (Consists of Chatham, Durham, Edgecombe, Franklin, Granville, Halifax, Johnston, Lee, Nash, Northampton, Orange, Person, Vance, Wake, Warren and Wilson Counties)

- > A total of (8) Local HRCs are within this region. They are:
- > City of Durham Human Relations Department and Commission (Local HRC with Staff Department-Durham County);
- > Edgecombe County Human Relations Commission (Local Human Relations Commission with Staff Liaison-Edgecombe County);
- > Granville County Human Relations Commission (Local HRC with Staff Liaison-Granville County);
- > City of Rocky Mount Human Relations Department and Commission (Local HRC with Staffed Department-Nash/Edgecombe Counties);
- > Orange County Department and Commission (Local HRC with Staffed Department-Orange County);

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ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA

REGION FOUR (4) (CONTINUED):

- > Henderson-Vance County Human Relations Commission (Local HRC with Staffed Liaison-Vance County);
- > City of Raleigh Equity and Inclusion Department and Human Relations Commission (Local HRC with Staffed Department -Wake County);
- > City of Wilson Human Relations Department and Commission (Local HRC with Staffed Department)



15

ALL THE LOCAL HUMAN RELATIONS COMMISSIONS IN THE SEVEN REGIONS OF NORTH CAROLINA

REGION SEVEN (7) (Continued):

- City of Lexington Human Relations Commission (Local HRC with Staff Liaison-Davidson County);
- City of Reidsville Human Relations Commission (Local HRC with Staff Liaison-Rockingham County);
- City of Winston-Salem Department and Human Relations Commission (Local HRC with Staffed Department-Forsyth County)



19

NORTH CAROLINA HUMAN RELATIONS COMMISSION SURVEY ON THE STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

20

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

- ✓ On Tuesday, March 20, 2018, the NCHRC board members held their first meeting of 2018 and were very interested in knowing what were the pressing local human relations issues in communities across the state.
- ✓ On March 29, 2018, April 20, 2018 and May 14, 2018, the community relations staff liaison sent emails to a total of 22 Local Human Relations Commissions (NOTE: The total of Local HRCs at that time.) asking them to respond to the following questions and send their responses to the NCHRC office: *“What are the three (3) most important human relations issues in your communities.*
- ✓ Out of the 22 Local HRCs who received the emails requesting them to respond to the survey question, a total of 12 Local HRCs responded to the survey question.

21

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

- ✓ All of their responses were recorded and tallied to find out what are the top five (5) most important human relations issues in the Local HRCs communities.
- ✓ The following are the totaled responses to the survey question which indicated were the top five (5) human relations issues throughout North Carolina:

22

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA



**First Human Relations Issue in North Carolina
HOUSING CONCERNS**

- Under housing concerns, the Local HRCs indicated that affordable housing (or the lack of) is the number one issue.
- Also under the housing concerns, the Local HRCs indicated that fair housing is the second issue.
- Other issues that were mentioned under the housing concerns were:
 - Equity in housing;
 - Gentrification;
 - Homeless and
 - Landlord/tenant issues.

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CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

OTHER TRENDS UNDER HOUSING CONCERNS:

- Service Animals and/or Emotional Support Animals Discrimination.
- Design and Construction Discrimination
- Criminal Records Blanket Policy Discrimination against Ex-Offenders
- Sexual Harassment Discrimination



24

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA



Second Human Relations Issue in North Carolina
COMMUNITY RELATIONS CONCERNS

- Under community relations concerns, the Local HRCs indicated that police-community relations is the number one issue.
- Also under the community relations concerns, the Local HRCs indicated that sexual orientation outreach and tensions in the community is the second issue.
- Other issues that were mentioned under the community relations concerns were:
 - Community outreach (or lack thereof) and;
 - Cultural and racial tensions in communities.

25

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

OTHER TRENDS UNDER COMMUNITY RELATIONS CONCERNS:

- The Confederate monument debate and confrontations.
- Increase in hate groups in the state. *(NOTE: There are a total of 32 hate groups throughout North Carolina.)*
- Increase in leafleting incidents, racial derogatory expressions, vandalism, anti-Semitic incidents.
- Police shootings/beatings against black/ethnic males.



26

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA



Third Human Relations Issue in North Carolina
EMPLOYMENT CONCERNS

- Under employment concerns, the Local HRCs indicated that employment discrimination is the number one issue.
- Other issues that were mentioned by the Local HRCs under the employment concerns were:
 - Access to opportunity;
 - Equity;
 - Lack of diversity in city/county government and in local businesses;
 - Recruitment of companies to local areas for new jobs.

27

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

OTHER TRENDS UNDER COMMUNITY RELATIONS CONCERNS:

- A rise in sexual harassment in the workplace
- Increase in racial and ethnic harassment at the workplace.



28

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

Fourth Human Relations Issue in North Carolina

IMMIGRATION CONCERNS

- Under immigration concerns, the Local HRCs indicated that immigrant/refugee services and needs are the number one issues.
- Other issue that was mentioned by the Local HRCs under the immigration concerns was national origin services and needs.



29

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

OTHER TRENDS UNDER IMMIGRATION CONCERNS:

- A rise in ethnic harassment in communities and in the workplace
- Increase in ethnic profiling by law enforcement
- Increase in violence towards persons who are or are perceived to be immigrants/ refugees
- Increase fair housing discrimination towards immigrants.



30

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA



Fifth Human Relations Issue in North Carolina
 (Note: Two (2) human relations issues were tied for fifth place concerning the survey.)

EDUCATION CONCERNS

- Under education concerns, the Local HRCs indicated that:
- Lack of equity and;
- Lack of retraining the workforce through education are major issues.

31

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA

OTHER TRENDS UNDER EDUCATION CONCERNS WERE:

- Lack of funding towards public education;
- Inability to retain teachers because of low salaries compared to the national average pay for teachers;
- Teacher shortage;
- Lack of technological advances within the public school systems.



32

CURRENT STATEWIDE TRENDS AFFECTING HUMAN RELATIONS IN NORTH CAROLINA



Number Five Human Relations Issue in North Carolina:

TRANSPORTATION CONCERNS

Under transportation concerns, the Local HRCs indicated that:

- Lack of public transportation and;
- Lack of reliable public transportation in cities/towns are the major issues.

33

A COMMISSION IN YOUR TOWN/COUNTY IS NECESSARY BECAUSE....

34

A COMMISSION IN YOUR TOWN/COUNTY IS NECESSARY BECAUSE...

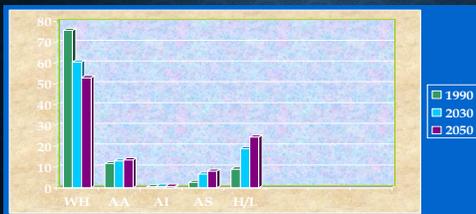
FACT NUMBER ONE:

There is a growing population by all races/national origin/ethnicity coming and/or birthed in North Carolina. A local human relations commission can be the organization that can build positive inter-group relationships in their local community.

NOTE: Presently, North Carolina is more diverse in race, culture, religion, language, etc. than it has been in its entire history. More than likely, this may be happening in your local community.

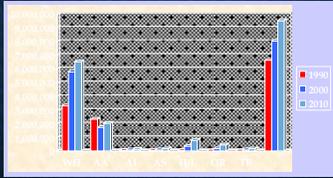
35

UNITED STATES COMPOSITION FOR 1990, 2030 AND 2050



36

**CENSUS OF THE STATE OF NORTH CAROLINA FOR
1990, 2000, 2010**



37

FIRST IMPORTANT CONSIDERATION :

If there is no organization that is trying to build positive inter-group relationships within the community, communities can develop hostile inter-group relations. When that happens, the following things can occur within a local community:

38

HOSTILE INTER-GROUP RELATIONS

- Companies looking for new sites to locate will evaluate the quality of life in the communities they seek out. If there are high levels of tension and hostility, this will be a factor in their decision.
- Social resentments may result in an increase in crime and a decrease in safety.
- The quality of education declines because of the focus on racial tension and gangs, not on learning.
- Public discourse is about conflict not about progress.
- The community's growth will be stunted and housing values will be affected along with a sense of community well being and general quality of life.
- And so on.....;HOWEVER,

39

SECOND IMPORTANT CONSIDERATION:

If there is a vehicle, such as a local human relations commission, trying to develop positive inter-group relationships within the community, inter-group relations can improve. When that happens, the following things can occur within a local community:

40

POSTIVE INTER-GROUP RELATIONS

- Companies looking for new sites to locate will evaluate the quality of life in the communities they seek out. If there are low levels of tension and hostility, this will be a factor in their decision.
- There is a greater sense of personal and inter-group safety.
- The schools are free to focus on learning.
- The quality of life for all is enhanced.

41

A COMMISSION IN YOUR TOWN/COUNTY IS NECESSARY BECAUSE...

FACT NUMBER TWO:

Due to the growing population by all races/national origin/ethnicity coming and/or birthed in North Carolina, there are growing concerns of old human relations issues that have not been dealt with. Also, there are growing concerns of new human relations issues that are on the beginning over the horizon. A local human relations commission can be the organization that can deal and/or recommend resolutions to those old and new issues affecting the community.

42

OLD HUMAN RELATIONS ISSUES

- **Separate But Equal laws**
- **Voting Rights discrimination**
- **Hate Groups**
- **Fair Housing discrimination**
- **Public Accommodation discrimination**
- **Employment discrimination**
- **Racial/Ethnic Profiling**

43

CONSTANT HUMAN RELATIONS ISSUES

- **Housing, Employment and Public Accommodation discrimination**
- **Rise In Hate Groups**
- **Voting Rights Discrimination**
- **Handicap/Accessibility Discrimination**
- **Biased disciplinary action in schools.**
- **Racial/Ethnic Profiling by local law enforcement**

44

EMERGING HUMAN RELATIONS ISSUES

- **Immigration issues and reform**
- **Rise in Religious Intolerance/discrimination**
- **Economic/job issues (workplace violence)**
- **Racial/ethnic profiling by law enforcement**
- **Sexual Orientation/Gender Identity discrimination**

45

IMPORTANT CONSIDERATION:

If there is an organization, such as a local human relations commission, that deals with these old and new human relations issues in the local community, the following things can happen to help the local community's progress:

46

THE COMMISSION CAN....

- **The Commission can create a forum where groups can come on a regular basis and assess the state of inter-group relations and identify needs for action.**
- **The Commission can request and develop continuing sources of financial support for programs to support cross-cultural sensitivity and positive inter-group relations.**
- **The Commission can have programs of recognition, support, training from cross-cultural bridge-builders.**
- **The Commission can continue searching for best practices in cross group relationship building and a commitment to continuous improvement in this area.**

47

A COMMISSION IN YOUR TOWN/COUNTY IS NECESSARY BECAUSE

FACT NUMBER THREE:

A local human relations commission can become crisis intervener if a human relations crisis/ incident happens in the community.

48

**EXAMPLES OF A HUMAN RELATIONS
CRISIS/INCIDENT**

- Murder
- Vandalism/Symbols
- Assault
- Threats
- Arson
- Hate Crime/Bias incident
- Anti-Immigration Rallies
- Law Enforcement /Community Incident
- Etc.

49

**IMPORTANT STATISTICS OF HATE CRIMES AND/OR HATE
BIAS INCIDENTS THAT OCCURRED IN NORTH CAROLINA
DURING THE YEAR OF 2019**

**In 2019 the following hate crimes/ hate bias incidents
were reported to the North Carolina Human Relations
Commission;**

Total of hate crime incidents reported to NCHRC: 54

Total of hate bias incidents reported to NCHRC: 130

Total hate incidents: 184

50

**IMPORTANT STATISTICS OF HATE CRIMES AND/OR HATE
BIAS INCIDENTS THAT OCCURRED IN NORTH CAROLINA
DURING THE YEAR OF 2020 (AS OF SEPTEMBER 15, 2020)**

**In 2020 (as of September 15, 2020), the following hate crimes/
hate bias incidents were reported to the North Carolina
Human Relations Commission;**

Total of hate crime incidents reported to NCHRC: 42

Total of hate bias incidents reported to NCHRC: 2,025+

Total hate incidents: 2,067+

51

IMPORTANT CONSIDERATION:

If there is an organization, such as a local human relations commission, that deals with handling human relations crisis/incidents in the local community, the following things can happen to help the local community's progress:

52

THE COMMISSION CAN....

- The Commission can make vigorous efforts to educate governmental agencies, non-profit organizations and the community about hate crimes/hate bias incidents and what kinds of things they can do if one occurs.
- The Commission can make vigorous efforts to confront and dissuade hate groups within the community and vigorous prosecution of hate crimes.
- The Commission can make a concerted effort to heal hurts and resolve conflicts when a human relations crisis/ incident has been done in the community. It is to use the win-win approach, when possible.

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QUESTIONS / ANSWERS



ANY QUESTIONS?

54



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: April 12, 2021

Presenter: Terri L. Parker, Town Manager

Item to be Considered

Subject: Agreements with Metronet

Action Requested: Approve Agreements Contingent Upon Town Attorney and Staff Review.

Attachment: Draft Agreements.

Prepared By: Don Harvey, Town Clerk

Date: 4/8/2021

ABSTRACT ROUTING:

TC: 4/8/2021

TM: 4/8/2021

Final: tlp - 4/8/2021

Supporting Documentation

The situation with MetroNet expansion of fiber optic into the Town is “ramping up” and there are three (3) agreements that we need to approve and execute with them:

- Letter Agreement
- Pole Attachment Agreement
- Right-of-Way Agreement

Staff has been working with MetroNet on DRAFTS of all three agreements. Presented are all three agreements for Council’s consideration and approval. Kathy Scheller with MetroNet has stated that they are getting ready to start construction in Greenville and there are two Winterville neighborhoods adjacent to where construction will start. Therefore, we will need to approve these agreements.

We have consulted with Town Attorney Keen Lassiter and MetroNet staff. Attached are “draft agreements” for your perusal. FINAL DRAFTS will be handed out at the meeting incorporating Keen’s comments and we ask that you approve these agreements “contingent on Town Attorney and Staff review.”

Budgetary Impact: TBD.

Recommendation: Approve and authorize execution of agreements contingent on Town Attorney and Staff review.

February 22, 2021

Ms. Terri L. Parker
Town Manager
Town of Winterville
2571 Railroad Street
Winterville, NC 28590

Re: Letter Agreement

Dear Town Manager Parker:

Metro Fibernet, LLC (“MetroNet”) constructs and operates fiber-to-the-premises networks (each an “FTTP Network”) for purposes of providing state-of-the-art all fiber voice, video and Internet services. MetroNet has successfully deployed FTTP Networks in 90 communities in 9 states. The Town of Winterville, North Carolina (“Town”) wishes for MetroNet to deploy an FTTP Network throughout the Town for purposes of providing fiber based communications services to residents and businesses (“Project”). MetroNet is willing to invest its capital to complete the Project subject to receiving certain assurances from the Town regarding the procedures that will govern the Project. The Town is willing to provide MetroNet with such assurances as more particularly set forth in this letter agreement (“Agreement”). MetroNet and the Town are sometime referred to herein collectively as the “Parties”, each individually a “Party”.

I. MetroNet Project Commitments

- A. FTTP Network. MetroNet will construct an FTTP Network capable of providing voice, video and Internet fiber services to residents and businesses in the Town. The FTTP Network will be solely funded by MetroNet.
- B. Residential Services. MetroNet will initially provide the following voice, video and Internet services to residential consumers in the Town:
 - (1) Fiber IPTV. A video service offering with up to 240 channels (128 HD channels), an incredibly clear picture and fast channel changing capability all provided over a cutting edge interactive IPTV platform. The IPTV platform also supports 4K (4,000 pixels per second) next generation television.
 - (2) Fiber Phone. A reliable fiber phone service with up to 17 custom calling features, long distance service and a low price point.

- (3) Fiber Internet. Incredibly fast symmetrical Internet speeds up to 1/1 Gbps.
- (4) Wireless Home Networking. The ability to connect to multiple devices wirelessly to MetroNet's Internet service and the ability to utilize wireless video set top boxes.

C. Business Services. MetroNet will provide the following voice, video and Internet services to businesses in the Town:

- (1) Hosted PBX. A service that allows a customer 4 digit dialing connectivity, numerous customer calling features and the capability to easily upsize or downsize users.
- (2) Fiber Internet. Incredibly fast symmetrical Internet speeds of 1/1 Gbps and beyond.
- (3) Fiber IPTV. A video service offering with up to 240 channels (128 HD channels), an incredibly clear picture and fast channel changing capability all provided over a cutting edge interactive IPTV platform. The IPTV platform supports 4K (4,000 pixels per second) next generation television.

II. City Project Commitments.

A. Construction Permits. The Parties agree that Exhibit A sets forth all of the information the MetroNet will be required to submit to the Town to obtain a construction permit from the Town. Within 30 days of the submittal of an application for a construction permit, the Town will issue MetroNet a blanket construction permit to install aerial and underground facilities within Town controlled right-of-way. Each blanket construction permit will cover a large geographic area of the Town consisting of up to 1,000 homes and/or businesses. Submission of blanket construction permits shall be staggered to allow the Town adequate time for review. The Town agrees that there shall be no cost to obtain any construction permit. Other than as set forth in this paragraph, MetroNet will not be required to pay any additional fees, post any bonds or letters of credit or otherwise obtain any additional permits from the Town to install aerial and underground facilities in the Town. The Town shall take reasonable steps, including hiring additional personnel if necessary, to meet its obligations under this paragraph.

B. Construction Procedures. The Parties agree to adhere to the construction procedures set forth in Exhibit B during construction of the FTTP Network.

C. Property. At MetroNet's request, the Town will use reasonable efforts to facilitate MetroNet's efforts to find excess Town property to locate an equipment hut and a monopole and related equipment for the reception of video signals ("Hut Site"). If the Parties identify a mutually acceptable Town owned site, the Town will sell or enter into a

long term lease or license such property to MetroNet for nominal consideration, subject to compliance with all applicable laws including Town codes and ordinances. Any lease or license would be long term.

- D. Solicitation. MetroNet will be allowed to conduct door-to-door consultative sales in the Town between the hours of 10 AM and the later of 7 PM or sunset. All such sales activity shall be conducted in accordance with applicable laws and Town ordinances.
- E. Town Business. Upon the expiration of any current agreement with a third party who currently provides the Town with any phone, video, Internet or other communications service, the Town will notify MetroNet and give MetroNet an opportunity to obtain the contact to provide such services to the Town in accordance with all applicable laws and ordinances including, but not limited to, any RFP and bidding requirements.
- F. No Joint Venture. This Agreement is not intended to create, nor will it be construed to create, any partnership, joint venture, or employment relationship between the Town and MetroNet, and neither Party will be liable for the payment or performance of any debt, obligations, or liabilities of the other Party, unless expressly assumed in writing.
- G. Entire Agreement Amendments. This Agreement constitutes and embodies the full and complete understanding and agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior understandings or agreements, whether oral or in writing regarding the subject matter of this Agreement. Without limiting the foregoing, the Parties acknowledge that, in cases of conflict, their mutual intent is for the terms of this Agreement to supersede any contrary terms or provision in any Town ordinance or franchise agreement between the Parties. This Agreement may not be amended or modified in any way except by a writing signed by the authorized representatives of the Parties.
- H. Applicable Law. This Agreement will be governed by all the laws of the State of North Carolina without regard to the choice of law provisions thereof.
- I. Venue. The Parties consent to the exclusive jurisdiction of, and venue in, any federal or state court of competent jurisdiction located in Pitt County, North Carolina for purposes of adjudicating any matter arising out of or relating to this Agreement.
- J. No Third Party Beneficiaries. No rights or privileges of either Party hereto shall inure to the benefit of any other person or entity, and no such other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

Accepted and agreed to as of the date first written above

MetroNet

By: _____

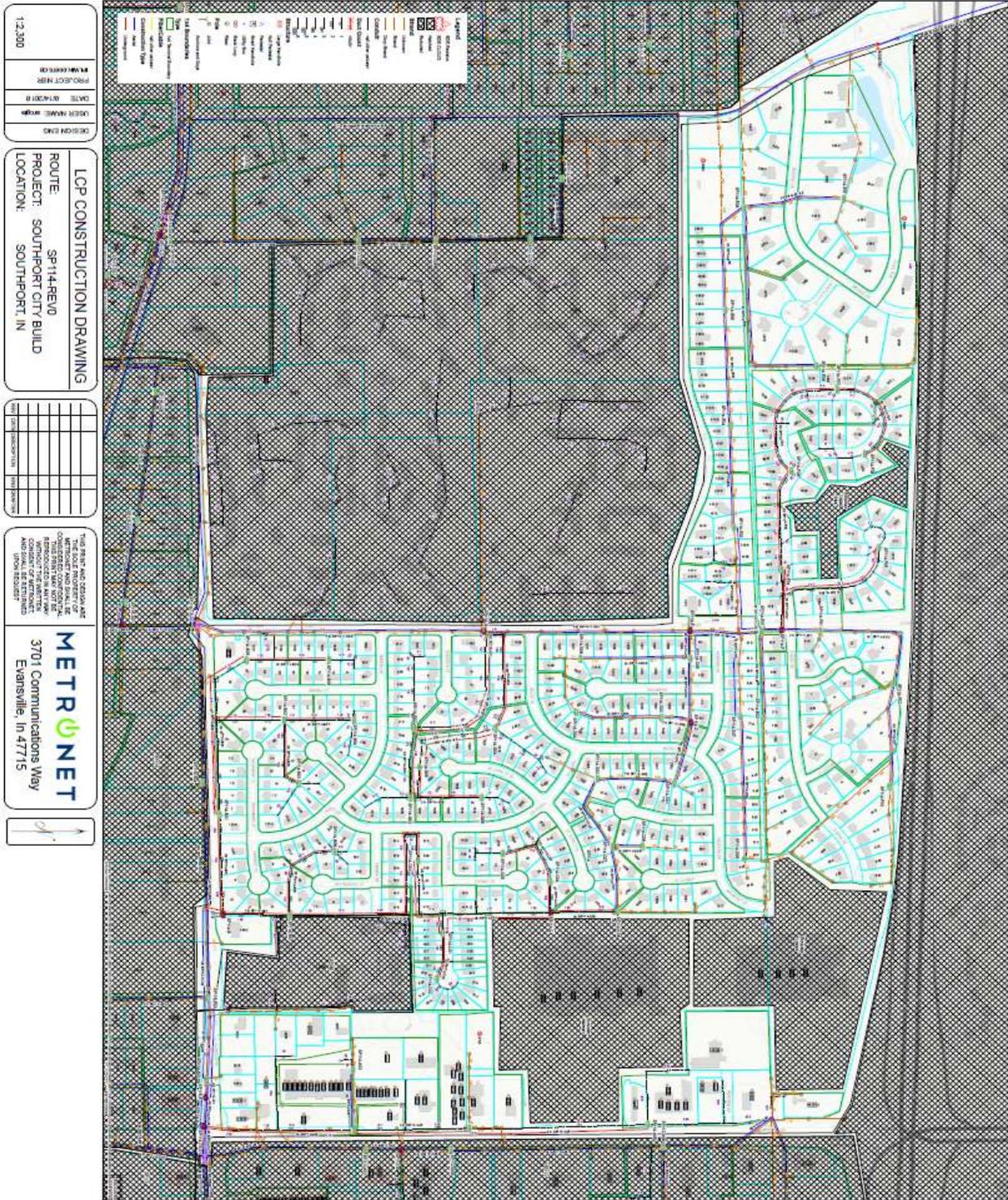
Town of _____

By: _____

DRAFT

EXHIBIT A
Construction Permit Information

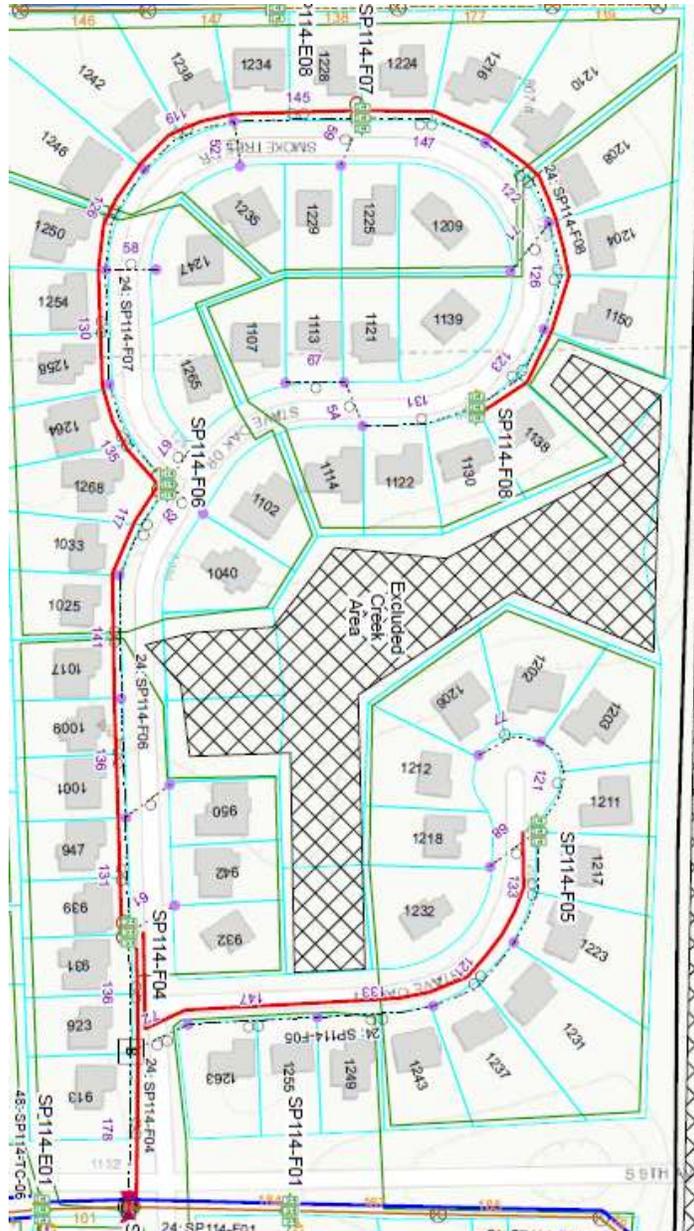
Sample Construction Drawings



Example Front Easement

Legend

-  SDE.Revision
-  SDE.CLOUD
-  Hatched
-  Excluded
- Strand**
-  Unknown
-  Strand
-  Drop Strand
- Conduit**
-  <all other values>
- Duct Count**
-  <Null>
-  1
-  2
-  3
-  4
-  5
-  6
- Structure**
-  Large Handhole
-  Null Pedestal
-  Pedestal
-  Small Handhole
-  Utility Box
-  Slack Loop
-  Riser
- Pole**
-  Joint
-  Anchors and Guys
- 1x4 Boundaries**
- Type**
-  1x4 Terminal Boundary
- FiberCable**
-  <all other values>
- Construction Type**
-  Aerial
-  Underground



Example Aerial

Legend

- SDE.Revision
- SDE.CLOUD
- Hatched
- Excluded

Strand

- Unknown
- Strand
- Drop Strand

Conduit

- <all other values>

Duct Count

- <Null>
- 1
- 2
- 3
- 4
- 5
- 6

Structure

- Large Handhole
- Null Pedestal
- Pedestal
- Small Handhole
- Utility Box
- Slack Loop
- Riser

Pole

- Joint
- Anchors and Guys

1x4 Boundaries

- 1x4 Terminal Boundary

FiberCable

- <all other values>

Construction Type

- Aerial
- Underground



Example Rear Easement

Legend

- SDE.Revision
- SDE.CLOUD
- Hatched
- Excluded

Strand

- Unknown
- Strand
- Drop Strand

Conduit

- <all other values>

Duct Count

- <Null>
- 1
- 2
- 3
- 4
- 5
- 6

Structure

- Large Handhole
- Null Pedestal
- Pedestal
- Small Handhole
- Utility Box
- Slack Loop
- Riser

Pole

- Joint
- Anchors and Guys

1x4 Boundaries

- 1x4 Terminal Boundary

FiberCable

- <all other values>

Construction Type

- Aerial
- Underground

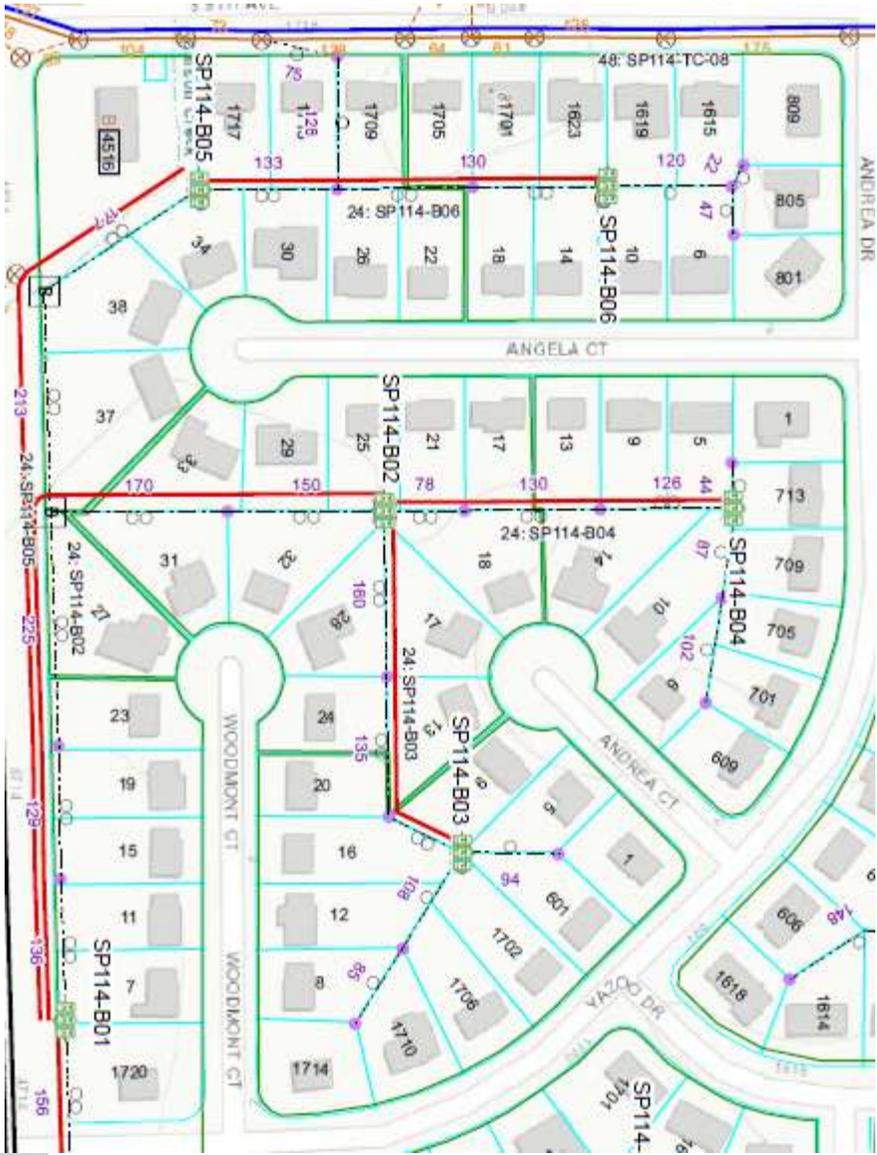


EXHIBIT B

Construction Procedures

- A. Utility Poles. Subject to the following requirements, MetroNet will have the ability to place utility poles in the Town rights-of-way and utility easements on a limited basis:
- (1) MetroNet will not seek to install a utility pole in any areas of the Town where all of the utilities are located underground;
 - (2) MetroNet must be unable to use an existing utility pole in the general area where it wishes to place a utility pole due to high make ready costs or excessive delays gaining access to the existing utility poles;
 - (3) any requested utility pole will be added to an existing utility pole line;
 - (4) any requested utility pole will be located on the same side of the road as an existing utility pole line;
 - (5) MetroNet will make reasonable accommodations requested by the Town to improve the aesthetics of a requested utility pole in the area where it is to be located;
 - (6) the location of a requested utility pole will not adversely affect the health, safety or welfare of any person;
 - (7) MetroNet will make the requested utility pole available to any other communications provider on just and reasonable terms subject to loading requirements and space availability;
 - (8) If a utility company installs a new utility pole that will accommodate MetroNet's fiber facilities in any area where MetroNet has installed a utility pole, provided MetroNet has access to the new utility pole under reasonable terms and conditions, within a reasonable time period after being notified by the Town, MetroNet will move its fiber facilities to the new utility pole and will remove the MetroNet utility pole from the right-of-way.
- B. Underground Construction. When installing its facilities underground, MetroNet will install its fiber utilizing boring technology and procedures. In areas with high construction costs and/or where the deployment of conduit is not cost effective or feasible, on a case-by-case basis, subject to Town approval, which approval will not be arbitrarily, discriminatorily, or unreasonably withheld, conditioned or delayed, MetroNet may install its fiber utilizing open trench or micro-trenching technology and procedures.

- C. Utility Location Procedure. The Parties agree that the following procedure will be exclusively used any time MetroNet is required to insert a hole in a driveway, walkway or street to locate other utilities under and across paved or concrete surfaces. MetroNet will utilize an 8” minimum core drill to remove the pavement and then remove debris utilizing a vacuum excavator to visually expose the path to cross the street. After the crossing is completed, the excavated pothole will be backfilled with a flowable stabilized sand/cement slurry mix comprised of at least 2 bags/yard of cement to completely fill the excavation hole to the depth of the existing pavement. Where possible the core plug removed to access the pothole will then be cleaned and coated with epoxy resin around the outside surface of the plug and replaced in the excavation hole so that it is even with the top of the existing surface of the driveway, walkway or street.
- D. Restoration. MetroNet will use commercially reasonable efforts to restore property within 3 business days of the boring, subject to factors beyond MetroNet’s reasonable control. Consideration will be given to the amount of restoration needed with each boring and MetroNet will endeavor to conduct borings in a manner which requires the least amount of restoration (e.g. when appropriate using streets and sidewalks for equipment rather than lawns, etc.). After boring under the street / curb and sidewalks, MetroNet will inspect for any heaving that may have occurred from the boring process. Notwithstanding the foregoing, in no event will MetroNet be required to repair, replace or restore any personal property of a property owner that was improperly located in a utility easement.
- E. Construction Communications Plan. MetroNet will implement a construction communications plan and will use commercially reasonable efforts to meet the following timelines and standards, as they relate to each approved permit application area:
- (1) At least 30 days, but no more than 45 days, prior to the commencement of construction in a residential area, MetroNet will send a detailed letter to the residential addresses in that area advising occupants of upcoming construction activities.
 - (2) At least 14 days, but no more than 30 days, prior to the commencement of construction in a residential area, MetroNet will send postcard reminder to the residential addresses in that area reminding occupants of upcoming construction activities.
 - (3) At least 3 days, but no more than 7 days, prior to the commencement of construction in a residential area, MetroNet will send out street teams to place signs in the yards of those residential properties where MetroNet will commence with construction activities.
 - (4) Each communication sent to a residential address will include the URL to MetroNet’s construction website: metronetinc.com/construction. On this website residents can find additional information regarding the construction plans in their area. Following

construction, property owners will also be able to use this website to submit damage claims in the event MetroNet inadvertently causes damage to their property.

- F. Work Hours. MetroNet and its contractors may perform construction activities including, but not limited to, boring, aerial construction, pulling cable, splicing and clean-up work (“Construction Activities”) from 7 AM until sunset, Monday through Friday. MetroNet and its contractors will perform all Construction Activities with the exception of boring, which will not be performed on the weekend, from 7 AM until sunset, Saturday and Sunday.

DRAFT

Town of Winterville
Pole Attachment Agreement

This Pole Attachment Agreement (“Agreement”) is made and entered into this ____ day of _____, 2021, (“Effective Date”) by and between Town of Winterville, North Carolina (“TOWN”) and Metro Fibernet, LLC (“Licensee”).

WHEREAS, TOWN, itself and jointly with Carolina Telephone & Telegraph Company, d/b/a Centurylink Corporation (“Centurylink”), owns certain poles in the TOWN service area to which Licensee desires to attach and maintain aerial cables, wires, and associated facilities through the area Licensee desires to serve pursuant to a telecommunications license or cable television franchise; and

WHEREAS, TOWN is custodian of all poles owned jointly by TOWN and Centurylink; and

WHEREAS, TOWN is willing to permit attachment of Licensee’s facilities to such poles under the conditions herein contained;

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions herein contained, TOWN and Licensee do hereby mutually covenant and agree as follows:

ARTICLE 1

TERM AND SCOPE OF AGREEMENT

1.1 Term. The term of this Agreement, unless terminated as herein provided, is twelve (12) years, beginning on the Effective Date; provided, however, that if the term of the Franchise is extended as therein provided, the term of this Agreement shall likewise be extended to be coterminous with the term of the Franchise. Thereafter, this Agreement shall remain in effect on a year-to-year basis until terminated by either party by giving to the other party one hundred twenty (120) days advance written notice of termination.

1.2 General Purpose. In accordance with the provisions of this Agreement, TOWN may issue Attachment Permits to Licensee on the terms and conditions set forth herein. Before Licensee makes any new attachment to or begins any work on a pole that materially modifies Licensee’s existing attachments, it shall file an application and engineering drawings with TOWN and await TOWN’s issuance of an Attachment Permit with respect to that particular attachment or pole. This Agreement only addresses attachments to poles owned by TOWN and attachments to poles owned jointly by TOWN and Centurylink. Attaching to or using other TOWN property and facilities, including without limitation, conduits, buildings, and towers, is prohibited without the further written consent of TOWN.

1.3 Private Easements. Licensee understands that some poles subject to this Agreement may be located on property without the consent of the property owner and that some poles subject to this Agreement may be located on dedicated easements over private property that, by their terms, restrict the use of the easement to TOWN for the sole purpose of electric distribution or transmission, or other uses. Except as otherwise permitted by applicable law, nothing in this Agreement and no action by TOWN shall be construed to offer, grant or approve any right or license to use or affix an attachment to such pole without the written consent of the owner of the property on which the pole is located. TOWN has no obligation to expand or obtain rights in such property on Licensee's behalf. Except as otherwise permitted by applicable law, it is the sole obligation of Licensee to obtain the necessary consent or easement rights, if any, at Licensee's own expense.

1.4 License not Exclusive. Licensee acknowledges that TOWN has in the past entered into, and may enter into in the future, similar or other agreements concerning the use of poles by third parties, including Licensee's competitors. Nothing in this Agreement shall be construed to limit or in any way affect TOWN's right or ability to enter into or honor other agreements, or to grant any rights, licenses, or access concerning any pole, irrespective of the character or degree of economic competition or loss caused to Licensee; provided, however, any such other agreements entered into by TOWN or any grants, licenses or access authorized by TOWN to third parties shall not materially modify Licensee's rights under this Agreement or Licensee's attachments on the poles subject to this Agreement.

1.5 Operation of TOWN's Facilities. TOWN reserves to itself, its successors and assigns, the right to maintain, replace and enlarge its facilities and to operate the same from time to time in such manner as will best enable it, in its sole judgment, to meet the needs of its customers and fulfill its own service requirements. Except for negligent actions or inactions or willful misconduct by TOWN, TOWN shall not be liable to Licensee or to its customers for any interruption to service of Licensee arising in any manner out of the use of TOWN's poles hereunder, or arising in any manner out of the condition or character of TOWN's or such other utilities facilities or the manner of the operation thereof. Further, Licensee shall, at its own expense, relocate its facilities on any existing pole upon one hundred twenty (120) days' prior written request by TOWN if space is needed for expansion, maintenance or operation of TOWN's facilities.

1.6 Relation to Franchise. Licensee's facilities that are attached to TOWN's poles may be used for the transmission and delivery of any communications service that Licensee may lawfully provide. Licensee shall not use its attachments to TOWN's poles for illegal purposes.

1.7 Jointly Owned Facilities. TOWN represents to Licensee that it has a 50% ownership interest in distribution pole facilities that are jointly owned with Centurylink and that it has the legal and contractual right and authority to allocate space in the communications zone (as defined in the applicable technical codes identified in Section 2.2 of these jointly owned pole facilities and to collect the fees and charges itemized in Section

5.3 of this Agreement for the use of space in the communications zone of such jointly owned pole facilities. All references to “pole” or “poles” herein includes both TOWN owned poles and jointly owned poles. The Annual Rates included in Section 5.3 reflect TOWN’s ½ undivided interest in a joint pole. Centurylink shall invoice and Licensee shall be responsible for payment to Centurylink for Centurylink’s ½ undivided interest in a joint pole.

ARTICLE 2

PERMITS

2.1 Application Process. Prior to installing any new attachments of Licensee’s facilities on TOWN poles, Licensee shall apply for and receive approval from TOWN using the application form supplied by TOWN, a sample of which is attached as Exhibit A (“Attachment Application”), which may be amended and updated by TOWN from time to time. Except as provided in Section 2.7 (lift/drop poles) and Section 2.9 (Riser Cables and Power Supplies), no new attachments shall be made after the Effective Date unless and until TOWN returns the application signed by a TOWN representative granting permission to make the attachments (“Application Permit” or “Permit”). Upon receipt of an approved Permit, but no sooner, Licensee shall have the right to install, maintain, and use the equipment described in the application upon the poles identified therein, provided Licensee shall complete installation within one hundred eighty (180) days after the issuance of the Permit, unless make ready work is required on the part of TOWN (the cost of which shall be paid to TOWN by Licensee as provided in Section 2.5) for the installation of Licensee’s facilities, in which case such installation shall be completed within one hundred eighty (180) days after receipt of notification from TOWN of its completion of such make ready work. TOWN may grant Licensee a one-time extension of 90 days if requested by Licensee in writing.

2.2 Compliance with Laws, Rules and Regulations.

(a) Licensee shall at all times install, maintain, and remove Licensee’s facilities in accordance with the requirements and specifications of all applicable federal, state, and local laws, including rules and regulations adopted pursuant thereto, including, but not limited to, the National Electrical Safety Code (“NESC”), the Occupational Safety and Health Act (“OSHA”) and Exhibit C, as each may be amended and updated from time to time, subject to any grandfathering exceptions. TOWN shall in no way be responsible for the installation and construction of Licensee’s facilities, the sole exception to the foregoing being when Licensee pays TOWN a transfer fee to relocate Licensee’s attachments pursuant to Section 2.10(c). TOWN shall in no way be responsible for the operation or performance of Licensee’s facilities. Licensee shall, at its own expense, properly guy for all loads imposed by it on poles. Licensee shall not use TOWN’s anchors or guys without TOWN’s prior written approval.

(b) TOWN shall at all times install, maintain, and remove TOWN’s facilities in

accordance with the requirements and specifications of all applicable federal, state, and local laws, including rules and regulations adopted pursuant thereto, including, but not limited to, the NESC, OSHA and Exhibit C, as each may be amended and updated from time to time. Licensee shall in no way be responsible for the installation and construction of TOWN's facilities. Licensee shall in no way be responsible for the operation or performance of TOWN's facilities. TOWN shall, at its own expense, properly guy for all loads imposed by it on poles. TOWN shall not use Licensee's anchors or guys without Licensee's prior written approval.

2.3 Application Fee. A non-refundable application fee covering all the poles in an application shall be paid at the time an application is submitted. The application fee is set forth in Exhibit B attached hereto. The application fee is solely to compensate TOWN for reviewing and processing an application. The application fee for the first year of the contract term is established as the mid-point of the salary range plus benefits for one hour of effort by the employee classification assigned by TOWN to process the application. The application fee will also include an additional charge per pole for each pole included in an application for evaluation as set forth in Exhibit B.

2.4 Engineering. Upon receipt of an application and engineering drawings from Licensee, TOWN shall review the application and engineering drawings of the pole(s) to which Licensee has requested a permit to attach and provide Licensee an estimate of charges for any applicable make-ready work on TOWN electrical facilities within forty-five (45) days of TOWN's receipt of the application and engineering drawings. The evaluation shall be performed using standard industry techniques. Licensee shall pay TOWN a non-refundable application and per pole fee, as set forth on Exhibit B attached hereto, to perform the analysis for each application submitted to the TOWN.

2.5 Make-Ready Construction. After review of Licensee's field and engineering evaluation identified in Section 2.4, TOWN will estimate the cost of doing make ready work in the electrical space, as determined by TOWN in its reasonable judgment, required to accommodate Licensee's attachments on a pole with respect to TOWN in compliance with the National Electrical Safety Code, Exhibit C, generally accepted engineering and construction practices, and applicable laws. The work identified shall be collectively referred to as "make ready" changes or work. TOWN shall indicate the make ready changes necessary to accommodate Licensee, together with the estimated cost of doing such work (including the cost of any necessary materials) and shall return the application to Licensee within forty-five (45) days of TOWN's receipt of Licensee's application and engineering drawings. The estimated cost of any make ready work shall be based on TOWN's actual and reasonable costs. If Licensee desires to proceed, Licensee shall return the application to TOWN indicating its approval, together with an advance payment to reimburse TOWN for the entire estimated cost and expense for make ready work in the electrical space, including, if requested by Licensee, the total installed cost of new poles (the size and specifications for which shall be designated by TOWN), plus the expense of transferring TOWN's facilities and the facilities of any third party also occupying said poles from the old to the new poles, plus the cost of removal of the old

poles and associated engineering costs. Licensee shall have the right to perform make ready work in the communications space, or make arrangements with any third party user to rearrange their facilities at Licensee's expense, to accommodate Licensee's facilities, provided however, that Licensee shall not perform any make ready work on TOWN facilities in the electrical space. Licensee will not be responsible for any make-ready cost associated with poles owned by TOWN and facilities owned by any other utility also occupying the pole if the pole prior to Licensee's permit request does not comply with the NESC, Exhibit C, or generally accepted engineering and construction practices and applicable laws. In such case, however, Licensee will be responsible for any incremental cost if Licensee's facilities require improvements in pole height/class greater than needed had Licensee not attached to pole. Space available for the attachment of Licensee's facilities shall be in general compliance as shown on attached Exhibit C. All replaced poles shall be of basic pole height and class distribution to meet NESC clearance and structural requirements at the time of installation.

2.6 Approval. Pursuant to applicable law, TOWN may deny any Attachment Application if there is insufficient capacity or for reasons of safety, reliability, and generally applicable engineering principles, and those limitations cannot be remedied by rearranging, expanding, or otherwise reengineering the facilities at the reasonable and actual cost of the TOWN to be reimbursed by Licensee. The denial, approval, or modification of an Attachment Permit shall be governed by the terms of this Agreement and applicable law and shall be based on the technical specifications set forth in Section 2.2 of this Agreement. With regard to the timelines set forth herein TOWN will act in good faith and effort to comply as follows. TOWN will deny, grant (with or without conditions) Licensee's Attachment Application within forty-five (45) days of receipt of Licensee's application and engineering drawings. If TOWN denies Licensee's Attachment Application, TOWN will provide a written explanation of the basis for the denial on a pole-by-pole basis. If TOWN grants Licensee's Attachment Application without condition, TOWN will issue permits for the poles covered by Licensee's application within ten (10) business days of the grant date. If TOWN grants Licensee's Attachment Application(s) conditioned on completion of make-ready changes, TOWN will provide make-ready work estimates to Licensee within forty-five (45) days of the receipt of Licensee's application and engineering drawings. TOWN will replace such TOWN facilities with suitable poles or perform such other necessary make-ready changes to accommodate the presence of Licensee's facilities within sixty (60) days of receipt of Licensee's acceptance of TOWN's make-ready estimate. Within three (3) days of completion of any required make-ready work, TOWN will issue permits for the poles covered by the make-ready work.

2.7 Attachment to Lift/Drop Poles. Licensee may make attachments to lift/drop poles without prior approval from TOWN. Any new lift/drop pole attachments shall be made in conformance with the technical specifications specified in Section 2.2 of this Agreement. Licensee shall submit to TOWN an application for the use of such poles, in the form attached in Exhibit A. Such applications shall be submitted within sixty (60) days of the attachment and shall include the date of attachment to each lift/drop pole. Licensee shall pay the application fee specified in Section 2.3 at the time the application is

submitted and the Simple Engineering Fee specified in Section 2.4. Only one (1) monthly application and engineering fee shall be due per application even if multiple lift/drop pole attachments are made during the preceding month.

2.8 Overlashing. Licensee may, upon fifteen (15) days' advance notice to TOWN, overlash its own existing authorized Attachment and this does not constitute a separate attachment, as it relates to the billing of pole attachment fees, unless multiple/separate attachment points are physically made at the poles itself outside of the scope of a single attachment. If after receiving the advance notice, TOWN determines that Licensee's overlash would create a capacity, safety, reliability, or engineering issue, it must provide specific documentation of the issue to Licensee within the fifteen (15) day advance notice period and Licensee shall address any identified issues before continuing with the overlash either by modifying its proposal or by explaining why, in Licensee's view, a modification is unnecessary. TOWN shall not charge a fee to review Licensee's proposed overlash. Licensee shall be responsible for ensuring it complies with reasonable safety, reliability, and engineering practices. If damage to a pole or other existing attachments results from overlashing or overlashing work causes safety or engineering standard violations, Licensee shall be responsible for its expense and any necessary repairs. Licensee shall notify TOWN within fifteen (15) days of completion of the overlash and TOWN shall have ninety (90) days from receipt of such notice to inspect the overlash and require Licensee to correct any violations at Licensee's expense. Such overlashing shall be consistent with the applicable technical requirements specified in Section 2.2. Licensee may not allow another party to over lash to Licensee's facilities without such party's first having an agreement with and Attachment Permit from TOWN. Poles are the sole property of TOWN, or TOWN and Centurylink, and Licensee shall not charge or accept any financial consideration for allowing a third party to over lash to an attachment without TOWN's written consent.

2.9 Riser Cables and Power Supplies. Licensee may attach riser cables and power supplies to any pole for which Licensee holds a valid Attachment Permit without an additional and separate Attachment Permit. The riser cables and power supplies shall be installed, maintained, and removed in conformity with the technical specification set forth in Section 2.2 of this Agreement.

2.10 Maintenance and System Improvements.

(a) Licensee shall, at its own expense, make and maintain all its attachments and facilities in safe condition and in thorough repair, and in a manner consistent with the technical specifications set forth in Section 2.2 and so that the same will not conflict with the use of said poles by TOWN or by other utility companies using or having the right to use said poles, or interfere with the working use of facilities thereon.

(b) TOWN shall, at its own expense, make and maintain all its attachments and facilities in safe condition and in thorough repair, and in a manner consistent with the technical specifications set forth in Section 2.2 and so that the same will not unreasonably

conflict with the permitted use of said poles by Licensee.

(c) Licensee shall, upon notice from TOWN, and at Licensee's option, pay TOWN the transfer fee as specified in Exhibit B, or at Licensee's own expense and within sixty (60) days of such notice or such other timeframe required by applicable law, relocate its facilities on existing poles, transfer them to different locations on the same or substitute poles (whether in the same or different locations), or perform any other work in connection with said facilities that may be specified by TOWN in connection with such relocation or transfer; provided, however, that in cases of emergency (i.e., one presenting imminent risk of bodily injury or property damage), or if Licensee fails to relocate its facilities within the time specified by TOWN, TOWN or its designated agent may relocate Licensee's facilities placed on said poles, transfer them to substitute poles or perform any other work in connection with said facilities that may be required in the replacement or relocation of said poles, and Licensee, on demand, shall reimburse TOWN or other pole occupants for the reasonable and actual expense of relocating Licensee's facilities thereby incurred. TOWN or its agent shall not be liable to Licensee or its customers for damage to Licensee's facilities as a result of the exercise of TOWN's rights hereunder except in cases of negligence or willful acts by TOWN or its agents.

ARTICLE 3

INVENTORY AND INSPECTIONS

3.1 System-wide Inventory. TOWN shall have the right to conduct a system-wide inventory of all Licensee and third-party user attachments on its poles. TOWN will notify Licensee of the times and places of such inventory and Licensee may have representatives accompany TOWN and/or its designated agent during the inventory. Licensee agrees that its participation in the initial inventory shall not delay or interfere with the work by TOWN or its agent during the inventory process. Should delay occur due to Licensee's participation, Licensee shall be responsible for all additional costs. The inventory shall include (a) a visual count of all attachments and the identity of the attaching party, (b) a visual accounting of all NESC violations of clearances and/or other code violations, and (c) a physical test of each pole's structural integrity. Licensee's use of existing TOWN guying and anchors shall be deemed authorized under this Agreement unless identified during this initial inventory as not structurally sufficient. Modification of the identified anchors, as well as all future work on existing poles, must meet the requirements for guying and anchors as specified in Section 2.2. Licensee shall pay its assigned prorata portion of the inventory costs based on the total number of attachments affixed to the poles. Licensee shall submit payment to TOWN or TOWN's agent within thirty (30) days from the date TOWN renders an invoice subject to the procedures for disputed invoices under Section 5.4.

3.2 Future Inspections and Inventory by TOWN. No sooner than five years after the completion of the inventory described in Section 3.1, and in five-year increments until termination of this Agreement, TOWN shall have the right to conduct field

inspections and inventories of Licensees' attachments and facilities and third-party user attachments and facilities on the poles for compliance with the terms of this Agreement; provided, however, TOWN shall provide reasonable advance notice of such an inspection and Licensee shall have the right to be present during any such inspection by TOWN. Licensee shall pay its assigned prorata portion of cost of any inspection done by TOWN based on the total number of attachments affixed to the poles. Licensee shall submit payment to TOWN or TOWN's agent within thirty (30) days from the date TOWN renders an invoice subject to the procedures for disputed invoices under Section 5.4.

3.3 Right to Inspect. TOWN may make a post construction inspection of Licensee's work and attachments within three hundred and sixty (360) days of completion of Licensee's attachment. TOWN may conduct these inspections for any purpose related to this Agreement, including without limitation: (a) determining compliance with design and installation requirements; (b) determining compliance with NESC; (c) determining compliance with anchor and guying requirements as specified in Section 2.2, or (d) auditing and inventorying. The making of an inspection by TOWN shall not operate in any way to relieve Licensee or Licensee's insurers of any responsibility, duty, obligation, or liability under this Agreement or otherwise, nor does TOWN's ability to make inspections relieve Licensee from its obligations to exercise due care in the operation and inspection of its attachments.

3.4 Compliance. In the event any inspection of an existing attachment reveals that corrections or other actions are required of Licensee under this Agreement, including without limitation those required for reasons of safety or structural integrity, Licensee shall make such corrections or take the requested actions within sixty (60) days after Licensee's receipt of written notice informing Licensee of the corrections to be made. TOWN may also perform such work without notice, at Licensee's sole cost and risk, with the exception of any loss, cost, or damage due to TOWN's negligence, or willful misconduct, if TOWN determines in its reasonable judgment that emergency (i.e., one presenting imminent risk of bodily injury or property damage) or safety considerations do not permit full advance notice to Licensee. If Licensee fails or refuses to comply with the directions of TOWN, the attachments in question shall thereafter be deemed to be Unauthorized Attachments (as hereinafter defined), and TOWN may, upon sixty (60) days prior written notice, opt to change, alter, improve, move, remove or rearrange such attachments without incurring any liability to Licensee, and at Licensee's sole cost and risk, with the exception of any loss, cost, or damage due to TOWN's negligence or willful misconduct.

ARTICLE 4

UNAUTHORIZED ATTACHMENTS

4.1 Unauthorized Attachments Identified during Inspections and Inventories. An "Unauthorized Attachment" means an attachment or any other affixing or placing of Licensee's facilities onto TOWN property for which Licensee does not have a valid Attachment Permit. Following any Inspection and Inventory conducted pursuant

to Section 3.1, 3.2 or 3.3 and for all attachments to TOWN facilities for which there does not exist an approved permit, Licensee shall pay TOWN a per-pole penalty equal to the applicable annual rate, as set forth in Section 5.2 multiplied by the number of years (including fractional years) from the date of the actual attachment, provided that Licensee can reasonably establish the date of such attachment, or, if the date of attachment cannot be so determined, the applicable annual rate multiplied by five (5). In addition, Licensee shall pay TOWN interest at the prime rate as published in the Money Rate Section of the Wall Street Journal on the date the unauthorized attachment was discovered, plus three percent (3%) from the date of the actual attachment or five years if Licensee cannot reasonably establish the date of the Unauthorized Attachment. Further, Licensee shall immediately submit an application for the attachment consistent with Section 2.1 of this Agreement. Payment of the application fee specified in Section 2.3 and the Simple Engineering Fee specified in Section 2.4 shall accompany the application.

ARTICLE 5

CHARGES AND BILLING

5.1 Payment Due upon Permit Approval. Final TOWN approval of an Attachment Permit shall be conditioned on Licensee's payment, within 30 days of approval and after TOWN's rendering an invoice, of the then current Annual Rate for each approved attachment, prorated to reflect the number of months remaining in the Contract Year with any partial month being considered to be a full month. "Contract Year" is defined as the twelve calendar months beginning January 1 of the respective year.

5.2 Calculation of Annual Rates. The term "Annual Rate" shall mean the annual charge in effect for Licensee's facilities attached to TOWN facilities. The Annual Rate is the per-pole rate set forth in Exhibit D. The TOWN may recalculate and revise the Permit Fees in Exhibit A and the Annual Rates in Exhibit D on an annual basis with sixty (60) days prior written notice to Licensee, provided that any increase shall be no greater than 1.5%, unless a Federal or State Agency regulates the pole attachment rates, in which case the attachment rate formula established by such Agency will be used to establish the applicable rate.

5.3 Billing. On the approval date of an application and permit, TOWN will render an invoice to Licensee for fees covering the remainder of the contract year in which said permit is granted. Beginning on the first day of the next subsequent contract year and on the first day of each contract year thereafter, TOWN will render an invoice to Licensee for advance annual fees for all attachments then in place consistent with the rate schedules in Exhibit D.

5.4 Late Payments. Payment of all undisputed amounts on invoices shall be made within thirty (30) days from the date of receipt of the invoices by Licensee. Invoices shall be deemed received three (3) days after the date placed in the mail by TOWN. If any undisputed amount is still outstanding for a period of thirty (30) days from the date of

receipt by Licensee, interest at the prime rate as published in the Money Rate Section of the Wall Street Journal plus three percent (3%) on the total aggregate overdue balance will be added to the balance owed by Licensee. Licensee shall notify TOWN of any disputed amounts within thirty (30) days of Licensee's receipt of the invoice. The Parties shall meet in good faith to resolve the dispute. If the dispute cannot be resolved within fourteen (14) days, the Parties may seek other remedies, up to and including legal action.

ARTICLE 6

TERMINATION

6.1 Termination of Attachment Permits. TOWN shall have the option, upon thirty (30) days written notice to Licensee, to terminate Attachment Permits for specific attachments upon any of the following events or conditions:

(a) Licensee has not completed attachment installation within one hundred eight (180) days of issuance of the Attachment Permit, unless otherwise provided in this Agreement (*i.e.*, Section 2.1) or Licensee and TOWN agree in writing for a longer period;

(b) Licensee removes the attachment for a period of ninety days (90) consecutive days or longer, for any reason other than in the course of routine maintenance or replacement or restoration of Licensee facilities following a casualty, condemnation or other force majeure event; or

(c) Licensee ceases to offer services for a period of ninety (90) consecutive days or longer, or provides services unlawfully, through the attachment.

(d) Licensee fails to make payments or comply with the terms of this agreement, subject to any cure period.

6.2 Termination of Attachment Permits – Conversion from Overhead to Underground Service. Upon one-hundred eighty (180) days written notice of termination of an Attachment Permit by TOWN, Licensee agrees that it will bear all costs associated with the relocation or re-routing of its attachments in the event TOWN facilities are removed from a pole and re-routed underground. In such event, TOWN shall be under no obligation to maintain any poles that no longer support TOWN distribution lines and may remove Licensee's attachments when removing the abandoned pole at Licensee's sole cost and risk, with the exception of any loss, cost, or damage due to TOWN's negligence, or willful misconduct. TOWN will afford Licensee the opportunity to relocate underground at Licensee's expense where reasonably practicable. Licensee shall be afforded a reasonable opportunity to participate in the preplanning of any proposed conversion of facilities.

6.3 Termination of Attachment Permits – Requirement other than the TOWN. Upon one hundred eighty (180) days prior notice from TOWN to Licensee that the use of any pole or poles is forbidden by property owners or any other person, entity or

agency having jurisdiction, the permit covering the use of such pole or poles shall without the requirement of further action by TOWN, immediately terminate without liability to TOWN, and the cables, wires and appliances of Licensee shall be removed at once from the affected pole or poles by Licensee at its expense; provided, however, Licensee's right to attach to such pole or poles shall not terminate and Licensee shall not be required to remove its attachments to the extent and during the period that Licensee is diligently pursuing good faith efforts to contest such revocation or termination in appropriate judicial and/or administrative proceedings.

6.4 TOWN's Right to Abandon Poles. TOWN may at its sole discretion offer to sell any pole to Licensee which TOWN no longer requires for providing service within its service area. Licensee shall have ninety (90) days from receipt of notice of offer to sell from TOWN to notify TOWN of Licensee's election to purchase. If Licensee elects to purchase such pole, Licensee shall receive the pole "as is" and shall indemnify, defend and hold harmless TOWN from all obligation, liability, cost, claim, danger, expense, or charge related thereto or raised thereafter. TOWN shall provide Licensee with a bill of sale reflecting the net book value of the pole. Licensee shall take title to the pole for this price and for all purposes. Should Licensee elect not to purchase such pole, Licensee shall remove its attachments within ninety (90) days from receipt of TOWN's notice of offer to sell and may place its facilities underground if authorized, transfer its facilities to the nearest poles owned by TOWN if authorized, or take such other actions as are authorized by TOWN.

6.5 Termination of Agreement by TOWN. TOWN shall have the right to terminate this Agreement and the rights granted to Licensee hereunder and under all permits issued pursuant hereto upon thirty (30) days written notice to Licensee for any breach or failure to keep any covenant, obligation or liability made in or imposed upon Licensee by this Agreement; provided, however, during such notice period, Licensee shall have the opportunity to cure any breach or failure and provided that if such default is not curable within a thirty (30) day period, the period may be extended if Licensee substantially commences to cure such default and proceeds diligently thereafter to effect such cure. Both TOWN and Licensee reserve the right to renegotiate this Agreement by giving written notice to the other party if a change in regulations or laws applicable to this Agreement materially alters the assumptions upon which this Agreement was made, or if such change renders this Agreement illegal. Upon termination for any reason, Licensee shall immediately remove all of Licensee's facilities from TOWN facilities. Pole rental shall continue on a prorated basis until Licensee has completed the removal to TOWN's satisfaction. Notwithstanding anything in this Section to the contrary, Licensee's right to attach to TOWN's poles shall not terminate and Licensee shall not be required to remove its attachments to the extent and during the period that Licensee is diligently pursuing good faith efforts to contest such revocation or termination in appropriate judicial and/or administrative proceedings.

6.6 Failure to Remove Attachments. If Licensee has not removed all its attachments within the period of time specified in the preceding Sections 6.1, 6.2, 6.3, and

6.4, or 6.5, or such additional period of time granted by TOWN in writing, then TOWN or its Agent may remove Licensee's attachments at Licensee's sole cost and risk, with the exception of any loss, cost, or damage due to TOWN's negligence, or willful misconduct.

ARTICLE 7

ASSIGNMENTS

7.1 Permissible Assignments. Licensee may not assign or otherwise transfer this Agreement or any Attachment Permits without TOWN's prior written consent (which consent shall not be unreasonably withheld, delayed or conditioned), except that Licensee may without consent:

(a) Transfer or assign this Agreement to an affiliate or subsidiary of Licensee to whom Licensee has been duly authorized as a communications services provider video franchise operator in North Carolina. Licensee's rights and obligations hereunder shall pass to such successor only upon receipt by TOWN of written notice of such transfer or assignment of the Franchise.

(b) Mortgage any or all of its property, rights, privileges and franchises. Licensee shall provide prompt, written notice of such mortgage.

(c) Transfer or assign this Agreement to any entity to whom Licensee has been duly authorized by the applicable regulatory authority to transfer or assign Licensee's Franchise. Licensee's rights and obligations here under shall pass to such successor only upon receipt by TOWN of written notice of such transfer or assignment of the Franchise.

7.2 Information to TOWN. In the event of a transfer or assignment of this Agreement, Licensee shall provide TOWN with true and complete copies of the transfer or assignment documents; documents showing the ownership of the assignee and its relationship to Licensee, if any; a copy of the assignee's Franchise, if any; copies of all insurance policies and bonds required by this Agreement; and such other information as TOWN may reasonably request.

7.3 Inventory in the Event of Assignment. In the event of assignment under Section 7.1 (other than those assignments covered by (a) and (b)), TOWN may but is not obligated to conduct an inventory to determine the number of valid Attachment Permits and Unauthorized Attachments in effect at the time of assignment to determine assignee's obligations under the terms of this Agreement as long as the most recent inventory was not conducted within the last two years of the assignment date. Licensee agrees to pay its assigned prorata portion for conducting the inventory based on the total number of attachments affixed to the poles. Licensee shall submit payment to TOWN within thirty (30) days from the date TOWN renders an invoice, subject to the procedures for disputed invoices under Section 5.4.

ARTICLE 8

LIABILITY and INDEMNITY

8.1 TOWN Liability. TOWN reserves to itself the right to maintain and operate the poles in such manner as will best enable it to fulfill its own service requirements. TOWN shall not be liable to Licensee for any damage to Licensee's attachments except for actual repair cost caused by the negligence or willful act of TOWN or its agents officers, employees, and assigns; provided, however, that TOWN shall not be liable to Licensee for any interruption of Licensee's service or for interference with the operation of Licensee's attachments except to the extent caused by the negligence or willful misconduct on the part of TOWN or TOWN's agents, officers, employees, and assigns. **NEITHER TOWN NOR LICENSEE SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE, OR CONSEQUENTIAL DAMAGES ARISING IN CONNECTION WITH THE USE OF OR DAMAGE TO TOWN'S OR LICENSEE'S FACILITIES.**

8.2 Licensee Indemnification. Except as otherwise limited in this Agreement, Licensee shall indemnify, defend and save harmless TOWN from and against any and all third party claims, demands, loss, costs, and expense (including, without limitation, expert witnesses and consultants) directly arising out of or directly related to this Agreement or activities undertaken pursuant to this Agreement (including, without limitation, the installation, construction, operation or maintenance of Licensee's Attachments or work performed on other attachments on TOWN's poles, unless caused by the negligence or willful misconduct of GIC, its affiliates, agents, officers, employees and assigns. Licensee shall likewise indemnify, save harmless and defend TOWN from third party claims with respect to all program material transmitted over Licensee's facilities from and against any and all claims and demands for damages or loss for infringement or copyright, for libel, slander and defamation of character, for unauthorized use of television broadcast programs, and for unauthorized use of other program material, and from and against all claims and demands for infringement of patents with respect to the manufacture, use and operation of Licensee's equipment, whether arising from the use of Licensee's equipment in combination with the poles or otherwise.

8.3 TOWN Indemnification. Except as otherwise limited in this Agreement, TOWN agrees to indemnify, defend and save Licensee, its officers, directors, employees, shareholders, successors, assigns, agents, affiliates, representatives, partners, and contractors, harmless against any and all third party claims, actions, administrative proceedings (including, without limitation, informal proceedings), judgments, damages, penalties, fines, cost, liabilities, interests, or loss, including, without limitation, expenses, consultant fees, and expert fees, together with all other costs and expenses of any kind or nature suffered by Licensee in any way directly arising out of or directly connected with this Agreement including, but not limited to the loss or damage that may result to the equipment or any property owned or used by Licensee and from and against any and all reasonable legal and other expenses, costs, losses, suits or judgments for damage, injuries, or death arising to persons or property, or in any other manner, by reason of the negligence or willful act of TOWN or its agents in the construction, use or maintenance of TOWN

Facilities on the poles of TOWN.

8.4 Indemnification Procedure. In the event of any claim, demand or litigation specified in Sections 8.2 or 8.3, the party to be indemnified (the “Indemnified Party”) shall give prompt written notice to the other party (the “Indemnifying Party”) of such claim, demand or litigation. The Indemnifying Party, at its sole cost and expense, shall resist and defend such claim, demand or litigation with legal counsel selected by the Indemnifying Party or Indemnifying Party’s applicable insurer and shall have sole control of the defense or settlement of any claim, demand or litigation and all negotiations for the settlement or compromise of the same. The Indemnified Party shall cooperate with the Indemnifying Party in the defense and/or settlement of any claim, demand or litigation. Nothing herein shall be deemed to prevent the Indemnified Party from participating in the defense and/or settlement of any claim, demand or litigation by the Indemnified Party’s own counsel at the Indemnified Party’s own expense. Anything in this Section to the contrary notwithstanding, with respect to any third party claim, neither party shall (i) dispose of, compromise or settle any claim or action in a manner that is not reasonable under the circumstances and in good faith, and (ii) make any non-monetary settlement or compromise without the other party’s consent, which consent will not be unreasonably withheld, conditioned or delayed.

8.5 Mediation/Binding Arbitration. In the event of a dispute between the Parties which the Parties are unable to resolve within the normal course of business, the Parties within fifteen (15) days after delivery of written notice of the dispute, promptly appoint a designated representative who has authority to settle the dispute. The designated representatives shall meet as often as they reasonably deem necessary in order to discuss the dispute and negotiate in good faith in an effort to resolve such dispute. If the Parties are unable to resolve issues related to the dispute within thirty (30) days after the Parties’ appointment of the designated representatives, then either may submit their dispute to non-binding mediation before the regulatory authority having proper jurisdiction pursuant to such regulatory authority’s rules and practices for handling such disputes. Each Party shall bear its own costs and expenses of participating in the mediation (including, without limitation, reasonable attorneys’ fees), and each Party shall bear one-half (½) of the costs and expenses of the mediator. The matters discussed or revealed in the mediation session shall not be revealed in any subsequent litigation. In the event the matter is not resolved in mediation, either Party may request arbitration. If the non-requesting Party agrees to arbitration the Parties shall jointly select an Arbitrator, and shall be bound by the decision of the Arbitrator with respect to any dispute between the parties with respect to this Agreement. If the parties are unable to mutually agree upon an Arbitrator, the Parties shall each select an Arbitrator, and the two Arbitrators so selected shall select a third Arbitrator, and the decision of the majority of the Arbitrators shall be conclusive and binding upon the Parties. The Parties at all times agree to equally split the costs of any Arbitrator(s) selected in an effort to resolve the dispute between the Parties. Any party desiring to resolve a dispute under the terms of this Agreement shall notify the other Party in writing, and the Parties shall seek to agree upon a mutually agreed upon Arbitrator within a period of ten (10) days from the date of such written demand. If the Parties are unable to agree within

such ten (10) day period, the Parties shall each select an Arbitrator, and the two (2) Arbitrators so selected shall select a third Arbitrator within fifteen (15) days from the date of the written demand for arbitration, and a decision shall be rendered by the Arbitrator(s) so selected within five (5) days after such Arbitrator(s) is selected. The dispute resolution procedures in this section shall not preclude either Party from filing a proceeding or commencing a dispute process before a regulatory authority having proper jurisdiction pursuant to such regulatory authority's rules and practices for handling such matters.

ARTICLE 9

INSURANCE

9.1 Insurance Required. During the term of this Agreement, Licensee shall at all times carry insurance issued by companies duly authorized to provide insurance in the State of North Carolina to protect Licensee and TOWN against any and all claims, demands, actions, judgments, costs, expenses, or liabilities of every kind that may arise, directly or indirectly, from or by reason of losses, injuries, or damages described in this Agreement.

9.2 Minimum Coverage's. At a minimum, Licensee shall carry and maintain the following coverage's and shall furnish TOWN annually Certificates of Insurance as evidence thereof:

Commercial General Liability coverage in the minimum amount of \$2,000,000 per occurrence;

(b) Worker's Compensation coverage with statutory benefits as set forth in the North Carolina Worker's Compensation Act and Employer's Liability coverage of not less than \$1,000,000 bodily injury per accident, \$1,000,000 bodily injury per disease and \$1,000,000 per disease per employee;

(c) Business Automobile Liability Insurance for all owned, non-owned and hired vehicles with a minimum combined single limit of \$1,000,000.

9.3 TOWN as Named Insured. The Commercial General Liability and Business Liability Policies shall name TOWN as co-insured as its interest may appear. Each policy shall contain an endorsement obligating the insurer to notify TOWN at least thirty days before any non-renewal, cancellation or material change in coverage. The "other insurance" clause shall not apply to TOWN and each policy shall so provided; it being the intention of the parties that the above policies covering Licensee and TOWN shall be considered primary coverage. Each policy shall contain a waiver of all rights of recovery or subrogation against TOWN, its officers, agents, employees, and elected officials.

9.4 Contractors. Any Contractor retained by Licensee to perform work or

services for Licensee under this Agreement shall be required to carry insurance to the same extent as provided above as a condition of being granted access to poles.

ARTICLE 10

MISCELLANEOUS PROVISIONS

10.1 Integration. This Agreement and attached exhibits constitutes the entire understanding of the parties relating to the subject matter hereof; and there shall be no modification or waiver hereof except by writing, signed by the party asserted to be bound thereby. There are no oral representations or agreements between the parties. All previous agreements, correspondence, statements, and negotiations are superseded by this Agreement.

10.2 No Waiver. The failure of either party to enforce or insist upon compliance with any of the terms or conditions of this Agreement shall not constitute a general waiver or relinquishment of any such terms or conditions, but the same shall be and remain at all times in full force and effect.

10.3 Applicable Law. The parties hereto agree and intend that all disputes that may arise from, out of, under or respecting the terms and conditions of this Agreement, or concerning the rights or obligations of the parties hereunder, or respecting any performance or failure of performance by either party hereunder, shall be governed by the laws of the State of North Carolina, without application of its Conflict of Laws provisions. The parties further agree and intend that venue shall be proper and shall lie exclusively in Pitt County, North Carolina.

10.4 Licensee. The term "Licensee" as used herein shall include Licensee, its successors and assigns, contractors, subcontractors, employees, and agents.

10.5 Notices. When notice is required to be given under this Agreement by either party, it shall be in writing mailed or delivered to the other party at the following address or to such other address as either party may from time to time designate in writing for that purpose. All notices shall be effective upon receipt.

To TOWN:

Town of Winterville
PO Box 1459
Winterville, North Carolina 28590
Attention: Director of Public Utilities

To Licensee:

Metro Fibernet, LLC
3701 Communications Way
Evansville, IN 47715
Attn: President

with copy to:

Metro Fibernet, LLC
8837 Bond St.
Overland Park, KS 66214
Attn: Legal Department
Tel: 812-213-1095
Email: metronet-legal@metronetinc.com

[Signatures on the following page]

|

IN WITNESS WHEREOF, the undersigned have executed this Agreement through their duly authorized representatives.

Town of Winterville, North Carolina

By: _____

Name: _____

Title: _____

Date: _____

Metro Fibernet, LLC

By: _____

Name: _____

Title: _____

Date: _____

DRAFT

**EXHIBIT A
Town of Winterville
PERMIT TO ATTACH LICENSEE'S FACILITIES**

APPLICATION

In accordance with the terms of our Agreement dated _____, 20____ application is hereby made for permission to make attachment of Licensee's Facilities to Town Facilities in the vicinity of _____, North Carolina, at the locations shown on the attached drawing with an accompanying electronic file. Attached is the application, per pole fee, and engineering fee in the amount of \$ _____

Attachment: New _____ Overlap _____	_____
Engineering: Simple _____ Complex _____	LICENSEE
Cable Type: _____ Quantity: _____	
Weight: _____	By: _____
No. Poles to be Evaluated: _____	Title: _____
Location Description: _____	Date: _____
* Route must be clearly shown on LICENSEE'S Map attached to this application.	
Maximum. Forty (40) Poles per Application	

MAKE READY CONDITIONS

The estimated cost of doing this work is \$ _____. After Town receives payment of said amount and acceptance of the conditions herein, Town shall proceed to make such changes in its facilities. If the above meets your approval, please indicate your acceptance in the space provided below.



ACCEPTED:	Town of Winterville
_____	By: _____
LICENSEE	Title: _____
By: _____	Date: _____, 20____
Title: _____	Job No. _____
Date: _____, 20____	W.O.# _____

PERMIT

Permission is hereby granted LICENSEE to make attachments to the poles at the locations set forth in the above application.

Permit No.			Town of Winterville
<u>Inventory of Poles</u>	Used by Licensee		By: _____
Previous Balance	Added by this Permit	New Balance	Title: _____
_____	_____	_____	

Date attachments made: _____

**EXHIBIT B
TOWN OF WINTERVILLE
POLE ATTACHMENT AGREEMENT**

PERMIT FEES

Contract Year	Application Fee	Per Pole Fee	Simple Engineering Fee	Complex Engineering Fee	Simple Transfer Fee
2021	\$30.00	\$3.00	\$60.00	N/A	\$30.00

DRAFT

**EXHIBIT C
TOWN OF WINTERVILLE
POLE ATTACHMENT AGREEMENT**

DRAFT

**EXHIBIT D
TOWN OF WINTERVILLE
POLE ATTACHMENT AGREEMENT
POLE ATTACHMENT RATE**

The annual attachment rate per pole for LICENSEE’S facilities shall be as follows:

Contract Year	Attachment Rate for TOWN-Owned Poles	Attachment Rate for Jointly-Owned Poles^[1]
2021	\$ 21.20	\$10.60

The Town of Winterville may annually recalculate and revise the Annual Rate after 2021 which shall be no greater than 1.5%, unless a Federal or State Agency regulates the pole attachment rates, in which case the attachment rate formula established by such Agency will be used to establish the applicable rate.

^[1] Applicable to all Poles jointly owned by the Town of Winterville and Century Link Corporation. These attachment rates correspond to TOWN’s one-half undivided interest in each Joint Pole. Century Link shall invoice and collect separately one-half of the annual rent representing its one-half undivided interest in each Joint

DRAFT

RIGHT OF WAY AGREEMENT

THIS RIGHT OF WAY AGREEMENT ("Agreement") made and entered into this the ____ of _____, ____ by and between the **TOWN OF WINTERVILLE**, a municipal corporation created under the laws of the State of North Carolina, hereinafter referred to as the "**TOWN**", and **Metro Fibernet, LLC**, a Nevada limited liability company authorized to do business in North Carolina, hereinafter referred to as "**METRONET.**" METRONET and the TOWN are sometimes referred to herein collectively as the "Parties", each individually a "Party".

WITNESSETH

WHEREAS, METRONET plans to construct and operate a fiber-to-the-premises network ("Fiber Network") for purposes of providing state-of-the-art fiber based voice, video and Internet services to residents and businesses in the TOWN, and the TOWN desires for METRONET to construct and operate such a Fiber Network in the TOWN; and

WHEREAS, METRONET has previously obtained a Certificate for Local Exchange and Exchange Access from the North Carolina Utilities Commission ("CLEC Certification") and will obtain a cable franchise from the North Carolina Department of the Secretary of State ("Cable Franchise") prior to commencing video services in the TOWN (The "CLEC Certification" and "Cable Franchise" are collectively referred to herein as the "Regulatory Approvals"); and

WHEREAS, the Regulatory Approvals grant METRONET the right to encroach and utilize the Public Rights of Way within the corporate limits of the TOWN; and

WHEREAS, pursuant to North Carolina General Statute § 160A-296, the TOWN has the right control the use of Public Rights of Way to keep them in proper repair and operation; and

WHEREAS, the Parties wish to enter into an agreement governing METRONET's use of the Public Rights of Way for purposes of constructing and maintaining the Fiber Network; and

NOW, THEREFORE, with the present intent to be bound, the Parties agree as follows:

SECTION 1. DEFINITIONS

For the purposes of this Agreement the following terms, phrases, words and their derivations shall have the meaning given herein. When not inconsistent with the context, words used in the present tense include the future; words in the plural number include the singular number. The word "shall" is mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

"Council" means the Town Council of the Town of Winterville.

“Facilities” means, without limitation, fiber optic cables, conduits, converters, splice boxes, cabinets, handholds, manholes, vaults, equipment, surface location markers, appurtenances, and related facilities to be located by METRONET in the Public Rights of Way for purposes of constructing and operating the Fiber Network.

“Force Majeure Event”. means any event or circumstance beyond the reasonable control of the Party claiming the existence of such force majeure event, including but not limited to any earthquake, hurricane, tornado or similar weather, fire, flood, lightning, sinkhole or other forces of nature, pandemics, act of war, terrorism or civil unrest, strikes, lockout or other labor unrest, legal order, government action or application of laws, regulations or codes.

“NCDOT” means North Carolina Department of Transportation.

“Law” means any local, state or federal legislative, judicial or administrative order, certificate, decision statute, constitution, ordinance, resolution, regulation, rule, tariff, guideline or other requirement, as amended, now in effect or subsequently enacted or issued during the term of this Agreement, including, but not limited to, the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub.L. No. 104-104, 110 Stat. 70, codified at 47 U.S.C., and all orders, rules, tariffs, guidelines and regulations issued by the Federal Communications Commission or the North Carolina Utilities Commission pursuant thereto.

“Public Rights of Way” or “Public Way” means the surface, the airspace above the surface and the area below the surface of any public street, highway, lane, path, alley, sidewalk, boulevard, drive, bridge, tunnel, park, parkway, waterway or other public rights of way within the TOWN which shall entitle the TOWN and METRONET to the use thereof for the purpose of installing and maintaining Facilities owned by METRONET.

“Required Rights” All tangible and intangible rights required by Law to locate and operate Facilities in the Public Way including, but not limited to, regulatory rights, easements, licenses, pole attachment agreements, railroad crossing agreements, and NCDOT encroachment agreements.

“State” means the State of North Carolina.

SECTION 2. GENERAL PROVISIONS

- a. Use of Public Rights of Way. METRONET shall comply with all design, construction, safety, and performance provisions contained in this Agreement and other applicable local codes and ordinances. METRONET accepts the Public Way "as is" and "where is" and assumes all risks related to the use.
- b. Location of Public Rights of Way and Existing Utilities. It is the responsibility of METRONET to determine the location of the Public Rights of Way and utilities located therein. In compliance with applicable Law, METRONET shall notify other utility owners prior to performing underground

construction activities in the Public Way and provide protection and safeguards to prevent damage or interruption to existing facilities and to maintain accessibility to existing utilities. Cost to repair, restore, or relocate existing facilities in the Public Way shall be the responsibility of METRONET. To the extent applicable, METRONET agrees to fully comply with Underground Utility Safety and Damage Prevention Act, Article 8A of Chapter 87 of the NCGS. Notwithstanding anything herein to the contrary, METRONET shall not be responsible for damage to any facilities or property in the Public Way which was not marked or improperly marked in conformance with applicable Law. Additionally, METRONET shall not be responsible for any damage to property or facilities improperly located in the Public Way.

- c. Use of Areas Outside the Public Rights of Way. METRONET shall secure all Required Rights for encroachment or other use of property outside the Public Way. The TOWN neither promises nor contracts to obtain or acquire easements or rights of way for the construction, installation, maintenance or operation of METRONET's Facilities. For the avoidance of doubt, METRONET will not be required to obtain permits from the TOWN to install any aerial or underground facilities to locate in easements set aside for use by a public utility but not owned or controlled by the TOWN. METRONET acknowledges that it will have to obtain separate permits for any county or State controlled right of way.
- d. Police Powers. METRONET's rights under this Agreement are subject to the police powers of the TOWN to adopt and enforce ordinances for the health, safety and welfare of the public to the extent allowed by Law. METRONET shall comply with all applicable general laws and ordinances enacted by the TOWN pursuant to that power (for instance, TOWN's noise ordinance). In the event the TOWN reasonably determines that a contractor of METRONET is jeopardizing the health, safety or welfare of the public, the TOWN may request METRONET remove such contractor, which request shall not be unreasonably denied or delayed.
- e. METRONET's Encroachment into Public Rights of Way. Except as may be explicitly provided herein, this Agreement does not: (i) convey any right, title or interest in the Public Rights Of Way; (ii) divest the TOWN of any interest in the Public Rights of Way; or (iii) constitute any warranty of the TOWN's title or legal interest in the Public Rights of Way.
- f. E-verify. If this agreement is subject to NCGS § 143-133.3, METRONET and its subcontractors shall comply with the requirements of Article 2 of Chapter 64 of the NCGS.

SECTION 3. TERM

The initial term of this Agreement is twenty (20) years (the "First Term"). Upon the expiration of the First Term, the Agreement shall automatically renew for successive one-year terms unless terminated by either Party as follows: (i) by delivering notice to the non-terminating Party at least sixty (60) prior to the expiration of the then current term, or (ii) exercising any right such Party may have to terminate this Agreement as expressly provided herein.

SECTION 4.
CONSTRUCTION AND TECHNICAL STANDARDS

- a. Compliance with Construction and Technical Standards. METRONET shall construct, install and maintain its Facilities in an orderly and skillful manner consistent with applicable Law.
- b. Tree Trimming Plan for Overhead Lines. After approval of METRONET's construction plan by the TOWN, METRONET shall submit to the TOWN a tree trimming plan if required by the Director of Public Works for review and approval by the TOWN.
- c. Approval of Construction Plan. Prior to the placement or installation of any part of METRONET's Facilities within the Public Rights of Way, METRONET shall first submit to the Director of Public Works or their designee, a construction plan for the Construction Area of the Fiber Network to be constructed. The construction plan shall consist of detailed construction drawings in the forms set forth in Exhibit A. METRONET agrees to reasonably cooperate with the TOWN to provide any additional information and documentation necessary to help the TOWN evaluate METRONET's construction plan. Upon approval of the construction plan for a Construction Area, the TOWN will issue a single construction permit for all Public Rights of Way in the Construction Area where MetroNet intends to place or install Facilities as set forth in the construction plan. The TOWN agrees to issue the permit for the first Construction Area to METRONET within forty-five (45) days of METRONET's submittal of the construction plan for such Construction Area. The TOWN agrees to issue permits for each subsequent Construction Area within thirty (30) days of METRONET's submittal of the construction plan for such Construction Area. Upon issuance, such permit shall become part of this Agreement. For the purposes of this section, "Construction Area" shall be an area of the TOWN subdivided by geographic areas ("LCPs"). The construction plan for each Construction Area or LCP shall be sealed by a North Carolina licensed Professional Engineer.
- d. Required Rights. Prior to the installation of any Facilities in the Public Way, METRONET represents and warrants to the TOWN it will obtain any necessary Required Rights. METRONET will indemnify and hold the TOWN harmless from any loss, cost or damage directly resulting from any third-party claim that METRONET did not obtain any necessary Required Rights to locate its Facilities in the Public Way.
- e. Construction Permit. No placement or installation of any part of METRONET'S Facilities in the Public Way shall be commenced by any person until a construction permit approval has been issued by the Director of Public Works; provided further, that such permit shall not be unreasonably withheld, conditioned or delayed by the TOWN.
- f. Commencement of Construction. METRONET shall do the following with respect to physical construction in the Public Way.
 - (1) Before the start of construction, obtain an approved construction permit from the Director of Public Works for the Construction Area to be constructed and participate in a pre-construction meeting with the Director (and/or staff) of Public Works to discuss such construction of such area.

- (2) Submit to the Director of Public Works a Traffic Control Plan at least seven (7) days in advance of the date traffic control will be needed on TOWN roads and streets with the exception of major roads and streets for which the TOWN may require additional notice. The TOWN will identify major roads and streets at the time the construction plan is approved and will inform METRONET of the additional notice the TOWN will require.
 - (3) Keep TOWN informed of its schedule of construction through submission of daily street sheets in the form attached hereto. In addition to daily street sheets, METRONET will have weekly meetings with the Director (and/or staff) of Public Works and will have monthly meetings with TOWN officials and staff to provide reports and discuss construction. During the weekly meetings, Metronet will provide the Town with maps or descriptions of the proposed work for the week(s) ahead. The Town will complete the Right-of-way Excavation permits (in the form attached hereto as Exhibit B) for the week ahead based on this information. Pending Traffic plan approval and roadway availability, the permit will be signed by both parties and issued at the conclusion of the weekly meeting.
 - (4) Prior to starting construction in a Construction Area, provide to the TOWN the name(s) and phone numbers of the following project contact person(s) for such area: Outside Plant Engineer, Construction Manager, and Project Manager.
 - (5) Inform the TOWN of the need for tree trimming for overhead lines, if applicable, during weekly meetings with the Director (and/or staff) of Public Works and through submission of daily street sheets.
- g. Permit Fees. Except as expressly set forth in this Agreement, the TOWN shall not charge METRONET fees for any permits required to construct, operate or maintain the Fiber Network in the Public Way including, but not limited to, fees for Right-of-Way Excavation and Restoration Permits.
 - h. Traffic Control Plan. METRONET shall submit prepare and coordinate with the TOWN a Traffic Control Plan as described above. The Traffic Control Plan shall be prepared in accordance with the Manual on Uniform Traffic Control Devices and amendments or supplements thereto (MUTCD) as published by the Federal Highway Administration. METRONET shall install and maintain all traffic control devices in accordance with the plan and MUTCD. Street or lane closures shall be limited to the hours between 8:30AM and 4:30 PM, Monday-Friday or as approved by the TOWN.
 - i. Record Drawings. Within ninety (90) days after the completion of the Fiber Network, METRONET shall provide to the Director of Public Works two (2) printed copies along with a PDF file, and a digital version compatible with ESRI GIS software of all METRONET Facilities located in the Public Way.
 - j. Utility Poles; Pole Attachment Agreements. (i) Subject to the following requirements, METRONET will have the ability to place utility poles in the Public Rights of Way on a limited basis in accordance with the following:

- (1) METRONET will not seek to install a utility pole in any areas of the TOWN where all of the utilities are located underground;
 - (2) Prior to requesting to place a utility pole in the Public Way, METRONET must be unable to use an existing utility pole in the general area where it wishes to place a utility pole due to High Make Ready Costs or Excessive Delays gaining access to the existing utility poles. “High Make Ready Costs” means make ready costs that exceed \$2,500 per pole. “Excessive Delays” means a pole survey process that takes longer than 60 days after submission of a completed pole application and make ready work that takes longer than 90 days after payment by METRONET of estimated make ready costs;
 - (3) any requested utility pole will be added to an existing utility pole line;
 - (4) any requested utility pole will be located on the same side of the road as an existing utility pole line;
 - (5) METRONET will make reasonable accommodations requested by the TOWN to improve the aesthetics of a requested utility pole in the area where it is to be located;
 - (6) the location of a requested utility pole will not adversely affect the health, safety or welfare of any person;
 - (7) METRONET will make the requested utility pole available to any other communications provider on just and reasonable terms subject to loading requirements and space availability;
 - (8) If a utility company installs a new utility pole that will accommodate METRONET’S Facilities in any area where METRONET has installed a utility pole, provided METRONET has access to the new utility pole under reasonable terms and conditions, within a reasonable time period after being notified by the TOWN, METRONET will move its Facilities to the new utility pole and will remove the METRONET utility pole from the Public Way.
 - (ii) METRONET represents that it has (or will have before attaching its facilities) the Required Rights to attach its facilities to poles of utilities within the Public Rights of Way.
- k. Requirement for Underground Installations. In those areas of the TOWN where all utilities serving the area are underground at the time of installation, METRONET shall install its Facilities underground. In areas where other utility facilities are above ground at the time of installation, METRONET may install its Facilities above ground. When performing underground construction, MetroNet shall use commercially reasonable efforts to install all cables in a conduit by directional bore. The conduit shall be parallel with electric and telephone lines. Multiple cable configurations shall be arranged in parallel and bundled with due respect for engineering considerations. Open cut of paved street sections will not be permitted except for the potholing of existing utilities and as allowed by Section 4(1) below. At such time as all utilities and cable serving the area are required to be placed underground by the TOWN or are placed underground, METRONET shall likewise place its Facilities underground without cost to the TOWN.

- l. Micro-Trenching. In areas with high underground construction costs and/or where the deployment of conduit is not cost effective or feasible, on a case-by-case basis, subject to TOWN approval, which approval will not be unreasonably withheld, conditioned or delayed, METRONET may install its Facilities utilizing open trench or micro-trenching technology and procedures.
- m. Applicable Standards. When constructing the Fiber Network in the Public Way, METRONET shall at all times comply with applicable Law; and (2) the standards as set forth in this Agreement.
- n. Interference with Persons, Improvements, Public and Private Property and Utilities. METRONET's Facilities shall be located, erected and maintained so that its Fiber Network shall:
 - (1) Not endanger or interfere with the health, safety or lives of persons;
 - (2) Not interfere with the utilization of the Public Way by the TOWN
 - (3) Not interfere with the free and proper use of the Public Way, except to the minimum extent possible during actual construction, repair or removal;
 - (4) Not interfere with the rights and reasonable convenience of private property owners, except to the minimum extent possible during actual construction, repair or removal; and
 - (5) Not obstruct, hinder or interfere with any properly located gas, electric, water or other utilities, cable, telecommunication or telephone facilities located within the TOWN.
- o. Excavation and Work in Public Streets; Application; Restoration; Damage; Locates.
 - (1) Prior to the start of any permitted work under this Agreement, METRONET shall obtain an approved construction permit.
 - (2) METRONET shall install its cable by directional boring. If authorized in writing by the Director of Public Works, METRONET may excavate or disturb pavement, curb, gutters, sidewalks, driveways, or other surfacing in or on any Public Way, or public place as necessary for directional boring. Open cutting of the paved street section is not permitted except for potholing of existing utilities and as allowed by Section 4(1) above. Manholes and handholes shall be flush with the ground in residential areas unless approved by the Director of Public Works who may require a route change, sidewalks may not be excavated for the placement of manholes and handholes.
 - (3) Excavations or borings made by METRONET under the Public Way or public places of the TOWN, pursuant to this Agreement, shall be made in compliance with the ordinances and regulations of the TOWN in effect at the time of such excavation.
 - (4) Prior to any excavation in or boring under the Public Way, in accordance with applicable Law, METRONET shall notify all utilities that may be affected by such excavation in or boring under the Public Way or property upon which the work is to be done, and the nature of the

work to be performed. Additionally, the services of North Carolina One-Call may be used to notify its member utilities.

- (5) In situations deemed by METRONET to constitute an emergency involving a danger to the public health, safety and welfare, METRONET shall notify the Director of Public Works of the nature and the location and of the potential hazard.
- (6) During the installation, repair or removal of METRONET's Facilities in or on any Public Way or public place, METRONET agrees to provide at all times proper signs, signal lights, flagmen, barricades, and other warning devices for the protection of pedestrian and vehicular traffic in conformance with the approved Traffic Control Plan and MUTCD.
- (7) METRONET shall exercise due care in the operation, installation, alteration, repair or removal of its Facilities. If any utility or property of the TOWN, real or personal, is damaged, impaired or destroyed as a result of either the negligent or intentional acts of METRONET, its employees, agents or persons operating under its direction, supervision or control, METRONET shall be liable to the TOWN, as the case may be, for such damages, including but not limited to the cost to repair or replace the utility or property.
- (8) Notwithstanding any other provision of this Agreement, the Parties agree that the following procedure will be exclusively used any time MetroNet is required to insert a hole in a driveway, walkway or street to locate other utilities under and across paved or concrete surfaces. MetroNet will utilize an 8" minimum core drill to remove the pavement and then remove debris utilizing a vacuum excavator to visually expose the path to cross the street. After the crossing is completed, the excavated pothole will be backfilled with a flowable stabilized sand/cement slurry mix comprised of at least 2 bags/yard of cement to completely fill the excavation hole to the depth of the existing pavement. Where possible the core plug removed to access the pothole will then be cleaned and coated with epoxy resin around the outside surface of the plug and replaced in the excavation hole so that it is even with the top of the existing surface of the driveway, walkway or street. When the use of the core plug is not feasible, the sand/cement slurry mix shall be utilized in conjunction with a minimum of 2-inches of hot asphalt for roadway repair or similar material of driveway, walkway or street. Multiple potholes within close proximity to one another will require a single squared off driveway, walkway or street repair. The Town will define the minimum width of the road repair based on the diameter or width of the openings. Any bore pits or other openings in the roadway, sidewalk, driveways shall be repaired per the Town's MSDD.
- (9) METRONET shall adhere to the following restoration requirements.
 - (a) Immediately after METRONET installs or repairs its Facilities within an existing street or vehicular access, METRONET shall backfill and complete pavement restoration in accordance with this Agreement. Permanent resurfacing/restoration of the roadway will be performed in an expedition manner but no sooner than 21 days after the initial excavation and not later than 45 days after excavation. Temporary bituminous resurfacing, a minimum of two inches thick or as otherwise specified, shall be placed and properly maintained by METRONET by the end of the workday. The temporary

resurfacing shall be maintained by METRONET during the initial 21 days period prior to the permanent repair. Alternatively, during the initial 21 days, METRONET may temporarily backfill and plate the trench. The plates if located in the street shall be installed flush with the surrounding pavement and secured by applying either hot or cold mix asphalt around the perimeter of the plate. At no time shall the plates be placed in such a manner that causes a traffic hazard to vehicles, pedestrians, cyclists and other non-vehicular traffic.

- (b) METRONET shall restore and replace landscaping including landscaping behind the back of curb or in non-traffic areas that have been destroyed, disturbed, or damaged by such work in accordance with this Agreement within 10 days. All landscaping restorations shall be done with like materials (i.e. Bermuda grass shall be repaired or replaced with Bermuda sod; zoysia grass shall be repaired/replaced with zoysia sod, etc.)
 - (c) In order to ensure compliance with this Section, the Director of Public Works or any other designee of the Town Manager may conduct an on-site or remote inspection.
- (10) If the installation, alteration, repair or removal of the Facilities in or on any Public Way or public place requires the temporary removal of bricks, grates, trees or other property or materials belonging to the TOWN, METRONET shall, until such materials are reinstalled, and in the exercise of due care, store said property or materials in a safe place satisfactory to the TOWN to minimize the risk of damage or theft.
 - (11) METRONET shall preserve and protect all trees and shrubbery located within the Public Way, and public places of the TOWN from damage by METRONET. METRONET shall comply with the regulations of the TOWN concerning the preservation and protection of trees and shrubs. METRONET shall pay to the TOWN the cost of treating, removing and replacing any tree or shrub on the Public Way and public places of the TOWN which has been damaged or destroyed as a result of the work of METRONET.
 - (12) Whenever the TOWN, or NCDOT, or their successors or assigns, within the exercise of reasonable police power, for the benefit of the public safety, plan to widen, modify, close, relocate, grade or regrade any public street, sidewalk, or other public way, in, along, under or across, which METRONET shall have installed any of its Facilities, it shall be the duty of METRONET, upon reasonable notice by the proper authority, and at no cost to the TOWN, or NCDOT to remove or relocate as necessary its Facilities.
 - (13) METRONET shall, on the request of any person holding a building moving permit issued by the TOWN, temporarily raise or lower its lines to permit the moving of buildings. The expense of such temporary removal, raising or lowering of lines shall be paid by the person requesting the same, and METRONET shall have the authority to require such payment in advance. METRONET shall be given not less than fifteen (15) working days advance notice to arrange for such temporary line changes.
 - (14) Any damage to METRONET's encroaching structure caused by the TOWN's use of its rights of way for construction or maintenance work in the ordinary course of its business, shall be

borne by METRONET except where such damage is caused by the sole negligence or willful misconduct of the TOWN.

- (15) For the two (2) years immediately following the date of this Agreement (the “Initial Build Period”), METRONET has proposed a schedule for installation that may require the TOWN to engage an independent contractor to perform some of the TOWN's North Carolina One Call locates (the “Locate Contractor”). During the Initial Build Period, if the TOWN reasonably determines it is necessary to engage a Locate Contractor in order to perform locates in connection with the installation of METRONET’S facilities, METRONET will reimburse the TOWN for reasonable fees paid by the TOWN to the Locate Contractor for such work. The TOWN and METRONET will agree to the fee to be paid to the Locate Contractor in advance of any work being performed. The TOWN will issue invoices to METRONET for the Locate Contractor's fees at reasonable intervals and Metronet shall pay such invoices within thirty (30) days of receipt. The TOWN will provide appropriate documentation supporting its invoices.

p. Removal and Abandonment.

- (1) If any portion of the above-ground Facilities covered under this Agreement are no longer used by METRONET, or are abandoned for a period in excess of one hundred eighty (180) days, or MetroNet loses any Required Right to locate its above-ground Facilities in the Public Way for more than sixty (60) days, METRONET shall notify the TOWN and shall vacate and remove the above-ground Facilities at its own expense within a reasonable time period provided that the Director of Public Works may, at that time, agree in writing, upon the written request of METRONET to allow abandonment of some or all of its above-ground Facilities in place, if METRONET will transfer ownership of any abandoned Facilities to the TOWN.
- (2) If any portion of the underground Facilities covered under this Agreement are no longer used by METRONET, or are abandoned for a period in excess of one hundred eighty (180) days, or MetroNet loses any Required Right to locate its underground Facilities in the Public Way for more than sixty (60) days, METRONET shall notify the TOWN. The Director of Public Works may, at that time, agree in writing, upon the written request of METRONET to allow abandonment of some or all of its underground Facilities in place, if METRONET will transfer ownership of any abandoned underground Facilities to the TOWN. Should any removal of METRONET’S underground Facilities be approved by the Director of Public Works, METRONET shall thereafter apply for and obtain any necessary permits. METRONET shall not excavate or disturb pavement, curb, gutters, sidewalks, driveways, or other surfaces in or on any street, Public Way or public place to remove underground facilities without a TOWN permit. If a permit is issued by the Town , METRONET shall, in a timely fashion and to the TOWN’s reasonable satisfaction, refill, at its own expense, any excavation and boring that shall be made by it and shall leave all Public Ways and places in as good a condition or better as that prevailing prior to METRONET's removal of its Facilities without affecting the facilities of other utilities located in the Public Way. The TOWN shall inspect and approve the condition of the Public Ways after METRONET has removed its underground Facilities. This Agreement shall continue in full force and effect until METRONET has complied with the requirements of

this Section.

(3) In the event of a failure by METRONET to complete any work required in this Section in a timely fashion, the TOWN may cause such removal work to be done on behalf of METRONET and METRONET shall reimburse the TOWN the cost thereof within thirty (30) days after receipt of an itemized list of such costs or the TOWN may recover such costs through the performance bond provided by METRONET. The TOWN shall be permitted to seek legal and equitable relief to enforce the provisions of this Section.

q. Work Hours. METRONET and its contractors may perform construction activities including, but not limited to, boring, aerial construction, pulling cable, splicing and clean-up work (“Construction Activities”) from 7 AM until sunset, Monday through Friday. METRONET and its contractors will perform all Construction Activities with the exception of boring, which will not be performed on the weekend, from 7 AM until sunset, Saturday and Sunday.

SECTION 5. EMERGENCY CONTACTS

- a. Coordination of Emergency Events. In case of an emergency, the TOWN will act to protect the public health and safety of its citizens and to protect public and private property, notwithstanding any provision in this Agreement. In the event addressing the emergency impacts METRONET’s Facilities, the TOWN will make every reasonable effort to coordinate its emergency response with METRONET.
- b. Notice of Changes. METRONET will keep emergency contact information current and provide the Director of Public Works with information as to changes within a reasonable time.
- c. Response to Network Emergency. In case of a Fiber Network emergency, METRONET may access its Facilities without first obtaining a permit to disturb the Public Way provided METRONET has conducted network trouble-shooting and diagnostic tests and has reasonably identified the point or points of network failure or malfunction. While acting under this provision to address a network emergency, METRONET shall conduct its activities within the Public Way in such a manner as to protect public and private property. METRONET will make every reasonable effort to coordinate its emergency response with the TOWN. To that end, prior to entering the Public Way, METRONET will use its commercially reasonable best efforts to contact the Director of Public Works and give as much notice to TOWN of the network emergency and an estimated time period to address the situation.

SECTION 6. ASSIGNMENT AND TRANSFER OF OWNERSHIP OR CONTROL

Except as expressly set forth herein, no assignment of the rights and obligations granted hereunder, or transfer of ownership or control of the Facilities shall occur unless approved by the TOWN. A transfer of ownership or control of the Facilities shall comply with all applicable Law. METRONET shall promptly notify the TOWN of its intent to assign this Agreement or transfer ownership or control of the Facilities and shall provide the TOWN with a true copy of all the documents relating to such assignment

or ownership transfer. The transferee is required to accept this Agreement and all of its terms, provisions, and any amendments at the time of transfer. Performance bond, letter of credit, and insurance are required from the transferee before the transfer is complete. Notification to the TOWN shall be as outlined herein. Notwithstanding anything herein to the contrary, METRONET shall be permitted to assign this Agreement and transfer ownership and control of its Facilities to any other entity with which it is affiliated through ownership (for example, a corporate parent, a subsidiary, or a subsidiary of a corporate parent) providing that such other entity undertakes all the obligations of METRONET under this Agreement.

SECTION 7.

PERFORMANCE BOND, LETTER OF CREDIT, INSURANCE, AND INDEMNIFICATION.

- a. Performance Bond or Letter of Credit. Within ten (10) days following approval of this Agreement by the Council, METRONET shall deliver to the TOWN a performance bond issued by a surety licensed in North Carolina in the amount of \$100,000 (“Security Fund”). The form and content of the bond shall be approved by the TOWN. Failure to timely obtain, file and maintain said bond shall constitute a substantial violation of this Agreement.
 - (1) The Security Fund shall serve as security for:
 - (a) The faithful performance by METRONET of all the terms and conditions of the Agreement.
 - (b) Any expenditure, damage or loss incurred by the TOWN occasioned by METRONET’s unexcused or uncured failure to comply with all lawful rules, regulations, orders, permits and other directives of the TOWN issued pursuant to this Agreement.
 - (c) The payment by METRONET of all liens and taxes, and all damages, claims, costs or expenses which the TOWN has been compelled to pay or incur by reason of any act or default of METRONET, and all other payments due the TOWN from METRONET pursuant to this Agreement.
 - (d) The costs and expenses incurred by the TOWN as a result of METRONET's abandonment of its Facilities at any time during the term of the Agreement or any extension thereto; or Town’s performance of work that METRONET should have performed.
 - (2) If METRONET fails to repay to the TOWN any damages, costs or expenses which the TOWN shall be compelled to pay by reason of any act or default of METRONET in connection with this Agreement, the TOWN may then demand payment from the Security Fund.
 - (3) The TOWN shall be the beneficiary under the performance bond. METRONET shall not use the Security Fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any other purpose.
 - (4) The TOWN, with the approval of Council, may, in its discretion, decrease the amount of or eliminate the Security Fund in consideration of the financial stability of METRONET.

- (5) If METRONET fails to pay the TOWN any fees, penalties, claims, liens or damages owed to the TOWN after thirty (30) days written notice to pay to the TOWN, specifying the amount owed and the nature of amount owed, the TOWN may remedy such failure by METRONET by demand on the Security Fund.
 - (6) In the event that amounts are withdrawn by the TOWN from the Security Fund pursuant to this Section, METRONET shall restore the Security Fund to the amount it was prior to the TOWN's claim within ten (10) business days of notification by the TOWN of its withdrawal against the Security Fund.
 - (7) The rights reserved to the TOWN with respect to the Security Fund are in addition to all other rights of the TOWN, whether reserved by this Agreement, or authorized by law, and no action, proceeding or exercise of a right with respect to such a performance bond shall affect any other right the TOWN may have except to the extent payment satisfies a TOWN claim.
 - (8) The Security Fund shall contain the following endorsement: *"It is hereby understood and agreed that this instrument shall not be cancelled by the surety nor the intention not to renew be stated by the surety until 30 days after receipt by the TOWN, by registered mail, from a surety of written notice of such an intention to cancel or not to renew."*
 - (9) The Security Fund shall be maintained in force by METRONET for the longer of the following time periods: (i) three (3) years from the date of issuance, or (ii), until the date of substantial completion of the construction of the Fiber Network by METRONET plus an additional twelve (12) months. In the event the performance bond would expire before the above-prescribed period of time, METRONET shall renew the performance bond not less than thirty (30) days prior to its expiration and provide a copy of the renewal to the TOWN. For the purposes of this Section 7(a)(9), "the date of substantial completion of the construction of the Fiber Network" shall mean completion of construction within 90% of areas within the TOWN excluding those areas of the TOWN that are either (i) privately owned and METRONET cannot reasonably obtain access to install its facilities or (ii) have existing Fiber to the Premises (FTTP) services from another provider. Not less than 30 days after achieving substantial completion of construction, METRONET shall cause notice of such date of substantial completion of construction to be sent to TOWN for concurrence. The parties shall engage in good faith negotiations to resolve any dispute regarding the date of substantial completion of construction, and the Security Fund shall be maintained in force during the pendency of any such dispute.
- b. Insurance. At all times during the Term of this Agreement, METRONET shall maintain a Certificate of Insurance ("COI") in accordance with the requirements set forth in this Section.
- (1) A COI in compliance with this Section must be furnished before work begins. The COI must be issued by an authorized representative of the insurance carrier(s). The COI must have the Insurance Company name and NAIC number clearly identified.
 - (2) METRONET shall immediately advise the TOWN of any litigation arising out of this Agreement that may develop that would affect the insurance to be provided by METRONET under this Agreement.

- (3) Neither the provisions of this Section nor any damages recovered by the TOWN hereunder, shall be construed to limit the liability of METRONET under the Agreement.
- (4) METRONET shall provide at least thirty (30) days' prior written notice to TOWN of cancellation or non-renewal of any required insurance coverage that is not replaced.
- (5) All insurance policies provided under the provisions of this Agreement shall be written by companies authorized to do business in the State of North Carolina and approved by the State Commissioner of Insurance.
- (6) METRONET shall include the TOWN as an Additional Insured to the General Liability and Automobile Liability policies including those of its subcontractors while working hereunder.
- (7) Commercial General Liability: METRONET shall maintain a commercial general liability policy with the following limits:

Each Occurrence:	\$1,000,000
General Aggregate Limit	\$2,000,000
Products and Completed Operations Aggregate	\$2,000,000

The form of coverage must be the ISO CG 00 01 policy or equivalent as approved by the State of North Carolina Department of Insurance. Certificates evidencing ongoing completed operations coverage shall be provided for at least two years following the termination or expiration of this Agreement.

- (8) Commercial Automobile Liability: METRONET shall maintain a commercial automobile liability policy with the following limits:

Limits: \$1,000,000 combined single limit.

- (9) Workers' Compensation Insurance: METRONET shall maintain a worker' compensation policy with the following limits:

Limits:

Workers Compensation: Statutory for the State of North Carolina

Employers Liability: Bodily Injury by Accident \$1,000,000 each accident
 Bodily Injury by Disease \$1,000,000 policy limit
 Bodily Injury by Disease \$1,000,000 each employee.

Workers Compensation must include all employees.

(10) Umbrella Liability.

An Umbrella or excess liability policy covering General Liability, Automobile Liability and Employers Liability with a minimum limit of \$10,000,000 is required. METRONET may use any combination of primary and excess umbrella coverage to meet required aggregate limits.

Notwithstanding the forgoing, METRONET may, in its sole discretion, self-insure any of the required insurance under the same terms as required by this Agreement. In the event METRONET elects to self-insure its obligation under this Agreement to include TOWN as an additional insured, the following conditions apply: (i) TOWN shall promptly and no later than thirty (30) days after notice thereof provide METRONET with written notice of any claim, demand, lawsuit, or the like for which it seeks coverage pursuant to this Section and provide METRONET with copies of any demands, notices, summonses, or legal papers received in connection with such claim, demand, lawsuit, or the like; (ii) TOWN shall not settle any such claim, demand, lawsuit, or the like without the prior written consent of METRONET; and (iii) TOWN shall fully cooperate with METRONET in the defense of the claim, demand, lawsuit, or the like.

c. Indemnification.

- (1) With the exception of any loss, cost of damage resulting from any Indemnitees negligence or willful misconduct, To the maximum extent allowed by law, METRONET shall defend, indemnify, and save harmless Indemnitees from and against all Charges that directly arise from, in direct connection with, or directly out of this Agreement as a result of the negligent acts or omissions of METRONET or subcontractors or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. In performing its duties under this subsection (1) METRONET shall at its sole expense defend Indemnitees with legal counsel reasonably acceptable to the TOWN.
- (2) As used in subsections (1) above and (3) below, "Charges" means claims, judgments, costs, damages, losses, demands, liabilities, duties, obligations, fines, penalties, royalties, settlements, and expenses (included without limitation within "Charges" are (1) interest and reasonable attorneys' fees assessed as part of any such item, and (2) amounts for alleged violations of sedimentation pollution, erosion control, pollution, or other environmental laws, regulations, ordinances, rules, or orders -- including but not limited to any such alleged violation that arises out of the handling, transportation, deposit, or delivery of the items that are the subject of this Agreement). "Indemnitees" means TOWN, and their officers, officials, independent contractors, agents, and employees, excluding METRONET.
- (3) Nothing in this section shall affect any warranties in favor of the TOWN that are otherwise provided in or arise out of this Agreement. This section is in addition to and shall be construed separately from any other indemnification provisions that may be in this Agreement.
- (4) This section shall remain in force despite termination of this Agreement (whether by expiration of the term or otherwise) and termination of the services of METRONET under this Agreement.

**SECTION 8.
DEFAULT AND REMEDIES**

In the event either Party fails to perform any of its material obligations under this Agreement (the “Defaulting Party”), the other Party (the “Non-Defaulting Party”) may give written notice to the Defaulting Party which notice shall: (a) identify the section of this Agreement believed to be in default; and (b) provide a reasonably detailed description of the default. The Defaulting Party shall have thirty (30) days in which to cure the default, provide written or other documentary evidence that no default has in fact occurred, or provide a written detailed plan which describes how and when the default shall be corrected within a reasonable time if such default cannot be corrected within the aforesaid thirty (30) day period and promptly and diligently pursue the completion of such plan until the default is cured. If a default is not cured by the Defaulting Party as provided above, the Non-Defaulting Party may: (a) terminate this Agreement; or (b) seek specific performance; or (c) seek any remedies it may be entitled under applicable Law or equity.

**SECTION 9.
FORCE MAJEURE**

Notwithstanding any other provision of this Agreement, neither Party shall be liable for any failure or delay in performing its respective obligations, or for any loss or damage, resulting from any Force Majeure Event. The Party claiming relief under this Section shall notify the other in writing of the existence of the event relied on and the cessation or termination of said event.

**SECTION 10.
LIMITATION OF LIABILITY**

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL COSTS, LIABILITIES OR DAMAGES WHETHER FORESEEABLE OR NOT, INCLUDING WITHOUT LIMITATION AS APPLICABLE, ECONOMIC LOSS OR LOST BUSINESS OR PROFITS, INTERRUPTIONS OF SERVICE, OR ANY DELAY, ERROR OR LOSS OF DATA OR INFORMATION, ARISING IN ANY MANNER OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT AND EITHER PARTY’S PERFORMANCE OR NON PERFORMANCE OF ITS OBLIGATIONS UNDER THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT OR TORT (INCLUDING STRICT LIABILITY), ALL CLAIMS FOR WHICH ARE HEREBY SPECIFICALLY WAIVED.

**SECTION 11.
NOTICES**

Any notices, requests, or consents required to be given pursuant to this Agreement shall be given in writing either personally served or sent by overnight delivery service maintaining records of receipt, or by certified mail return receipt requested, to the address designated by each Party below:

To the TOWN

TOWN of Winterville
2571 Railroad St.
P.O. Box 1459
Winterville, NC 28590
Attention: Town Manager

To METRONET

Metro FiberNet, LLC
8837 Bond Street
Overland Park, KS 66214
Attn: Legal Department

**SECTION 12.
FAILURE OF A PARTY TO ENFORCE THIS AGREEMENT, NO WAIVER
OF THE TERMS THEREOF**

Neither Party shall be excused from complying with any of the terms and conditions of this Agreement by any failure of the other Party upon any one or more occasions to insist upon or to seek compliance with any such terms or conditions.

**SECTION 13.
ENTIRE AGREEMENT.**

This Agreement constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes all previous understandings, commitments or representations, whether oral or written. Each Party acknowledges that the other Party has not made any representations other than those that are contained herein. This Agreement may not be amended or modified in any way except by a writing signed by the authorized representatives of the Parties.

**SECTION 14.
NO JOINT VENTURE**

This Agreement is not intended to create, nor shall it be construed to create, any partnership, joint venture, or employment relationship between the Parties, and neither Party shall be liable for the payment or performance of any debt, obligations, or liabilities of the other Party, unless expressly assumed in writing. Each Party covenants that it shall not act in a manner that may be construed to be inconsistent with the foregoing nor otherwise act or purport to act on behalf of the other Party except as may be expressly authorized in writing by the other Party.

**SECTION 15.
SEVERABILITY**

If any term, condition or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be held to be invalid or unenforceable by a court of competent jurisdiction, the remainder hereof and the application of such term, condition or provision to persons or circumstances other than those as to whom it shall be held invalid or unenforceable shall not be affected thereby, and this Agreement and all the terms, provisions and conditions hereof shall, in all other respects, continue to be effective and to be complied with. In the event that such law, rule or regulation is subsequently repealed, rescinded, amended or otherwise changed so that the provision which had been held invalid or modified is no longer in conflict with the law, rules and regulations then in effect, said provision shall thereupon return to full force and effect and shall thereafter be binding on METRONET and the TOWN.

**SECTION 16.
INTERPRETATION**

In the case of any conflict between the terms of this Agreement and those contained in any TOWN ordinance, code, policy or standard, the terms of this Agreement shall control.

**SECTION 17.
CHOICE OF LAW AND FORUM**

This Agreement is made in Pitt County, North Carolina, and shall be governed by and construed in accordance with the laws of the State of North Carolina, and the United States of America. The exclusive forum and venue for all actions arising out of the Agreement shall be the North Carolina Court of Justice in Pitt County or the United States District Court for the Eastern District of North Carolina.

**SECTION 18.
RIGHTS CUMULATIVE**

All rights and remedies given to the TOWN and METRONET by this Agreement shall be in addition to and cumulative with any and all other rights or remedies, -existing or implied, now or hereafter available to the TOWN and METRONET, at law or in equity, and such rights and remedies shall not be exclusive, but each and every right and remedy specifically given by this Agreement or otherwise existing or given may be exercised from time to time and as often and in such order as may be deemed expedient by the TOWN and METRONET and the exercise of one or more rights or remedies shall not be deemed a waiver of the right to exercise at the same time or thereafter any other right or remedy.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in duplicate originals as of the day and year first above written.

TOWN OF WINTERVILLE

By: _____
Douglas Jackson, Mayor

ATTEST

Don Harvey, Town Clerk

Metro Fibernet, LLC

By: _____

DRAFT

APPROVED AS TO FORM:

E. Keen Lassiter, Town Attorney

PRE-AUDIT CERTIFICATION:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Anthony Bowers, Finance Director

Account Number _____

Project Code (if applicable) _____

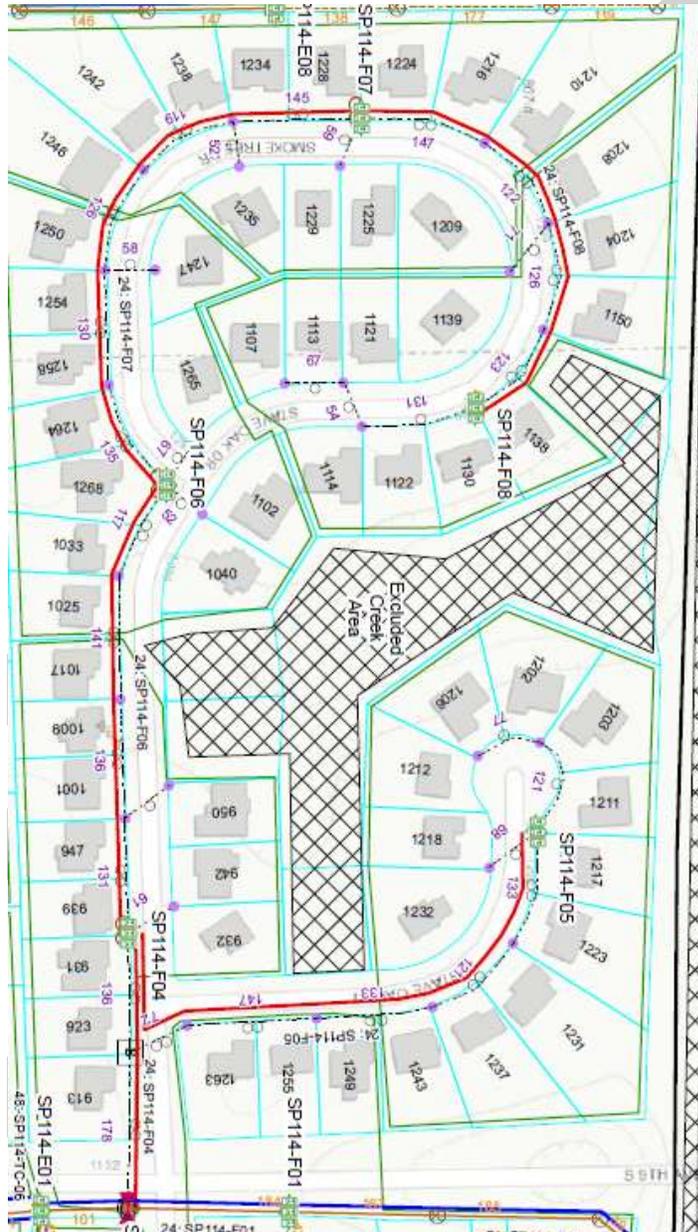
RECOMMENDED:

Ben Williams, Assistant Town Manager/
Interim Public Works Director

Example Front Easement

Legend

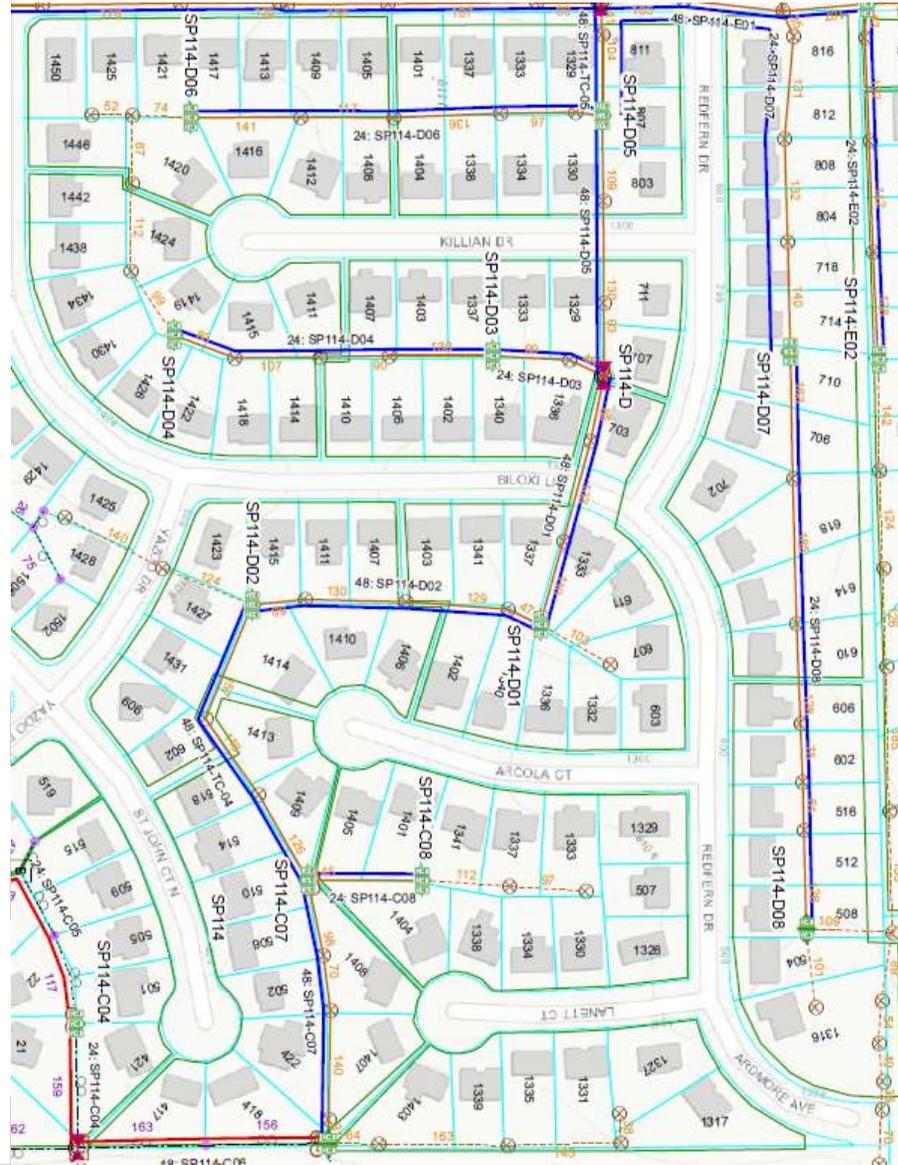
-  SDE.Revision
-  SDE.CLOUD
-  Hatched
-  Excluded
- Strand**
-  Unknown
-  Strand
-  Drop Strand
- Conduit**
-  <all other values>
- Duct Count**
-  <Null>
-  1
-  2
-  3
-  4
-  5
-  6
- Structure**
-  Large Handhole
-  Null Pedestal
-  Pedestal
-  Small Handhole
-  Utility Box
-  Slack Loop
-  Riser
- Pole**
-  Joint
-  Anchors and Guys
- 1x4 Boundaries**
- Type**
-  1x4 Terminal Boundary
- FiberCable**
-  <all other values>
- Construction Type**
-  Aerial
-  Underground



Example Aerial

Legend

-  SDE.Revision
-  SDE.CLOUD
-  Hatched
-  Excluded
- Strand**
-  Unknown
-  Strand
-  Drop Strand
- Conduit**
-  <all other values>
- Duct Count**
-  <Null>
-  1
-  2
-  3
-  4
-  5
-  6
- Structure**
-  Large Handhole
-  Null Pedestal
-  Pedestal
-  Small Handhole
-  Utility Box
-  Slack Loop
-  Riser
- Pole**
-  Joint
-  Anchors and Guys
- 1x4 Boundaries**
- Type**
-  1x4 Terminal Boundary
- FiberCable**
-  <all other values>
- Construction Type**
-  Aerial
-  Underground



Example Rear Easement

Legend

-  SDE.Revision
-  SDE.CLOUD
-  Hatched
-  Excluded
- Strand**
-  Unknown
-  Strand
-  Drop Strand
- Conduit**
-  <all other values>
- Duct Count**
-  <Null>
-  1
-  2
-  3
-  4
-  5
-  6
- Structure**
-  Large Handhole
-  Null Pedestal
-  Pedestal
-  Small Handhole
-  Utility Box
-  Slack Loop
-  Riser
- Pole**
-  Joint
-  Anchors and Guys
- 1x4 Boundaries**
- Type**
-  1x4 Terminal Boundary
- FiberCable**
-  <all other values>
- Construction Type**
-  Aerial
-  Underground

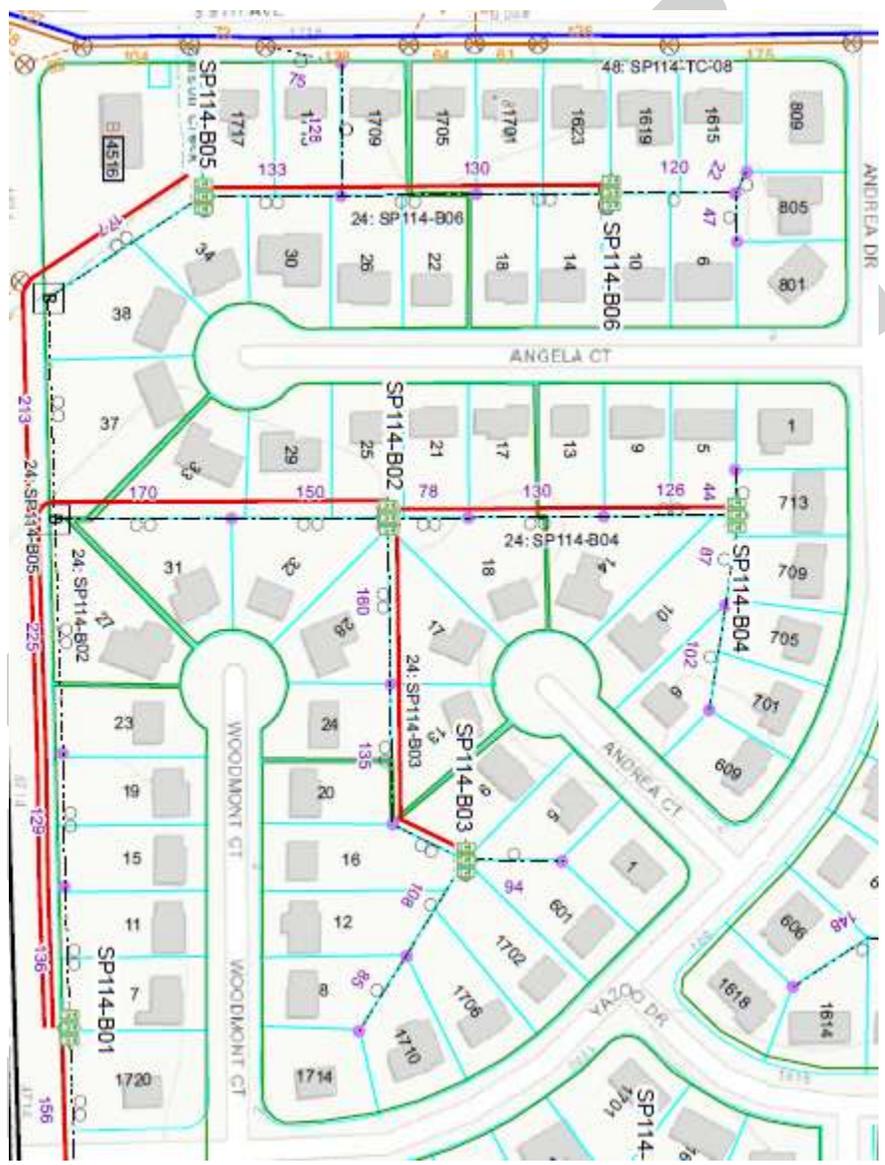


EXHIBIT B

Form of Right of Way Excavation Permit

DRAFT



**Town of Winterville
Town Council
Agenda Abstract**

Item Section: New Business

Meeting Date: April 12, 2021

Presenter: Terri L. Parker, Town Manager

Item to be Considered

Subject: COLA Adjustment for All Employees.

Action Requested: Approve Recommended Adjustment.

Attachment: Pay Increases Analysis as of 2/11/2021.

Prepared By: Terri L. Parker, Town Manager

Date: 4/9/2021

ABSTRACT ROUTING:

TC: 4/8/2021

TM: 4/9/2021

Final: tlp - 4/9/2021

Supporting Documentation

As Council is well aware, no cost of living adjustment or merit increase was included in the FY 2020-2021 Budget as Staff was not sure what the effect of the COVID-19 pandemic would have on revenues for the Town and ultimately expenditures as well.

The attached spreadsheet denotes that revenues have been better than expected for the fiscal year and Staff has worked and continues to work through some very challenging times unlike anything we have ever experienced before. Nevertheless, between alternating work schedules (in the beginning), closed offices, reduced levels of Staff due to open positions, and employees either being sick or having to quarantine, full service to the Public continued. The challenges remain and so do a core group of dedicated and hardworking employees.

It is for the reasons I have outlined above, that I am hereby asking Council to approve a 2.5% cost of living adjustment (COLA) for all Town of Winterville employees. I am further requesting that the increase be made retroactively effective July 1, 2020.

Pitt County and the City of Greenville approved increases for their employees earlier this Budget Year as follows:

Pitt County:

Employees whose employment anniversary fell between July 1 and early January will see the retroactive increase added to their Jan. 15 pay. Employees whose anniversary dates fall after Jan. 15 will see the increase added to the new pay period.

Depending on their base pay and performance evaluation score, qualified employees will receive either a 1.2 percent or 2.4 percent raise.

City of Greenville:

Employees a 1.5 percent merit pay increase and .5 percent market rate adjustment. The increases would be retroactive to July 1.

Budgetary Impact: As denoted in the attached spreadsheet.

Recommendation: Approve recommended increase for all employees effective July 1, 2020.

**Town of Winterville
Available Cash Analysis
Pay Raise Feasibility
2/11/2021**

Revenues

General Fund	Budget	Current Revenue	Estimated Annualized Revenue	Overage / Shortage
Property Tax	3,662,306.00	3,783,026.22	3,858,026.22	195,720.22
Prior Year Tax	13,200.00	38,428.43	38,428.43	25,228.43
Sales Tax	1,993,477.00	1,380,993.96	2,367,418.22	373,941.22
Motor Vehicle Tax	462,000.00	327,709.60	561,787.89	99,787.89
Utility Franchise Tax	369,082.00	169,699.79	339,399.58	(29,682.42)
				664,995.33
Cares Act	140,000.00	140,000.00	140,000.00	140,000

General Fund Revenues Over original budget **804,995.33**

Electric Fund	Budget	Current Revenue	Estimated Annualized Revenue	Overage / Shortage
Sales	6,462,337.00	3,949,093.00	6,769,873.71	307,536.71

Water Fund	Budget	Current Revenue	Estimated Annualized Revenue	Overage / Shortage
Sales	1,487,052.00	888,805.60	1,523,666.74	36,614.74

Sewer Fund	Budget	Current Revenue	Estimated Annualized Revenue	Overage / Shortage
Sales	2,296,644.00	1,343,605.04	2,303,322.93	6,678.93

Storm Water Fund	Budget	Current Revenue	Estimated Annualized Revenue	Overage / Shortage
Sales	503,588.00	293,862.00	503,763.43	175.43

Cost Associated with a (x)% raise at full staff

General Fund	Budget
Salaries	
Fica	
Retirement	
401(k) Retirement	
	4,947,385.00

2.5% increase **123,684.63**

Electric Fund	Budget
Salaries	
Fica	
Retirement	
401(k) Retirement	
	775,874.00

2.5% increase **19,396.85**

Water Fund	Budget
Salaries	
Fica	
Retirement	
401(k) Retirement	
	223,836.00

2.5% increase **5,595.90**

Sewer Fund	Budget
Salaries	
Fica	
Retirement	
401(k) Retirement	
	109,702.00

2.5% increase **2,742.55**

Stormwater Fund	Budget
Salaries	
Fica	
Retirement	
401(k) Retirement	
	90,877.00

2.5% increase **2,271.93**



CityVision Virtual Summit is a week away!

Join us April 20-22 for a 3-day fully interactive virtual event. CityVision Virtual Summit is loaded with best practices for municipalities, engaging speakers and insights from local government officials around North Carolina!

Our All-Star Lineup of Local Government Professionals Includes

- Clarence Anthony: CEO and Executive Director, National League of Cities (NLC)
- Jeff Sural: Director, Broadband Infrastructure Office, N.C. Department of Information Technology
- Kiara Jones: City of Raleigh, Assistant Communications Director
- Leon Andrews: Director for Race, Equality and Leadership (REAL), National League of Cities (NLC)
- Brian Cyprian: Supervisory Special Agent, Federal Bureau of Investigation
- And so many more awesome speakers!

Top Reasons to Attend CityVision

- Jam-packed agenda with over 20 educational sessions to better your N.C. city or town
- Live Q&A sessions with our speakers to answer all questions involving municipalities
- Fully interactive and easy-to-use web platform that allows you to customize your schedule!
- All session recordings will be available to you, post-event!
- This year's conference is only \$99!

Sign up today! You do not want to miss this amazing opportunity to bring NEW information and best practices to your municipality!

Sincerely,

NC League of Municipalities

Preliminary Agenda - CityVision 2021 Virtual Conference

CityVision Virtual Summit is a 3-day, fully interactive online event focused on municipal growth, leadership and networking opportunities for North Carolina local government officials. Join us April 20-22 for practical information, engaging speakers and insights from local government officials across the state!

With over 20+ educational sessions in just 3 days! Some of our topics include:

- Entrepreneurs Can Shift Your Community's Optimism and Initiate a Transformation.
- Crisis Communications: It's All About the Response.
- Municipal Finance for Elected Officials.
- American Rescue Plan: Primer for Municipal Officials.
- North Carolina Voters: Changes on the Horizon .
- Cyber Threats and Trends.
- Racial Equity Connecting with History.
- Redlining, Restrictive Covenants, and Municipal Zoning Authority: Jim Crow Era Laws and Policies in North Carolina – 1900 to 1955.
- Racial Equity: Making the Connection Through Data.

Tuesday, April 20:

- 9:30 am – 10:30 am: NC Military Host Cities Coalition.
- 10:00 am - 11:30 am: NC Black Elected Official Membership Meeting.
- 10:00 am - 11:30 am: NC Resort Towns & Convention Cities Meeting.
- 11:00 am - 12:00 pm: NC Women In Government Meeting (Panel Discussion).
- 12:00 pm - 3:30 pm: NCLM Board of Directors Meeting.
- 12:00 pm - 2:15 pm: NC Municipal Clerks Association Meeting with Credit Hours.
- 3:30 pm - 4:30 pm: NC Women In Government Business Meeting.
- 3:30 pm - 4:30 pm: NC Mayors Association Meeting.

Wednesday, April 21:

- 9:00 am - 10:15 am: Opening General Session with Keynote Speaker.
- 10:15 am - 10:30 am: Break.
- 10:30 am - 11:30 am: Concurrent Workshops.
- 11:30 am - 12:30 pm: Lunch.
- 12:30 pm - 1:00 pm: Mobile Tour.
- 1:00 pm - 2:00 pm: Concurrent Workshops.
- 2:00 pm - 3:00 pm: Closing Remarks.

Thursday, April 22:

- 9:00 am - 9:45 am: Racial Equity: Leading with Values & Governing Through Shared Purpose.
- 9:45 am - 10:00 am: Break.
- 10:00 am - 10:45 am: Racial Equity Concurrent Sessions.
- 10:45 am - 11:30 am: Racial Equity: Making the Connection Through Data.
- 11:30 am - 11:55 am: Preparing for Solutions: Town Hall Conversations.
- 12:00 pm - 1:00 pm: Lunch.
- 1:00 pm - 3:00 pm: Business Meeting.
- 3:00 pm - 4:30 pm: Mike Wiley Performance "Breach of Peace".
- 4:30 pm - 4:45 pm: Closing Announcements.