

CAMPBELL COUNTY CODE OF 1988

CHAPTER 20

CABLE TELEVISION

For Federal law basis for this chapter, see Federal Communications Act of 1934, as amended, 47 U.S.C. §151 et seq.; Federal Cable Act of 1984, as amended, 47 U.S.C. §521 et seq.; and amendments thereto effected by Cable Television Consumer Protection And Competition Act of 1992 (Public Law 102-385), Telecommunications Act of 1996 (Public Law 104-104), and other pertinent federal laws.

For state law authority for this chapter, see VA. CODE ANN. §15.2-2108.2 et seq. (Repl. Vol. 2018) and VA. CODE ANN. §15.2-1200 (Repl. Vol. 2018).

Editor's note.--The former provisions of this chapter, designated as the "Campbell County (Virginia) Cable Television Ordinance of 1998," which had become effective on August 17, 1998, were repealed in their entirety by the July 7, 2008 Act adopted by the Board of Supervisors of Campbell County, Virginia. Such Act, adopted on July 7, 2008, also enacted the present provisions of Chapter 20 of the Campbell County Code of 1988, which chapter provisions may be cited as the "Campbell County (Virginia) Cable Television Ordinance of 2008."

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Article I. In General.

Sec. 20-1. Statement of applicability.

This Ordinance establishes the criteria, procedures and standards by which Campbell County will grant and enforce an ordinance cable franchise to a provider of cable services pursuant to VA. CODE ANN. § 15.2-2108.1 et seq. (Repl. Vol. 2018) as an alternative to a negotiated cable franchise pursuant to VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 2018). Campbell County, on request by an applicant, will continue to grant a negotiated cable franchise in accordance with Title VI of the Communications Act of 1934, as amended, 47 U.S.C. § 521 et seq., and as provided by VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 018). The ability to seek an ordinance cable franchise under this Ordinance shall be available to:

(a) A cable operator with previous consent to use the public rights-of way to provide cable services whose negotiated franchise with Campbell County is up for renewal and who seeks to renew that franchise pursuant to VA. CODE ANN. § 15.2-2108.30 (Repl. Vol. 2018);

(b) A certificated provider of telecommunications services with previous consent to use the public rights-of-way in Campbell County through a franchise; and

(c) A certificated provider of telecommunications services that lacked previous consent to provide cable service in Campbell County but provided telecommunications services over facilities leased from an entity having previous consent to use of the public rights-of-way in Campbell County through a franchise.

For state law authority, see VA. CODE ANN. § 15.2-2108.1 et seq. (Repl. Vol. 2018). See also VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 2018), and VA. CODE ANN. § 15.2-2108.30 (Repl. Vol. 2018).

Editor's note.--The July 7, 2008 Act repealed former Chapter 20 of the Campbell County Code of 1988 ["Campbell County (Virginia) Cable Television Ordinance of 1998"] in its entirety, and enacted this Ordinance in its place.

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-2. Definitions.

“Act” means the Communications Act of 1934.

“Affiliate”, in relations to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person.

“Basic service tier” means the service tier that includes (i) the retransmission of local television broadcast channels and (ii) public, educational, and governmental channels required to be carried in the basic tier.

“Board of Supervisors” means the governing body of Campbell County.

“Cable operator” means any person or group of persons that (i) provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system or (ii) otherwise controls or is responsible for, through any arrangement, the management and operations of a cable system. Cable operator does not include a provider of wireless or direct-to-home satellite transmission service.

“Cable service” means the one-way transmission to subscribers of (i) video programming or (ii) other programming service, and subscriber interaction, if any, which is required for the selection or use of such video programming or other programming service. Cable service does not include any video programming provided by a commercial mobile service provider defined in 47 U.S.C. § 332(d).

“Cable system” or “cable television system” means any facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service that includes video programming and that is provided to multiple subscribers within a community, except that such definition shall not include (i) a system that serves fewer than 20 subscribers; (ii) a facility that serves only to retransmit the televisions signals of one or more television broadcast stations; (iii) a facility that serves only subscribers without using any public rights-of-way; (iv) a facility of a common carrier that is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, 47 U.S.C. § 201 et seq., except that such facility shall be considered a cable system to the extent such facility is used in the transmission of video programming directly to subscribers, unless the extent of such use is solely to provide interactive on-demand services; (v) any facilities of any electric utility used solely for operation its electric systems; (vi) any portion of a system that serves fewer than 50 subscribers in Campbell County, where such portion is a part of a larger system franchised in a locality adjacent to Campbell County; or (vii) an open video system that complies with § 653 of Title VI of the Communications Act of 1934 as amended, 47 U.S.C. § 573.

“Certified provider of telecommunications services” means a person holding a certificate issued by the State Corporation Commission to provide local exchange telephone service.

“Board of Supervisors” means the governing body of Campbell County.

“Franchise” means an initial authorization, or renewal thereof, issued by a franchising authority, including Campbell County or the Commonwealth Transportation Board, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction or operation of a cable system, a telecommunications system, or other facility in the public rights-of-way. A negotiated cable franchise is granted by Campbell County after negotiation with an applicant pursuant to VA. CODE ANN. §15.2-2108.20 (Repl. Vol. 2018). An ordinance cable franchise is granted by Campbell County when an applicant provides notice pursuant to VA. CODE ANN. §15.2-2108.21 (Repl. Vol. 2018) that it will provide cable service in Campbell County.

“Franchisee” means a person that has been granted a cable television franchise by Campbell County pursuant to the Ordinance or any predecessor ordinance or franchise agreement.

“Force majeure” means an event or events reasonably beyond the ability of cable operator to anticipate and control. “Force majeure” includes, but is not limited to, acts of God, incidences of

terrorism, war or riots, labor strikes or civil disturbances, floods, earthquakes, fire, explosions, epidemics, hurricanes, tornadoes, governmental actions and restrictions, work delays caused by waiting for utility providers to service or monitor or provide access to utility poles to which cable operator's facilities are attached or to be attached or conduits in which cable operator's facilities are located or to be located, and unavailability of materials or qualified labor to perform the work necessary.

"Gross revenue" means all revenue, as determined in accordance with generally accepted accounting principles, that is actually received by the cable operator and derived from the operations of the cable system to provide cable services in the franchise area; however, in an ordinance cable franchise "gross revenue" shall not include: (i) refunds or rebates made to subscribers or other third parties; (ii) any revenue which is received from the sale of merchandise over home shopping channels carried on the cable system, but not including revenue received from home shopping channels for the use of the cable service to sell merchandise; (iii) any tax, fee or charge collected by the cable operator and remitted to a governmental entity or its agent or designee, including without limitation a local public access or education group; (iv) program launch fees; (v) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing; (vi) a sale of cable service for resale or for use as a component part of or for the integration into cable services to be resold in the ordinary course of business, when the reseller is required to pay or collect franchise fees or similar fees on the resale of the cable service; (vii) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the cable operator to provide cable service; and (viii) revenue derived from services classified as noncable services under federal law, including, without limitation, revenue derived from telecommunications services and information services, and any other revenues attributed by the cable operator to noncable services in accordance with rules, regulations, standards, or orders of the Federal Communications Commission.

"Shentel Franchise" means the Franchise Agreement between Campbell County and Shenandoah Telephone ("Shentel"), renewed February 2, 2016 for a term ending on December 31, 2030.

"Shentel" means Shenandoah Telephone, the franchisee under the Shentel Franchise.

"Interactive on-demand services" means a service providing video programming to subscribers over switched networks on an on-demand, point-to-point basis, but does not include services providing video programming prescheduled by the programming provider.

"Person" means an individual, partnership, association, Joint Stock Company, organization, corporations, or any other legal entity, but such term does not include Campbell County.

"Public rights-of-way" means the surface, the air space 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, easement, or similar property in which Campbell County or the Commonwealth of Virginia now or hereafter holds any property interests, which, consistent with the purposes for which it was dedicated, may be used for the purpose of installing and maintaining cable facilities. No reference herein, or in any franchise, to a "public rights-of-way" shall be deemed to be a representation or guarantee by Campbell County that its interest or other right to control the use of such property is sufficient to permit its use for such purposes, and a franchisee shall be deemed to

gain only those rights to use as are properly in Campbell County and as Campbell County may have the undisputed right and power to give.

“Transfer” means any transaction in which (i) an ownership or other interest in the cable operator is transferred, directly or indirectly, from one person or group of person to another person or groups of persons, so that majority control of the cable operator is transferred; or (ii) the rights and obligations held by the cable operator under the cable franchise granted under this article are transferred or assigned to another person or groups of persons. However, notwithstanding clauses (i) and (ii) of the proceeding sentence, a transfer of the cable franchise shall not include (a) transfer of an ownership or other interest in the cable operator to the parent of the cable operator or to another affiliate of the cable operator; (b) transfer of an interest in the cable franchise granted under this article or the rights held by the cable operator under the cable franchise granted under this article to the parent of the cable operator or to another affiliate of the cable operator; (c) any action that is the result of a merger of the parent of the cable operator; (d) any action that is the result of a merger of another affiliate of the cable operator; or (e) a transfer in trust, by mortgage, or by assignment of any rights, title, or interest of the cable operator in the calve franchise or the system used to provide cable in or to secure indebtedness.

“VDOT” means the Virginia Department of Transportation.

“Video programming” means programming provided by, or generally considered comparable to, programming provided by a television broadcast station.

All terms used herein, unless otherwise defined, shall have the same meaning as set forth in VA. CODE ANN. §§ 15.2-2108.19 et seq. (Repl. Vol. 2018), and if not defined therein, then as set forth in Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq., and if not defined therein, their common and ordinary meaning. In addition, references in the Ordinance to any federal or state law shall include amendments thereto as are enacted from time-to-time.

For state law authority, see VA. CODE ANN. § 15.2-2108.19 et seq. (Repl. Vol. 2018), and § 15.2-2108.1:1 (Repl. Vol. 2018). See also Title VI of the Communications Act of 1934, 47 U.S.C. § 521 et seq.

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 6, 2010 AMENDMENT substituted “Shentel” for “Jet Broadband” in several places.]

[THE DECEMBER 6, 2016 AMENDMENT added “renewed February 2, 2016 for a term ending on December 31, 2030” to the definition “Shentel franchise.”]

Sec. 20-3. Procedures to obtain an ordinance cable franchise.

(a) In order to obtain an ordinance cable franchise, an applicant shall first file with the chief administrative officer a request to negotiate the terms and conditions of a negotiated cable franchise under VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 2018) and this Chapter.

(b) An applicant shall request in writing and make itself available to participate in cable franchise negotiations at least forty five (45) calendar days prior to filing a notice electing an ordinance cable franchise pursuant to Section 20-3(c) unless the applicant already holds a negotiated cable franchise for Campbell County or chooses not to negotiate.

(c) After the forty five (45) day period set forth in Section 20-3(b), an applicant, through its president or chief executive officer, shall file written notice with Campbell County that the applicant elects to receive an ordinance cable franchise at least thirty (30) days prior to offering cable service in Campbell County. The notice shall be accompanied by a map or a boundary description showing:

(i) The initial service area in which the applicant intends to provide cable service in Campbell County within the three (3) year period required for an initial service area; and

(ii) The area in Campbell County in which the applicant has its telephone facilities, if any.

The map or boundary description of the initial service area may be amended by the applicant by filing with Campbell County a new map or boundary description of the initial service area.

(d) Notice of any ordinance that requires a public hearing shall be advertised once a week for two successive weeks in a newspaper having a general circulation in Campbell County. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of Campbell County. All costs of such advertising shall be assessed against the applicant or franchisee.

For state law authority, see VA. CODE ANN. § 15.2-2108.21(C) and (F) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-4. Redlining, reporting and inspection.

A franchisee shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. Campbell County shall have the right to monitor and inspect the deployment of cable services, and the franchisee shall submit semiannual progress reports to Campbell County pursuant to Section 20-18.1(a) hereof detailing the franchisee's current provision of cable services, in accordance with the deployment schedule and new service area plans for the next six months. The reports shall include visual (graphic, mapping) or written descriptions of the actual geographic boundaries of the service areas identified by the franchisee pursuant in this Section. The failure to correct or remedy any material deficiencies by franchisee shall be subject to the same remedies as contained in the Shentel Franchise and the provisions of this Chapter as they existed at the time of the grant of the Shentel Franchise.

For state law authority, see VA. CODE ANN. § 15.2-2108.21(D) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 6, 2010 AMENDMENT substituted “Shentel” for “Jet Broadband” in several places.]

Sec. 20-5. Town ordinances.

If the governing body of any town adopts an ordinance pursuant to the provisions of VA. CODE ANN. §§ 15.2-2108.19 et seq. (Repl. Vol. 2018), such town shall not be subject to any ordinance adopted by Campbell County within which such town lies.

For state law authority, see VA. CODE ANN. § 15.2-2108.21(G) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Article II. Substantive Provisions.

Sec. 20-6. PEG channels and fees.

(a) PEG Channels

(i) The franchisee shall provide two (2) public, educational, and governmental access (“PEG”) channels dedicated solely to Campbell County or its designee and not shared with any other jurisdiction (unless Campbell County agrees otherwise). The second channel will be provided only after channel capacity has been maximized on the first PEG channel.

(ii) Campbell County may, after a public hearing and upon a finding that the existing PEG channels are substantially utilized within the meaning of VA. CODE ANN. §15.2-2108.22(1), require by ordinance that all Campbell County franchisees provide an additional PEG channel or channels, up to a maximum of three (3) additional PEG channels provided that the total number of PEG channels, including the additional PEG channels, shall not exceed five (5).

(iii) All PEG channels shall be carried on a franchisee’s basic tier.

(iv) Pursuant to the provisions of Section 20-12, a franchisee shall either interconnect with one or more other franchisees in Campbell County or directly connect to PEG insertion points to ensure the carriage of all required PEG access channels.

(v) Campbell County or its designee shall be responsible for management, operations, and programming of the PEG access channels.

(vi) Any additional PEG channel provided pursuant to subdivision (ii) of this subsection (a) that is not utilized for at least eight (8) hours a day by Campbell County need no longer be made available to Campbell County by a franchisee, but may be programmed at the franchisee’s

discretion. At such time as Campbell County can certify to the franchisee a schedule for at least eight (8) hours of daily programming for a period of three (3) months, the franchisee shall restore any reallocated additional PEG channels.

(b) PEG Fees

(i) At the end of the first Shentel Franchise, Campbell County may negotiate with all franchisees to set a new, recurring fee to support the reasonable and necessary capital costs of PEG facilities, including institutional networks, that shall be imposed on all franchisees such that the fee applies equally, on a gross revenue percentage or per-subscriber basis, to all franchisees in Campbell County.

(ii) If Campbell County and the franchisees cannot agree on a recurring PEG capital cost fee through negotiation under subdivision (i) of this subsection (b), Campbell County, by ordinance adopted after a public hearing, shall impose a recurring fee, calculated on a per subscriber or percentage of gross revenue basis, to support the reasonable and necessary capital cost of PEG access facilities, including institutional networks, however, such fee may not exceed the PEG Capital Fee previously imposed on cable operators by Campbell County.

(iii) Any and all PEG fees permitted or imposed under this subsection (b) shall be paid by the franchisee to Campbell County on the same schedule as franchise fees are paid pursuant to Section 20-7, and shall be subject to the same audit provisions as franchise fees are under Section 20-18.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(1) and (3) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 6, 2010 AMENDMENT replaced “Jet Broadband Franchise” with “first Shentel Franchise” in (b)(1).]

Sec. 20-7. Franchise Fee.

Notwithstanding any other provision of law, no new or renewed cable franchise entered into on or after January 1, 2007, shall include a franchise fee as long as cable services are subject to the Virginia Communications Sales and Use Tax (VA. CODE ANN. § 58.1-645 et seq. (Repl. Vol. 2017)). Franchise fee as used in this section shall have the same meaning as that term is defined in 47 U.S.C. § 542(g).

All cable franchises in effect as of January 1, 2007, shall remain in full force and effect, and nothing in this Chapter shall impair any obligation of any such agreement; provided, however, that any requirement in such an existing franchise for payment of a monetary franchise fee based on the gross revenues of the franchisee shall be fulfilled in the manner specified in VA CODE ANN. § 15.2-2108.1:1(C)(2) (Repl. Vol. 2018).

Campbell County's acceptance of any payment under VA CODE ANN. §15.2-2108.1:1 (C)(2) (Repl. Vol. 2018) shall not prejudice any rights of the County under the applicable cable franchises (i) to audit or demand adjustment of the amounts reported by its franchisee, or (ii) to enforce the provisions of the franchise by any lawful administrative or judicial means.

For state law authority, see VA. CODE ANN. §15.2-2108.1:1(C) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-8. Customer service standards.

(a) A franchisee shall be subject to the following customer service standards consistent with 47 C.F.R. §§ 76.309, 76.1602, 76.1603, 76.1618 and 76.1619:

(i) A franchisee will maintain a local, toll-free, or collect telephone access line which will be available to its subscribers 24 hours a day, seven days a week.

A. Trained representatives will be available to respond to customer telephone inquiries during normal business hours.

B. After normal business hours, the access line may be answered by a service or automated response system, including an answering machine. Inquiries received after normal business hours must be responded to by a trained representative on the next business day.

(ii) Under normal operating conditions, telephone answer time by a customer representative, including wait time, shall not exceed thirty (30) seconds when the connection is made. If the call needs to be transferred, transfer time shall not exceed thirty (30) seconds. These standards shall be met no less than ninety (90) percent of the time under normal operating conditions as measured on a quarterly basis.

(iii) The operator will not be required to acquire or perform surveys to measure compliance with the telephone answering standards in (ii), above, unless an historical record of complaints indicates a failure to comply or it is required of the incumbent.

(iv) Under normal operating conditions, the customer will receive a busy signal less than three percent (3%) of the time.

(v) A franchisee shall accurately collect and maintain data to measure its compliance with the telephone answering standards in subparagraphs (ii) and (iii).

(vi) Customer service centers and bill payment locations will be open at least during normal business hours and will be conveniently located.

(vii) Installations, Outages, and Service Calls. Under normal operating conditions, each of the following four standards will be met no less than ninety five percent (95%) of the time as measured on a quarterly basis.

A. Standard installations will be performed within seven business days after an order has been placed. “Standard” installations are those that are within 125 feet of the existing distribution system.

B. Excluding conditions beyond the control of the franchisee, the franchisee will begin working on service interruptions promptly and in no event later than twenty-four (24) hours after the interruption becomes known. The franchisee must begin actions to correct other service problems the next business day after notification of the service problem.

C. The “appointment window” alternatives for installations, service calls and other installation activities will either be at a specific time or, at maximum, a four-hour time blocking during normal business hours. A franchisee may schedule service calls and other installation activities outside of normal business hours for the express convenience of the customer.

D. A franchisee may not cancel an appointment with a customer after the close of business on the business day prior to the scheduled appointment. If a franchisee representative is running late for an appointment with a customer and will not be able to keep the appointment as scheduled, the customer will be contacted. The appointment will be rescheduled as necessary, at a time which is convenient for the customer.

(viii) A franchisee shall accurately collect and maintain data to measure its compliance with subparagraph (vi).

(ix) Communications between a franchisee and its subscribers.

Notification to subscribers. A franchisee shall provide written information on each of the following areas at the time of installation of service, at least annually to all subscribers, and at any time upon request:

1. Products and services offered;
2. Prices and options for programming services and conditions of subscription to programming and other services;
3. Installation and service maintenance policies;
4. Instructions on how to use the cable service;
5. Channel positions of programming carried on the system;
6. Refund policy; and

7. Billing and complaint procedures, including the franchisee's office hours, address and telephone number of the local cable office.

(b) A franchisee shall notify subscribers of any changes in rates, programming services or channel positions as soon as possible in writing. Notice must be given to subscribers a minimum of thirty (30) days in advance of such changes if the change is within the control of the franchisee. In addition, a franchisee shall notify subscribers thirty (30) days in advance of any significant changes in the other information required by subparagraph (viii) of this section.

(c) Billing

(i) A franchisee's bills to its subscribers shall be clear, concise, and understandable. Bills must be fully itemized, with itemizations including, but not limited to, basic and premium service charges and equipment charges. Bills will also clearly delineate all activity during the billing period, including optional charges, rebates, and credits.

(ii) In case of a billing dispute, a franchisee must respond to a written complaint from a subscriber within thirty (30) days.

(iii) Refund checks will be issued promptly, but not later than either:

A. The customer's next billing cycle following resolution of the request, or thirty (30) days, whichever is earlier, or

B. The return of the equipment supplied by a franchisee if service is terminated.

(iv) Credits for service will be issued no later than the customer's next billing cycle following the determination that a credit is warranted.

(v) A franchisee shall maintain an office within the franchise area for, at minimum, the payment of bills, delivery and return of subscriber equipment, requests for installation, disconnection, and reinstatement of cable service, addressing of subscriber inquiries, and receipt of subscriber complaints, only if this is required in an incumbent's franchise.

(vi) A franchisee shall provide parental control devices to all subscribers who wish to be able to block out any objectionable channel(s) of programming from the cable service entering the subscriber's home, only if this is required in an incumbent's franchise.

(vii) A franchisee shall maintain and provide to Campbell County on request a log of all subscriber complaints indicating the action taken by the franchisee, only if this is required in an incumbent's franchise.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(4) (Repl. Vol. 2018). See also 47 U.S.C. § 552(a)(1) and (b); 47 C.F.R. §§ 76.309, 76.1602, 76.1603, 76.1618 and 76.1619.

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-9. Service buildout requirements.

(a) Within no less than three (3) years of the date of the grant of the franchise, a franchisee shall make cable service available to all of the occupied residential dwelling units in the initial service area selected by the franchisee pursuant to Section 20-3(c)(i) hereof.

(b) Within seven (7) years of the date of the grant of the franchise, a franchisee shall make cable service available to no less than sixty-five (65%) of the residential dwelling units throughout the area in Campbell County in which the franchisee has telephone facilities.

(c) Notwithstanding subparagraphs (a) and (b) above, a franchisee shall not be required to make cable service available:

- (i) for periods of force majeure;
- (ii) for periods of delay caused by Campbell County;
- (iii) for periods of delay resulting from the franchisee's inability to obtain authority to access rights-of-way in the service area;
- (iv) in areas where developments of buildings are subject to claimed exclusive arrangements;
- (v) in development or buildings that the franchisee cannot access under industry standard terms and conditions after good faith negotiation;
- (vi) in developments or buildings to which the franchisee is unable to provide cable service for technical reasons or that require facilities that are not available or cannot be deployed on a commercially reasonable basis;
- (vii) in areas where it is not technically feasible to provide cable service due to the technology used by the franchisee to provide cable service;
- (viii) in areas where the average occupied residential household density is less than thirty (30) occupied residential dwelling units per mile as measured in strand footage from the nearest technically feasible point on the franchisee's active cable or such higher average density number as may be contained in an existing operator's cable franchise; or
- (ix) when the franchisee's prior service, payment, or theft of service history with a subscriber or potential subscriber has been unfavorable.

Should, through new construction, an area within a franchisee's service area meet the density requirement set forth in subparagraph (c)(viii), the franchisee shall, subject to the exclusions set forth

in subparagraphs (c)(i)-(vii) and (ix), provide cable service to such area within six (6) months of receiving notice from Campbell County that the density requirements have been met.

(d) During the twelve (12) month period commencing after the seventh-year anniversary date of the grant of a franchise, Campbell County may, by ordinance adopted after a public hearing in which Campbell County specifically finds that such a requirement is necessary to promote competition in cable services with Campbell County, require a franchisee to make service available to eighty percent (80%) of the residential dwelling units in the area in Campbell County in which the franchisee has telephone facilities within no less than ten (10) years of the date of the grant of the franchisee's franchise, subject to the exclusions set forth in subparagraphs (c)(i)-(ix) above. If the franchisee notifies Campbell County that it is unwilling to accept this additional service availability requirement, Campbell County may, after notice and public hearing, terminate the franchisee's ordinance cable franchise.

(e) A franchisee shall file with Campbell County a certificate at its third and seventh, and if applicable, tenth, anniversary dates certifying its compliance with the foregoing service requirements.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(12) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-10. Rights-of-way management.

(a) All excavation and reconstruction work by a franchisee in the public right-of-way must be in compliance with the requirements of Chapters 8, 11, 21 and 22 of the Campbell County Code of 1988 and any applicable VDOT standards. It shall be the responsibility of a franchisee to obtain any required permits, to review all applicable excavation, reconstruction, restoration, repair and permitting requirements, and to become familiar with such requirements before beginning any excavation, reconstruction, restoration or repair work in the public right-of-way or private property.

(b) Any equipment or facilities installed by a franchisee in the public rights-of-way shall be installed, located, erected, constructed, reconstructed, replaced, restored, removed, repaired, maintained and operated in accordance with good engineering practices, performed by experienced maintenance and construction personnel so as not (1) to endanger or interfere in any manner with improvements Campbell County or VDOT may deem appropriate to make; or (2) to interfere with the rights of any private property owner; or (3) to hinder or obstruct pedestrian or vehicular traffic.

(c) Whenever Campbell County or VDOT shall determine that it is necessary in connection with the repair, relocation, or improvement of the public rights-of-way, Campbell County or VDOT may require by written notification that any properties or facilities of the franchisee be removed or relocated. Within sixty (60) days after receipt of notification, unless Campbell County or VDOT extends such period for good cause shown, the franchisee shall remove or relocate its facilities to such place and under such terms and conditions as specified by Campbell County or VDOT. The franchisee shall bear all expenses associated with the removal and relocation except that Campbell County or VDOT will issue, without charge to the franchisee, whatever local permits are required for

the relocation of franchisee's facilities. If the franchisee does not complete its removal or relocation within sixty (60) days or such other period as authorized Campbell County or VDOT, Campbell County or VDOT may take such actions as necessary to effect such removal or relocation at the franchisee's expense.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(10) (Repl. Vol. 2018). See also VA. CODE ANN. § 15.2-2108.23 (Repl. Vol. 2018) and VA. CODE ANN. § 15.2-2108.24 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-11. Institutional networks.

(a) Any franchisee holding a cable franchise from Campbell County that was granted before July 1, 2006, under which the franchisee is required to provide institutional network facilities or capabilities shall continue to provide such facilities or capabilities for the remaining term of that franchisee's franchise, as that remaining term was defined in that franchisee's franchise.

(b) On the expiration of a franchise subject to subsection (a) hereof, the franchisee shall, within sixty (60) days after written request by Campbell County, either (1) remove, at franchisee's expense, all of its institutional network facilities and equipment owned by franchisee from Campbell County property (excluding the public rights-of-way), or (2) enter into good faith negotiations with Campbell County to convey such facilities and equipment to Campbell County at a price not exceeding franchisee's then-current net, depreciated book value of those facilities and equipment. If, despite such good faith negotiations, the franchisee and Campbell County cannot agree on a sales price for such facilities and equipment, the franchisee shall, within one hundred twenty (120) days, either (a) remove such facilities and equipment, at franchisee's expense, from Campbell County's property, or (b) abandon such facilities and equipment.

For state law authority, see VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-12. Interconnection.

(a) Unless otherwise agreed to by Campbell County or unless the franchisee elects direct connection pursuant to subparagraph (f) below, a franchisee shall interconnect its cable system with the cable systems of one or more franchisees, as necessary, located in Campbell County for the purpose of ensuring the carriage of all PEG access channels.

(b) Any new cable operator other than Shentel franchised pursuant to this ordinance on or after July 1, 2006, shall promptly enter into negotiations to interconnect its cable system with the Shentel cable system. Any such franchisee and Shentel shall negotiate the terms and conditions of an interconnection agreement.

(c) The construction costs and ongoing expenses of the interconnection shall be shared fairly between the interconnecting franchisee and Shentel. If no interconnection agreement is reached within one hundred eighty (180) days after the effective date of a franchisee's franchise, Campbell County shall designate the point of interconnection. As soon as practicable after Campbell County's designation of the point of interconnection or the negotiation of an interconnection agreement, but in no event exceeding 240 days after the effective date of its franchise, a franchisee shall carry all PEG access channels on its cable system as required under Section 20-6(a) hereof.

(d) A franchisee shall ensure that all PEG access channel signals carried on its system, whether via interconnection or other method, comply with all applicable FCC signal quality and technical standards for all classes of signals, and that interconnection or direct connection pursuant to subparagraph (f) below shall preserve the technical and signal quality of all PEG access channel signals.

(e) Franchisees, including Shentel, shall share equally the costs of maintenance, repair, replacement and improvements to interconnection facilities. Franchisees shall cooperate in carrying out any such work. If the franchisees fail to reach agreement on such maintenance and repair, Campbell County may carry out any work deemed necessary by it. Campbell County will bill the franchisees equally for the work, and the franchisees shall remit the amounts so billed within thirty (30) days of receipt of the bill from Campbell County.

(f) A franchisee may, if it wishes, direct connect with PEG access origination locations in lieu of interconnection with Shentel.

Alternatively, if a franchisee can obtain all of the PEG access channels at a single or lesser number of direct connection locations, it may do so. The direct connections options set forth in this subparagraph (f) are subject to the two hundred forty (240) day time limit set forth in the subparagraph (c) above.

(g) Shentel shall continue to provide the PEG origination capacity set forth in the Shentel Franchise Agreement beyond the termination of the Shentel Franchise. If Virginia law is construed not to permit Campbell County to require Shentel to continue to provide such facilities for delivery of PEG access channels to Shentel's system after the expiration of the Shentel Franchise, then Shentel shall, within sixty (60) days, either (1) remove, at its expense, all of its PEG access return feed facilities from Campbell County property, or (2) enter into good faith negotiations with Campbell County to convey such facilities to Campbell County at a price not exceeding Shentel's then-current net, depreciated book value of those facilities. If, despite such good faith negotiations, Shentel and Campbell County cannot agree on a sales price for those facilities, then Shentel shall, within sixty (60) days, either (1) remove such facilities, at Shentel's expense, from Campbell County property, or (2) abandon such facilities.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(1) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 6, 2010 AMENDMENT substituted “Shentel” for “Jet Broadband” numerous times.]

Sec. 20-13. Service to public locations.

A franchisee shall provide, without charge, within the area in Campbell County actually served by its cable system, one cable service outlet activated for basic cable service to each fire station, public school, police station, public library, and any other local government building.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(9) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-14. Emergency powers and authority.

(a) Emergency Powers

In the event of an emergency, or where a franchisee’s cable system creates or is contributing to an imminent danger to health, safety, or property, or an unauthorized use of property, the franchisee shall remove or relocate any or all parts of franchisee’s cable system at the request of Campbell County. If the franchisee fails to comply with Campbell County’s request, Campbell County may remove or relocate any or all parts of the franchisee’s cable system upon reasonable notice to the franchisee.

(b) Emergency Alert System

(i) The franchisee shall comply with the Emergency Alert System (EAS) requirements of the FCC in order that emergency messages may be distributed over the System. A franchisee shall install and thereafter maintain an EAS for use by Campbell County.

(ii) The EAS shall at all times be operated in accordance with federal requirements and other applicable law. In the event of an emergency, as determined by the designated Campbell County official or other official designated by any approved state or local EAS plan, and subject to applicable federal and Virginia law requirements, the EAS shall be remotely activated by telephone and shall allow a representative from Campbell County or other official designated by any approved state or local EAS plan, in the event of an emergency or for reasonable testing, to override the audio and video on all channels on the franchisee’s cable system without the assistance of the franchisee.

(iii) Campbell County or other designated body responsible under any approved state or local EAS plan shall provide reasonable notice to the franchisee prior to any test of the EAS. The franchisee shall cooperate with Campbell County or other designated body responsible under any approved state or local EAS plan in any such test.

(iv) A franchisee shall maintain the EAS and shall periodically upgrade the EAS at the franchisee's sole expense to ensure that the EAS technology remains consistent and compatible with prevailing technology and applicable law.

For state law authority, see VA. CODE ANN. §44-146.19 (Cum. Supp. 2019). See also 47 C.F.R. Part 11.

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-15. Term.

(a) All ordinance cable franchises granted pursuant to this Ordinance shall have a term of fifteen (15) years.

(b) For any cable ordinance franchise granted pursuant to this Ordinance, the date of the grant of the franchise shall be deemed to be the date that the franchisee began providing cable service in Campbell County.

For state law authority, see VA. CODE ANN. § 15.2-2108.21(B) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Article III. Procedures and Enforcement.

Sec. 20-16. Notice and hearing procedures.

(a) In the event that Campbell County believes that a franchisee has not complied with the requirements of this Ordinance, Article 1.2 (§ 15.2-2108 et. seq.) of Chapter 121 of Title 15.2 of the Virginia Code, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, the following procedures shall apply:

(i) Campbell County shall informally discuss the alleged noncompliance with the franchisee.

(ii) In the event that the informal discussion does not resolve the matter, Campbell County shall notify the franchisee in writing of the exact nature of the alleged noncompliance.

(iii) Within fifteen (15) days from receipt of Campbell County's written notice, the franchisee shall:

A. file a written statement with Campbell County contesting, in whole or in part, the alleged noncompliance; or

B. cure the alleged noncompliance and file written notification to Campbell County of the cure; or

C. in the event the nature of the noncompliance prevents the franchisee from curing the noncompliance within fifteen (15) days, the franchisee shall initiate reasonable steps to remedy the noncompliance and file with Campbell County a written statement setting forth the steps being taken and the projected date that they will be completed. The franchisee's cure shall be completed within thirty (30) days of the projected date.

(b) In the event the franchisee fails to cure the default within fifteen (15) days, fails to file a timely written response, or fails to timely complete the remediation, Campbell County, if it wishes to continue its investigation into the default, shall schedule a public hearing. The franchisee shall be notified in writing at least thirty (30) business days prior to the public hearing. The franchisee shall be provided an opportunity to be heard at the public hearing. The notice shall specify the time, place, and purpose of the public hearing. Campbell County shall: (1) provide public notice of the hearing in compliance with Virginia law; (2) hear any person interested in the violation under review; and (3) provide the franchisee with an opportunity to be heard.

(c) Campbell County shall, within a reasonable time after the closure of the public hearing, issue findings and conclusions in writing, setting forth the basis for the findings, the proposed cure plan and time line for curing the violation, if the violation can be cured, and the penalties, damages and applicable interest, if any, owed.

(d) Subject to applicable federal and Virginia law and the provisions of this Ordinance, if Campbell County determines pursuant to a public hearing that a franchisee is in violation of any provision of this Ordinance, if Campbell County determines pursuant to a public hearing that a franchisee is in violation of any provision of this Ordinance, Article 1.2 (§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, Campbell County may apply one or a combination of the following remedies: (i) seek specific performance or other equitable relief; (ii) commence an action at law; and/or (iii) apply penalties in accordance with Section 20-17(a), if applicable.

(e) Campbell County may designate an individual to conduct the hearings and issue findings and conclusions under this subsection. If Campbell County does, the franchisee may appeal the determination of Campbell County designee to the Board of Supervisors. Such an appeal shall be heard at a lawfully noticed public hearing.

(f) Any franchise revocation rights applicable to an existing franchisee under a franchise in effect prior to the adoption of this Ordinance shall also apply to franchises granted under this Ordinance.

(g) In the event a franchisee submits notification of unwillingness to comply with any additional service availability requirements as contained in Section 20-9 this Ordinance, or fails to comply with these additional service requirements, the franchisee's franchise may be terminated after written notice and a public hearing.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(5) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-17. Remedies.

(a) If, pursuant to the public hearing required by Section 20-16, Campbell County determines that a cable operator has failed to materially comply with this Ordinance, Article 1.2 (§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulation promulgated thereunder, Campbell County may impose any penalty for a violation of the terms of an ordinance franchise that it may impose for a comparable violation under the terms of the Shentel Franchise Agreement or applicable Virginia or Campbell County law including, without limitation, forfeiture and termination of the franchise. If the franchise is forfeited and terminated, (1) such franchise shall be automatically deemed null and void and have no force or effect, (ii) the franchisee shall remove the cable television system from Campbell County as and when requested by the County, and (iii) the County shall retain any portion of the franchise fee and other fees or payments paid to it, or which are due and payable to it, to the date of the forfeiture and termination.

(b) Interest on any and all unpaid amounts owed by a franchisee to Campbell County shall accrue at the legal rates set forth in Virginia Code § 6.2-301.

(c) Any violation or noncompliance with this Ordinance, Article 1.2 (§§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§ 521-573 or any regulations promulgated thereunder, shall not be deemed cured until all penalties, damages and interest, if any, that are owed, are paid.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(6) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 6, 2010 AMENDMENT substituted “Shentel” for “Jet Broadband” in (a).]

[THE DECEMBER 6, 2011 AMENDMENT substituted “6.2-301” for “6.1-330.53” in (b).]

Sec. 20-18. Auditing.

(a) Once every twenty-four (24) months and upon thirty (30) days’ written notice to the franchisee, Campbell County shall have the right to: (1) inspect and copy at any time during normal business hours at such locations and Campbell County may designate, all books and records of a franchisee and any other person who is a “Cable operator” of the franchisee’s cable system reasonably necessary to audit and confirm the franchisee’s accurate payment of any fees required by this

Ordinance; and (2) audit and recomputed any amounts determined to be payable under this Ordinance or a franchise agreement. Such records shall include, but are not limited to: receipts, financial and accounting records, contracts, computer records, codes, programs and disks or other storage media or other material that Campbell County reasonably deems necessary in order to monitor compliance under this Section. The franchisee may request that proprietary and confidential information be kept from public disclosure, but only as permitted by the Virginia Freedom of Information Act.

(b) Campbell County's audit expenses shall be borne by Campbell County unless the audit discloses an underpayment of more than three percent (3%) of any quarterly payment, but not less than \$5,000, in which case Campbell County's out-of-pocket costs of the audit shall be borne by the franchisee as a cost incidental to the enforcement of its franchise. Any additional undisputed amounts due to Campbell County as a result of the audit shall be paid by the franchisee within thirty (30) days following written notice to a franchisee within thirty (30) days following written notice to a franchisee by Campbell County of the underpayment.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(7) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-18.1. Reporting.

(a) Deployment Reports

(i) A franchisee shall submit to the Cable administrator, within thirty (30) days after the close of the second and fourth calendar quarters, semiannual progress reports detailing the franchisee's current deployment and provision of cable services within its initial service area and, after the first three (3) years of its franchise, within all parts of Campbell County where the franchisee has telephone facilities and projecting the franchisee's system deployment plans and new services areas for the next six (6) months.

(ii) A franchisee shall submit, within thirty (30) days after the close of the second and fourth calendar quarter, semiannual reports to the Cable administrator providing sufficient information for Campbell County to assess the franchisee's compliance with Sections 20-4, 20-9(a), 20-9(b), 20-9(c) and if applicable, 20-9(e) hereof and with VA. CODE ANN. §§ 15.2-2108.21(D) (Repl. Vol. 2018) and 15.2-2108.22(12) (Repl. Vol. 2018).

(b) Annual Reports

No later than ninety (90) days after the end of its fiscal year, a franchisee shall submit a written report to the Campbell County Board of Supervisors, which shall include:

(i) A summary of the previous year's activities in development of the franchisee's cable system, including, but not limited to, descriptions of cable services begun or dropped, the number of cable subscribers gained or lost for each category of service, the number of pay units sold,

the amount collected annually from other users of the cable system and character and extent of the cable services rendered to such users;

(ii) A summary of the number of complaints relating to billing, technical services, installation, construction, front counter or telephone answering problems, programming, and other complaints and the nature of the remedial efforts, if any, undertaken by the franchisee to address recurring complaints that are not resolved individually on a case-by-case basis;

(iii) If PEG fees are to be paid on a percentage of gross revenue, an annual report from the previous calendar years showing franchisee's total operating revenues from each type of cable service, its gross revenue, and the amount of the franchisee fees and PEG access fees paid by the franchisee to Campbell County. The report shall include a report from an independent auditor or a duly authorized officer of the franchisee who has reviewed the financial statements of franchisee for the year, and found that franchisee's gross revenue, as defined in the Ordinance, as are reported in the annual report;

(iv) A copy of the annual report, if any, of franchisee's parent corporation;

(v) An ownership report, indicating all persons who at any time during the preceding year did control or benefit from an interest in the franchisee of five percent (5%) or more;

(vi) A list of major cable-related projects undertaken in the past year and planned for the current year, including construction and upgrade schedules for any new, relocated, or upgraded aerial or underground facilities;

(vii) A report on any technical tests and measurements on the system made by the franchisee for compliance with applicable FCC standards;

(viii) A report on the number of system subscribers, by type, the number of miles of cable plant in the system, and the number of residents passes by the cable system;

(ix) Such other information as the Cable administrator or the Campbell County Board of Supervisors reasonably and lawfully may direct in order to ascertain franchisee's compliance with this Ordinance, Article 1.2 (§§ 15.2-2108 et seq.) of Chapter 121 of Title 15.2 of the Code of Virginia, or the applicable mandatory requirements of 47 U.S.C. §§521-573 or any regulation promulgated thereunder.

A franchisee's annual report shall be presented by the franchisee at a regular public meeting of the Campbell County Board of Supervisors.

(c) Quarterly Customer Service Reports

Unless this requirement is waived in whole or in part by Campbell County, no later than thirty (30) days after the end of each calendar quarter, the franchisee shall submit a written report to Campbell County, in a form reasonable satisfactory to Campbell County, which shall include:

(i) A report showing the number of service calls received by type during that quarter, including any property damage to the extent such information is available to the franchisee, and any line extension requests received during that quarter;

(ii) A report showing the number of outages for that quarter, and identifying separately each planned outage of one or more nodes for more than one hour at a time, the time it occurred, its duration, and the map area (using the most recent edition of the ADC map or its equivalent, as specified by Campbell County) and, when available to the franchisee, number of homes affected; and, when the franchisee can reasonably determine that at least 500 homes were affected, each unplanned outage affecting more than 500 homes for more than one hour, the time it occurred, the reason for the disruption and its causes, its estimated duration and the tax map area and, when available to the franchisee, the number of homes affected, and

(iii) A report showing the franchisee's performance with respect to all applicable customer service standards established in 47 C.F.R. §76.309(c) and this Ordinance, signed by an officer or employee certifying its performance with these customer service standards. If the franchisee is unable to certify full compliance for any calendar quarter, it must indicate in its filing each standard with which it is in compliance and in noncompliance, the dates of noncompliance, the reason for the noncompliance and a remedial plan. The franchisee's failure to file a compliance certificate or noncompliance statement as required herein shall subject the franchisee to the liquidated damages established in this Ordinance. The franchisee shall keep such records as are reasonably required to enable Campbell County to determine whether the franchisee is substantially complying with all such customer service standards, and shall maintain adequate procedures to demonstrate substantial compliance.

(d) If the franchise is terminated, the franchisee shall file with Campbell County within ninety (90) days after such termination, a financial statement clearly showing the gross revenue received by the franchisee since the end of the previous fiscal quarter. The franchisee shall pay the PEG owed pursuant to § 20-6 and any other fees or amounts due at the time such statement is filed.

(e) Campbell County may, upon reasonable written notice, require such additional information with respect to the reports to be submitted as may be reasonably necessary for Campbell County's oversight of the franchise, as determined by the County in its reasonable discretion and as permitted by Virginia Law.

For state law authority, see VA. CODE ANN. § 15.2-2108.22(8) (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE JULY 19, 2010 AMENDMENT corrected a typographical error in subsection (b)(v).]

Sec. 20-19. Itemization.

A franchisee providing cable service may identify as a separate line item on each regular bill of each subscriber (i) the amount of the total bill assessed as a franchise fee, or any equivalent fee, that the franchisee has paid to Campbell County; (ii) the amount of the total bill assessed to satisfy

any requirements imposed on the franchisee, including those to support PEG access facilities, including institutional networks; and (iii) the amount of any other fee, tax, assessment, or charge of any kind imposed by any governmental entity on the transaction between the franchisee and the subscriber.

For state law authority, see VA. CODE ANN. § 15.2-2108.25 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-20. Modifications.

Any modification to a franchise shall require the approval of the Campbell County Board of Supervisors.

For state law authority, see VA. CODE ANN. § 15.2-2108.27 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-21. Transfer.

No transfer of any franchise granted under this Ordinance shall occur without the prior consent of Campbell County, provided that the Campbell County Board of Supervisors shall not unreasonably withhold, delay, or condition such consent. No transfer shall be made to a person, group of persons or affiliate that is not legally, technically, and financially qualified to operate the cable system and satisfy the franchise obligations.

For state law authority, see VA. CODE ANN. § 15.2-2108.28 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-22. Surrender.

A franchisee that receives an ordinance cable franchise under this Ordinance that considers, within three (3) years after the grant of a cable franchise under this Ordinance, that its provision of cable services within Campbell County is no longer economically feasible, may notify Campbell County in writing and surrender its cable franchise for the entire Campbell County without liability to Campbell County (other than for any fees, taxes, or payments owed for the period before the franchisee surrendered the franchise and ceased providing cable service in Campbell County). If a franchisee so surrenders its cable service franchise, it shall not be eligible to obtain a new cable service franchise within Campbell County until after the normal expiration date of the franchise that such franchisee surrendered.

For state law authority, see VA. CODE ANN. § 15.2-2108.29 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-23. Renewal.

A franchisee electing to renew its cable franchise shall do so (i) pursuant to the renewal procedures in 47 U.S.C. § 546, or (ii) by providing notice to Campbell County that it will opt into an ordinance cable franchise pursuant to this Ordinance. A franchisee may file such notification that its cable franchise will be renewed by an ordinance cable franchise not more than one year in advance of the expiration date of its existing franchise. Except as provided by federal law, the restrictions in §§ 15.2-2015 through 15.2-2018, 15.2-2100 through 15.2-2105, 15.2-2106 and 15.2-2107 of the Code of Virginia, including, but not limited to, the advertisement and receipt of bids for cable franchises, shall not apply to renewal certifications except where a renewal with combined terms in excess of forty (40) years.

For state law authority, see VA. CODE ANN. § 15.2-2108.30 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-24. Bonding.

(a) Within thirty (30) days after the award of a franchise, the franchisee shall deposit with Campbell County a performance bond or an irrevocable letter of credit from a financial institution running to Campbell County in the amount of fifty thousand dollars (\$50,000.00). The bond or letter of credit shall be used to insure the faithful performance by the franchisee of all of the provisions of its franchise and this Ordinance, Sections 15.2-2108.19 et seq. of the Code of Virginia, and the mandatory requirements of 47 U.S.C. §§ 521-573 and any rules promulgated thereunder, and compliance with all lawful orders, permits, and directions of any agency, commission, board, department, division, or office of Campbell County or VDOT having jurisdiction over the acts of the franchisee, or defaults under a franchise or the payment by a franchisee of any penalties, liquidated damages, claims, liens, and taxes due Campbell County which arise by reason of the construction, operation, or maintenance of franchisee's cable system in Campbell County, including restoration of the public rights-of-way and the cost of removal or abandonment of any property of a cable operator.

(b) Any bond obtained by a franchisee must be placed with a company which is qualified to write bonds in the Commonwealth of Virginia, such bond shall be subject to the substantive equivalent of such language as agreed upon by Campbell County:

“It is hereby understood and agreed that this bond may not be cancelled without the consent of Campbell County until sixty (60) days after receipt by Campbell County by registered mail, return receipt requested, of a written notice of intent to cancel or not renew.”

(c) Any letter of credit must be issued by a federally insured commercial lending institution and shall be subject to the approval of the Campbell County Attorney.

(i) The letter of credit may be drawn upon by Campbell County by presentation of a draft at sight on the lending institution, accompanied by a written certificate signed by the chief executive officer of Campbell County certifying that the franchisee has failed to comply with this Ordinance after having been given due notice and opportunity to cure the failure to comply. Such certificate shall also state the specific reasons for the failure of compliance, and stating the basis of the amount being drawn.

(ii) Campbell County may withdraw money from the letter of credit or cash security fund in accordance with the procedures set forth in this section.

(iii) Campbell County shall provide the franchisee with written notice informing the franchisee that such amounts are due to Campbell County. The written notice shall describe, in reasonable detail, the reasons for the assessment. The franchisee shall have thirty (30) days subsequent to receipt of the notice within which to cure every failure cited by Campbell County or to notify Campbell County that there is a dispute as to whether franchisee believes such amounts are due Campbell County. Such notice by the franchisee to Campbell County shall specify with particularity the basis of franchisee's beliefs that such monies are not due Campbell County.

(iv) Upon the delivery of the necessary documents to the lending institution, Campbell County has the right to immediate payment from the issuer bank of the amount from the letter of credit necessary to cure the default.

(v) Any letter of credit shall contain the following endorsement (or the substantive equivalent of such language as agreed upon Campbell County): "It is hereby understood and agreed that this letter of credit may not be canceled by the issuer bank nor the intention not to renew be stated by the issuer bank until sixty (60) days after receipt by Campbell County, by registered mail, return receipt requested, of a written notice of such intention to cancel or not to renew."

(d) Any bond or letter of credit shall be recoverable by Campbell County for all damages and costs, whether direct or indirect, resulting from the failure of a franchisee to well and faithfully observe and perform any provision of this Ordinance.

(e) The bond or letter of credit shall be maintained at the amount established herein for the entire term of the franchise, even if amounts have to be withdrawn pursuant to this Ordinance. The franchisee shall promptly replace any amounts withdrawn from the bond or letter of credit.

For state law authority, see VA. CODE ANN. § 15.2-2108.20 (Repl. Vol. 2018).

[THE JULY 7, 2008 ACT adopted this section.]

[THE DECEMBER 1, 2008 AMENDMENT changed the amount of the bond from \$100,000 to \$50,000 in subsection (a).]

Sec. 20-25. Indemnification and insurance.

(a) The franchisee shall indemnify, hold harmless and defend Campbell County, its officers, employees, and agents (hereinafter referred to as “indemnities”), from and against:

(i) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any act or omission of the franchisee, its personnel, employees, agents, contractors or subcontractors, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to, loss of or destruction of tangible or intangible property, libel, slander, invasion of privacy and unauthorized use of any trademark, trade name, copyright, patent, service mark or any other right of any person, firm or corporation, which may arise out of or be in any way connected with the construction, installation, operation, maintenance, use or condition of the franchisee’s cable system caused by franchisee, its contractors, subcontractors or agents or the franchisee’s failure to comply with any federal, state or locals statute, ordinance or regulation.

(ii) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which are imposed upon, incurred by or asserted against the indemnitees by reason of any claim or lien arising out of work, labor, materials or supplies provided or supplied to the franchisee, its contractors or subcontractors, for the installation, construction, operation or maintenance of the franchisee’s cable system in Campbell County.

(iii) Any and all third-party claims for liabilities, obligations, damages, penalties, liens, costs, charges, losses and expenses (including, without limitation, fees and expenses of attorneys, expert witnesses and consultants), which may be imposed upon, incurred by or asserted against the indemnitees by reason of any financing or securities offering by franchisee or its affiliates for violations of the common law or any laws, statutes or regulations of the Commonwealth of Virginia or of the United States, including those of the federal Securities and Exchange Commission, whether by the franchisee or otherwise.

(b) Damages shall include, but not be limited to, penalties arising out of copyright infringements and damages arising out of any failure by the franchisee to secure consents from the owners, authorized distributors or licensees, or programs to be delivered by the franchisee’s cable system.

(c) The franchisee undertakes and assumes for its officers, agents, contractors and subcontractors and employees all risk of dangerous conditions, if any, on or about any Campbell County-owned or controlled property, including streets and public rights-of-ways, and the franchisee hereby agrees to indemnify and hold harmless the indemnitees against and from any claim asserted or liability imposed upon the indemnitees for personal injury or property damage to any person arising out of the installation, operation, maintenance or condition of the franchisee’s cable system or the franchisee’s failure to comply with an federal, state or local statute, ordinance or regulation, except for any claim asserted or liability imposed upon the indemnitees that arises or is related to wanton or willful negligence by the indemnitees.

(d) In the event any action or proceeding shall be brought against the indemnitees by reason of any matter for which the indemnitees are indemnified, hereunder, the franchisee shall, upon notice from any of the indemnitees, and at the franchisee's sole cost and expense, resist and defend the same, provided further, however, that the franchisee shall not admit liability in any such matter on behalf of the indemnitees without the written consent of Campbell County Attorney or his or her designee.

(e) Campbell County shall give the franchisee prompt notice of the making of any written claim or the commencement of any action, suit or other proceeding covered by the provisions of this section.

(f) Nothing in this Ordinance or in a franchise is intended to, or shall be construed or applied to, express or imply a waiver by Campbell County of statutory provisions, privileges or immunities of any kind or nature as set forth in the Code of Virginia, including the limits of liability of Campbell County as exists presently or as may be increased from time to time by the legislature. Nothing in a franchise or this Ordinance shall constitute a waiver of Campbell County's statutory provisions, privileges or immunities, including Campbell County's sovereign immunity, of any kind or nature.

(g) The franchisee shall maintain, and by its acceptance of a franchise hereunder specifically agrees that it will maintain throughout the term of the franchise, general comprehensive liability insurance insuring the franchisee. All liability insurance shall include an endorsement in a specific form which names as joint and several insureds Campbell County and Campbell County's officials, employees and agents, with respect to all claims arising out of the operation and maintenance of the franchisee's cable system in Campbell County. Liability insurance mentioned herein below shall be in the minimum amounts of:

(i) Comprehensive public liability: \$1,000,000.00 combined single limit policy. The comprehensive public liability insurance required by this section shall indemnify, defend, and hold harmless franchisee and Campbell County and the respective officers, boards, commissions, agents, and employees of each from any and all claims made by any person on account of injury to, or death of a person or persons caused by the operations of the franchisee under a franchise granted under this Ordinance, alleged to have been so caused or alleged to have occurred;

(ii) Property damage liability: \$300,000.00 per occurrence with a \$1,000,000.00 umbrella policy. The property damage insurance required by this section shall indemnify, defend and hold harmless the franchisee and the County and the respective officers, boards, commissions, agents, and employees of each from and against all claims made by any person for property damage, including damage to Campbell County's property, caused by the operations of franchisee under a franchise granted under this Ordinance or alleged to have been so caused or alleged to have occurred;

(iii) \$1,000,000.00 for all other types of liability resulting from any one occurrence;

(iv) Workers Compensation insurance as required by the Commonwealth of Virginia;

(v) A franchisee shall carry and maintain in its own name comprehensive automobile liability insurance with a combined single limit of \$1,000,000. The comprehensive automobile liability insurance required by this section shall indemnify, defend and hold harmless franchisee and the County and the respective officers, boards, commissions, employees and agents of each from any and all claims made by any person on account of collision, personal injury or property damage caused by use of any owned, hired, or non-owned motor vehicles used in conjunction with the rights granted by this Ordinance or by a Franchise Agreement granted hereunder or alleged to have been so caused or alleged to have occurred; and

(vi) Coverage for copyright infringement.

(h) The inclusion of more than one (1) insured shall not operate to increase the limit of the franchisee's liability, and that insurer waives any right on contribution with insurance which may be available to Campbell County.

(i) All policies of insurance required by this Section shall be placed with companies which are qualified to write insurance in the Commonwealth of Virginia and which maintain throughout the policy term a General Rating of "A-" and a Financial Size Category of "A:X" as determined by Best Insurance Rating Services.

(j) Certificates of insurance obtained by the franchisee in compliance with this section must be approved by the Campbell County Attorney, and such insurance policy certificate of insurance shall be filed and maintained with the Campbell County Clerk during the term of the franchise. The franchisee shall immediately advise the Campbell County Attorney of any litigation that may develop that would affect this insurance.

(k) Should Campbell County find an insurance document to be in non-compliance, then it shall notify the franchisee, and franchisee shall be obligated to cure the defect.

(l) Neither the provisions of this section, nor any damages recovered by Campbell County thereunder, shall be construed to nor limit the liability of the franchisee under any franchise issued hereunder or for damages.

(m) The insurance policies provided for herein shall name Campbell County, its officers, employees and agents as additional insureds, and shall be primary to any insurance or self-insurance carried by Campbell County. The insurance policies required by this section shall be carried and maintained by the franchisee throughout the term of the franchise and such other period of time during which the franchisee operates or is engaged in the removal of its cable system. Each policy shall contain a provision providing that the insurance policy may not be canceled by the surety, nor the intention not to renew be stated by the surety, until thirty (30) days after receipt by Campbell County, by registered mail, of written notice of such intention to cancel or not to renew.

(n) Nothing in this section shall require a franchisee to indemnify, hold harmless or defend Campbell County, its officials, employees or agents, from any claims or lawsuits arising out of Campbell County's award of a franchise to another person.

[THE JULY 7, 2008 ACT adopted this section.]

[THE JULY 20, 2009 AMENDMENT corrected a typographical error in the last sentence of subsection (g)(ii).]

Sec. 20-26. Inspection of facilities.

A franchisee shall comply with all applicable federal, state and local construction and engineering codes and regulations, currently in force or hereafter applicable, to the construction, operation or maintenance of its cable system within Campbell County. Campbell County shall have the right to review a franchisee's construction plans and specifications to assure compliance with required standards. After construction has been completed, Campbell County shall have the right to inspect all construction or installation work performed pursuant to the franchise and to conduct any tests it deems necessary to ensure compliance with the terms of this ordinance and all applicable federal, state and local building and engineering codes. However, Campbell County shall not be required to review or approve construction plans and specifications or to make any inspections. The franchisee shall be solely responsible for taking all steps necessary to assure compliance with applicable standards and to ensure that its cable system is installed in a safe manner and pursuant to the terms of the franchise and applicable law.

[THE JULY 7, 2008 ACT adopted this section.]

Sec. 20-27. Incorporation of amendments to state code, Federal law and regulations.

Sections 15.2-2108.19 through 15.2-2108.31 of the Code of Virginia, 1950 as amended, and all of the provisions and standards referenced therein, are hereby adopted and incorporated as fully as if set out at length herein. All future amendments to such sections and provisions are hereby automatically incorporated into the Campbell County code.

[THE JULY 7, 2008 ACT adopted this section.]