

# *City of Red Bank*

Eddie Pierce  
Mayor

Tim Thornbury  
City Manager

## **BOARD OF COMMISSIONERS' MEETING**

Agenda  
March 5, 2019  
6:00 p.m.

### **AMENDED**

- I. Call to Order – Mayor Eddie Pierce**
- II. Roll Call – City Manager**

Mayor Pierce \_\_\_\_\_, Vice-Mayor Pope \_\_\_\_\_, Commissioner Jenó \_\_\_\_\_,  
Commissioner LeCompte \_\_\_\_\_, Commissioner Rose \_\_\_\_\_
- III. Invocation –**
- IV. Pledge of Allegiance –**
- V. Consideration of the Minutes for approval or correction:**
  - A. February 19, 2019 Agenda Work Session**
  - B. February 19, 2019 Commission Meeting**
- VI. Communication from the Mayor**
- VII. Commissioner's Report**
  - A. Vice Mayor Terry Pope**
  - B. Commissioner Ruth Jenó**
  - C. Commissioner Ed LeCompte**
  - D. Commissioner Carol Rose**
- VIII. City Manager Report**
- IX. PUBLIC HEARING**
  - A. THE PURPOSE OF THE PUBLIC HEARING IS TO RECEIVE CITIZEN INPUT IN REGARD TO THE RED BANK SIGN ORDINANCE**
- X. Unfinished Business**
  - A. ORDINANCE NO. 19-1146 – AN ORDINANCE GRANTING A FRANCHISE TO ZAYO GROUP, LLC. FOR THE PURPOSE OF ALLOWING IT TO CONSTRICT, INSTALL AND OPERATE CERTAIN TELECOMMUNICATIONS WIRES AND CABLING WITHIN THE PUBLIC RIGHT-OF-WAY IN ORDER TO PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE, PROVIDING FOR REGULATIONS AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCES, AND PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATIONS OF THE PREVISIONS HEREOF (SECOND AND FINAL READING)**
- XI. New Business**
  - A. ORDINANCE NO. 19-1147 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO REPEAL THE EXISTING RED BANK SIGN ORDINANCE, CODIFIED AT RED BANK CITY CODE, TITLE 9, CHAPTER 8, SECTION 9-801 ET SEQ. AND TO ADOPT IN ITS PLACE AND STEAD THE RED BANK SIGN ORDINANCE, ALSO TO BE CODIFIED AT TITLE 9, CHAPTER 8, SECTION 9-801 ET SEQ. OF THE RED BANK CITY CODE (FIRST READING)**
  - B. RESOLUTION NO. 19-1281 – A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING SUBMISSION OF AN APPLICATION TO THE AMERICAN AUTOMOBILE ASSOCIATION WITH RESPECT TO THE 2019 TRAFFIC SAFETY GRANT FOR THE POLICE DEPARTMENT**

**C. RESOLUTION NO. 19-1282 – A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING THE CHIEF OF POLICE TO SIGN AN INTERAGENCY AGREEMENT WITH RESPECT TO PARTICIPATION IN THE CHILD PROTECTIVE INVESTIGATIVE TEAM OF HAMILTON COUNTY, TENNESSEE**

**D. RESOLUTION NO. 19-1283 – RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE, 2017 COMMUNITY DEVELOPMENT BLOCK GRANT SEWER SYSTEM IMPROVEMENTS PHASE ii NOTICE OF AWARD AND AUTHORIZING ADDITIONAL MATCHING FUNDS**

**XII. Citizen Comments from Red Bank Citizens about Red Bank business (3 minute limit)**

**XIII. Adjournment**

# *City of Red Bank*

*Eddie Pierce*  
Mayor

## **COMMISSIONERS AGENDA WORK SESSION RED BANK CITY HALL**

*Tim Thornbury*  
City Manager

Minutes

February 19, 2019

5:00 p.m.

The Board of Commissioners met in a public and advertised Agenda Work Session on February 19, 2019 at 5:00 p.m. The purpose of the meeting was to receive information on upcoming business items. Those in attendance were Mayor Eddie Pierce, Vice Mayor Terry Pope, Commissioners Ruth Jenó and Ed LeCompte. Commissioner Carol Rose was absent. Also present were City Manager Tim Thornbury, Interim Police Chief John Wright, Finance Director John Alexander, Fire Chief Mark Mathews, and City Recorder Ruth Rohen. There were no citizen attendees.

1. City Manager Thornbury spoke to the Commission about various options for animal control services for the city.
2. Options for requests for funding from the Red Bank and Soddy Daisy Foundation were discussed. City Manager Thornbury will send the request to the foundation.
3. City Manager Thornbury advised that there is a resolution on the agenda tonight to issue a Certificate of Compliance to the MAPCO at 314 Morrison Springs Road. He explained that this certificate is part of the process with the State Alcohol Beverage Commission that the MAPCO has to follow to obtain a liquor license to sell wine in their store. He stated that the owner and the location meet all criteria that Red Bank is able to control.
4. City Manager Thornbury advised that there is a resolution on the agenda tonight to approve the purchase of a new pick-up truck for the solid waste department. He advised that quotes were received, and if approved, the truck will be purchased from Mountain View Ford at a cost of \$22,845.12. He also advised that this is a budgeted item.
5. City Manager Thornbury advised that the RFP for the old middle school property has been completed and will be advertised once clarification is received from the Department of Interior regarding the location of the 3 plus acres that has to be retained by the city and used as park land.
6. City Manager Thornbury explained that a Public Hearing and first reading of the draft sign ordinance is scheduled for the March 5<sup>th</sup> Commission Meeting. He advised that after checking with surrounding municipalities, he found that no other city has an annual off premise maintenance fee and suggested that the annual maintenance fee be removed prior to consideration. He explained that the Codes Enforcement officer will address any maintenance issues that may arise.

The meeting was adjourned at 5:35 p.m.

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Mayor

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City Recorder

**BOARD OF COMMISSIONERS' MEETING**

Minutes  
February 19, 2019  
6:00 p.m.

- I. **Call to Order** –Mayor Pierce called the meeting to order at 6:00 p.m.
- II. **Roll Call** – City Manager Thornbury called the roll. Mayor Pierce, Vice Mayor Pope, Commissioner Jenó, Commissioner and Commissioner LeCompte were present. Commissioner Rose was absent. Also present were City Attorney Arnold A. Stulce Jr., Fire Chief Mark Mathews, Interim Police Chief John Wright, Finance Director John Alexander, City Recorder Ruth Rohen and those listed on Exhibit A.
- III. **Invocation** – Mayor Pierce gave the Invocation.
- IV. **Pledge of Allegiance** – Fire Chief Mark Mathews led the Pledge of Allegiance.
- V. **Consideration of the Minutes for approval or correction:**
  - A. **February 5, 2019 Agenda Work Session**
  - B. **February 5, 2019 Commission Meeting**

Commissioner Jenó made a motion to approve both sets of minutes as printed, second by Commissioner LeCompte. Both sets of minutes were approved with all Commissioners voting “yes”.

VI. **Communication from the Mayor**

- Welcomed all.
- Enjoyed speaking at the Chamber Lunch today.

VII. **Commissioners Report**

- **Vice-Mayor Terry Pope**
  - Welcomed everyone
  - Thanked the Police Department for responding to his home on a stolen vehicle that was abandoned in his yard.
- **Commissioner Ruth Jenó**
  - Welcomed all.
  - Reminded everyone that the Seniors on the Go meet on Mondays and Thursdays at the Community Center. Thanked Benchmark Physical Therapy for leading their exercise program, free of charge.
- **Commissioner Ed LeCompte**
  - Welcomed all
  - Enjoyed attending the Chamber Lunch today and enjoyed Mayor Pierce’s State of the City Speech.
- **Commissioner Carol Rose**
  - Absent.

VIII. **City Manager Report** –

Welcomed everyone. Several ongoing projects, including Sidewalk installation, traffic signal improvements and paving, will enter the construction phase soon.

**IX. Unfinished Business –**

**A. ORDINANCE NO. 19-1144 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, AMENDING THE ZONING MAP TO REZONE HAMILTON COUNTY TAX PARCEL 109B-E-005 AT 4707 DAYTON BOULEVARD FROM C-1 COMMERCIAL ZONE TO L-1 LIGHT MANUFACTURING ZONE, SUBJECT TO CONDITIONS (SECOND AND FINAL READING)**

Mayor Pierce advised that this item was discussed in detail during a Public Hearing on February 5, 2019. He explained this rezoning is conditioned upon use for indoor climate controlled storage only and no other use. He also explained that if this type use is not commenced within one year or if the use is discontinued for a period of one year, the zoning will automatically revert back to C-1. Commissioner LeCompte made a motion to approve the ordinance, second by Vice Mayor Pope. Mayor Pierce invited citizen comments.

- Kate Sonberg, California Ave., Feels that there could be a better use for the property and is against the rezoning.
- Becky Potts, 406 Paragon Drive, Inquired if there would be more area added to the parking lot.
- Jamie Buttram, 1 Orlando Drive, Is opposed to the rezoning.
- Preston Dunsseau, 4821 Appian way, Asked if there was a long term plan for the City of Red Bank.

After no further citizen comments, Mayor Pierce asked for a roll call vote. **Roll Call Vote: Mayor Pierce “yes”, Vice Mayor Pope “yes”, Commissioner Jeno “yes”, Commissioner LeCompte “yes”.** Ordinance No. 18-1144 was approved on second and final reading by all Commissioners present voting “yes”.

**B. ORDINANCE NO. 19-1145 – AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE, TO REPEAL AND REPLACE ORDINANCE NO. 18-1140 AND TO AMEND TITLE 16, CHAPTER 1, SECTION 16-115 (11) OF THE RED BANK CITY CODE, IN ORDER TO PERMIT , UNDER CERTAIN LIMITED CIRCUMSTANCES AND CONDITIONS, THE UTILIZATION OF THE PUBLIC RIGHT-OF-WAY FOR PRIVATE OR QUASI-PRIVATE PURPOSES (SECOND AND FINAL READING)**

City Manager Thornbury advised that this ordinance establishes procedures for temporary use of public right of way for private purposes. He further explained that this establishes a permitting application process and as part of the process the applicant/user acknowledges that temporary use may be revoked at any time by the city, at the applicant/owner’s expense. Commissioner Jeno made a motion to approve the ordinance, second by Commissioner LeCompte. There were no citizen comments. **Roll Call Vote: Mayor Pierce “yes”, Vice Mayor Pope “yes”, Commissioner Jeno “yes”, Commissioner LeCompte “yes”.** Ordinance No.19-1145 was approved on second and final reading with all Commissioners present voting “yes”.

**X. New Business**

**A. ORDINANCE NO. 19-1146 – AN ORDINANCE GRANTING A FRANCHISE TO ZAYO GROUP, LLC. FOR THE PURPOSE OF ALLOWING IT TO CONSTRUCT, INSTALL AND OPERATE CERTAIN TELECOMMUNICATIONS WIRES AND CABLING WITHIN THE PUBLIC RIGHT-OF-WAY IN ORDER TO PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY, SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY’S RIGHT-OF-WAY ORDINANCES, AND PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATIONS OF THE PROVISIONS HEREOF (FIRST READING) (FIRST READING)**

City Manager Thornbury explained that this ordinance will authorize a franchise agreement with Zayo Group that will allow them to install fiber optic cable on city owned right of way. He advised that the fiber optic cables are for telecommunications purposes. Mayor Pierce made a motion to approve the ordinance, second by Vice Mayor Pope. There were no citizen comments. **Roll Call Vote: Mayor Pierce “yes”, Vice Mayor Pope “yes”, Commissioner Jeno “yes”, Commissioner LeCompte “yes”.** Ordinance No.19-1146 was approved on second and final reading with all Commissioners present voting “yes”.

**B. RESOLUTION NO. 19-1279 – A RESOLUTION AUTHORIZING THE MAYOR TO SIGN A CERTIFICATE OF COMPLIANCE FOR MAPCO #3683, 314 MORRISON SPRINGS ROAD, RED BANK, TENNESSEE**

City Attorney Stulce advised that this resolution will authorize the Mayor to sign a Certificate of Compliance for the MAPCO, located on Morrison Springs Road. He explained that the Alcoholic Beverage Commission regulates the sale of liquor and that this certificate is part of the procedure for the store to be able to sell wine. Interim Chief Wright verified that the police department conducted an investigation on the applicant and location with no disqualifying results. Commissioner LeCompte made a motion to approve the resolution, second by Mayor Pierce. Resolution No.

19-1279 was approved with all Commissioners present voting “yes”.

**C. RESOLUTION NO. 19-1280 – A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE, AUTHORIZING THE PURCHASE OF ONE NEW 2019 FORD F-150 PICK-UP TRUCK, IN THE AMOUNT OF \$22,845.12, FROM MOUNTAIN VIEW FORD**

City Manager Thornbury advised that, if approve, this resolution will authorize the purchase of a pick-up truck for the Solid Waste department. He explained that the city received quotes and the lowest quote was from Mountain View Ford in the amount of \$22,845.12. He also explained that this was a budgeted item and will require no financing. Commissioner Jenno made a motion to approve the resolution, second by Mayor Pierce. Resolution No. 19-1280 was approved with all Commissioners present voting “yes”.

**XI. Citizen Comments – None**

**XII. Adjournment**

The meeting was adjourned at 6:27 p.m.

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Mayor

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City Recorder Ruth Rohen

ORDINANCE NO. 19-1146

AN ORDINANCE GRANTING A FRANCHISE TO ZAYO GROUP, LLC, FOR THE PURPOSE OF ALLOWING IT TO CONSTRUCT, INSTALL AND OPERATE CERTAIN TELECOMMUNICATIONS WIRES AND CABLING WITHIN THE PUBLIC RIGHTS-OF-WAY IN ORDER TO PROVIDE TELECOMMUNICATIONS SERVICES WITHIN THE CITY; SETTING FORTH CONDITIONS ACCOMPANYING THE GRANT OF THE FRANCHISE; PROVIDING FOR REGULATION AND USE OF THE SYSTEM AND THE PUBLIC RIGHTS-OF-WAY IN CONJUNCTION WITH THE CITY'S RIGHT-OF-WAY ORDINANCES; AND PRESCRIBING PENALTIES AND REMEDIES FOR THE VIOLATIONS OF THE PROVISIONS HEREOF.

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This Franchise Ordinance and Agreement (this "Agreement") is made this \_\_\_\_\_ of \_\_\_\_\_, 2019 (the "Effective Date") by and between the City of Red Bank, Tennessee, (the "City"), and ZAYO GROUP, LLC and its subsidiaries, a Delaware limited liability company authorized to do business within the State of Tennessee, and having its principal office at ZAYO GROUP, LLC, 1805 29th street, Boulder, CO 80301 ("ZAYO" or "Franchisee").

RECITALS

WHEREAS, ZAYO is a limited liability company duly organized according to the laws of the State of Colorado and with its principal place of business located at 1805 29<sup>th</sup> Street, Boulder, Colorado 80301 and is authorized by the State of Tennessee and the Federal Communications Commission to provide Telecommunications Services; and

WHEREAS, ZAYO proposes to construct, maintain, operate and use a fiber optic telecommunications network within a specified portion of the City's rights-of-way exclusively for telecommunications service; and

WHEREAS; the City desires to permit, under the terms and conditions set forth herein, the placement and use of said facilities within certain of its rights-of-way, subject to the compliance of ZAYO, its agents, employees, contractors, successors and assigns with all current and future lawful ordinances, resolutions, and other current and future lawful regulations of the City, and with the terms of this Agreement; and

WHEREAS, based on Franchisee's representations and information, and in response to its request for a franchise, the City Commission has determined that the terms and conditions set forth herein, the grant of a new, nonexclusive Franchise to Franchisee on the terms and conditions herein and subject to applicable law, is consistent with the public interest; and

WHEREAS, the City and Franchisee have reached agreement on the terms and conditions set forth herein;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF RED BANK, TENNESSEE:

SECTION ONE: This Ordinance shall be entitled the ZAYO Group, LLC Telecommunications Franchise Ordinance:

**Article 1. Definitions.**

For the purpose of this Franchise, and the interpretation and enforcement thereof, the following words and phrases shall have the following meanings:

"Affiliate" means a person that directly, or indirectly, through one or more intermediaries, owns, controls, is owned or controlled by, or is under common ownership or control with another person.

"City" means the City of Red Bank, Tennessee, and where appropriate, its officers, agents, employees and volunteers; City does not include the Electric Power Board of Chattanooga (EPB), an independent board of the City of Chattanooga, Tennessee which has separate property rights, including its easements, poles, conduits, etc. The ability, rights, if any, of the Franchisee to use EPB facilities are outside of the authority of the City of Red Bank and outside the scope of this Ordinance/Franchise Agreement.

"City Rights of Way" means and includes all City owned rights-of-way set out in the area included in the map attached to this Franchise as Exhibit \_\_\_\_\_.

“City Manager” means the person and office of the City Manager for the City of Red Bank and her or his designee(s).

"Communications Act" means the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56, and as may be amended from time to time.

"Conduit" means a duct, pipe, tube, channel or similar item for carrying wires, lines, cables, fiber optic cable, under existing city rights-of-ways within the area included in the map attached to this Franchise or other technology for the provision of Telecommunications Service.

"Franchise" means the right of the Franchisee, governed hereby, to operate a telecommunications system in the city for a limited term and in a manner consistent with this Agreement.

"Franchisee" means ZAYO Group, LLC, it's lawful and City approved successors, assigns and transferees.

"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 Franchise, including, but not limited to, the Communications Act of 1934, as amended by the Telecommunications Act of 1996, Pub. L. No. 104-104 101(a), 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 governing state authority pursuant thereto.

"Mayor" means the duly elected and then serving in office Mayor of the City of Red Bank.

“MUTCD” means the then current edition of the Manual on Uniform Traffic Control Devices.

"Other Ways" means the highways, streets, alleys, utility easements or other rights-of-way within the City, but under the jurisdiction and control of a governmental entity other than the City.

"Overhead Facilities" means city owned utility poles, utility facilities and telecommunications facilities, if any, located above the surface of the ground, including the underground supports and foundations for such facilities.

"Person" means any natural person, corporation, company, association, joint stock company or association, firm, partnership, Limited Liability Company, joint venture, trust, individual and any other legally recognized entity, private or public, whether for profit or not-for-profit and includes the officers, agents, employees or representatives of such entity where appropriate.

"Public Way" or "Rights-of-Way" means and includes all city streets and city owned or controlled utility easements, as those terms are defined herein, now or hereafter held or controlled by the City, but only to the extent of the City's right, title, interest or authority to grant a license or franchise to occupy and use such streets and easements for the construction and operation of Telecommunications Facilities.

"State" means the State of Tennessee.

"Telecommunications Carrier" means and includes every person that directly or indirectly owns, controls, operates or manages plant, circuits, equipment or property (Telecommunications Facilities) within the City, used or to be used for the purpose of offering telecommunications service.

"Telecommunications Facilities" means the plant, equipment and property, including but not limited to, fiber optic cables, copper cables, lines, wires, Conduits, inner ducts, pedestals, poles, electronics and other appurtenances or technology used or to be used to provide or offer Telecommunications Services set out in the area included in the map attached to this Franchise.

"Telecommunications Provider" means and includes every person who provides Telecommunications Service over Telecommunications Facilities without any ownership or management control of the Telecommunications Facilities.

"Telecommunications Service or Services" means the providing or offering to a user for rent, sale or lease, or in exchange for other value received, the transmission, between or among points specified by the user, of information of the user's choosing or telecommunications facilities,

without change in the form or content of the information as sent and received. Telecommunications Service does not include cable service.

"Underground Facilities" means Telecommunications Facilities or other City owned utility facilities located under the surface of the ground, excluding the underground foundations or supports for Overhead Facilities.

"Utility" or "Public Utility" shall be defined in accordance with applicable state laws regarding public utilities.

"Utility Easement" or "Public Utility Easement" means any easement held by the City and acquired, established, dedicated or devoted for public utility purposes not inconsistent with Telecommunications Facilities.

## **Article 2: Grant of Authority.**

ZAYO is hereby granted a nonexclusive revocable franchise to construct, maintain, and operate its Telecommunications Facilities in, over, under, and across certain Public Rights-of-Way within the City, as shown on EXHIBIT A, attached hereto and incorporated herein by reference ("the City Right-of-Way"), subject to and conditioned upon the compliance of ZAYO, its agents, employees, contractors, successors and assigns with the provisions of this Agreement, the City's regulations, and all current and future ordinances, resolutions, and regulations of the City of Red Bank, provided that any such future ordinances, resolutions, or regulations shall not impair any lawful contractual rights of Zayo contained herein, and shall be applied on a nondiscriminatory basis among telecommunications providers. The City specifically reserves the right to grant other licenses, or franchises or other rights, as it deems appropriate for other Persons to install Telecommunications Facilities on a competitively neutral and nondiscriminatory basis. Zayo agrees that it will not install anything within any City right-of-way which will adversely affect any City property, including any traffic signals, sidewalks or street light poles within City rights-of-ways or adversely affect any existing utilities. Nothing in this franchise shall be deemed to grant Franchisee any use of City property, such as traffic signals, traffic signs, sidewalks or street light poles within City rights-of-ways or authorize any use of other utilities' property including specifically and not by way of limitation any, EPB facilities or property.

## **Article 3: Compliance with Applicable Law. City and ZAYO shall at all times comply with all applicable Laws.**

## **Article 4: Permits.**

As required by Law, ZAYO, its agents, employees, contractors, successors and assigns shall obtain from the City permits for the excavation, construction, installation of facilities, repair of facilities or any work to be performed within the City Right-of-Way prior to commencement of said work; provided, however, that in emergency situations, where repair work on existing facilities should be done immediately and a permit cannot be reasonably and practically obtained prior to the work by reason of the fact that City offices are not open for business, a permit shall not be required prior to commencement of work. In such emergency circumstances, however, ZAYO shall obtain a permit the next regular City business day following said emergency. For purposes of this section, an "emergency" shall be defined as a reasonably unforeseen occurrence with an imminent potential to endanger personal safety or health, or cause substantial damage to property, that calls for immediate action. The City has the right to require use of existing facilities, where facilities are available on reasonable terms and conditions before a permit for any work to be performed is issued. In any such event, prior to commencement of work the Franchisee shall notify the City Police department prior to the commencement of such activities and shall nevertheless adhere to and obey all regulations related to traffic control, barricades and MUCTD required safety practices.

4.1 System cable and facilities may be constructed overhead where poles now exist and electric or telephone lines or both are now overhead. However, where no overhead poles exist, and where all other electric and telephone utilities are underground (except those facilities owned by the Tennessee Valley Authority and/or facilities owned or controlled by EPB or any other utility service not owned by the City, and as to which City has no jurisdiction or authority to permit Franchisee to access same), all cables and facilities, excluding System passive or active electronics that may be housed in low-profile, above-ground pedestals, shall be constructed underground. Whenever and wherever electric lines and telephone lines are moved from overhead to underground placement, all Cable System cables shall be similarly moved at no cost to the City, provided however, if any Person is reimbursed by the City or any other entity in conjunction with

such electric line, telephone line, or cable relocation, Franchisee shall be likewise reimbursed by the City or such other reimbursing entity. The City shall not take any action which would restrict or limit the Franchisee's ability to obtain reimbursement from a third party or other governmental agency and nothing contained herein shall require City to reimburse Franchisee unless City shall directly (and not using grant funding) reimburse such other Person(s).

4.2 **Erection, Removal and Common Use of Poles.** No poles or other wire holding structures shall be erected and used solely for cable service purposes by the Franchisee without prior approval of the City Manager or designee with regard to location, height, type and any other pertinent aspect, which approval shall not be unreasonably withheld. However, no location of any pole or wire-holding structure of the Franchisee shall be a vested interest and such poles or structures shall be removed or modified by the Franchisee at its own expense whenever the governing body reasonably determines that the public safety and/or convenience would be enhanced thereby.

#### **Article 5: Issuance of Permits and Permit Fee.**

Upon execution of this Franchise and performance of the obligations set forth herein to be performed prior to permit issuance, the City will issue all permits necessary to the installation of ZAYO's Telecommunications Facilities, in accordance with the City's standard permitting procedures. ZAYO shall pay to the City for each permit granted by the City a fee for the review of plans and inspection of the work in accordance with the ordinances, resolutions, rules, regulations and policies of the City.

#### **Article 6: Term and Revocation of Franchise.**

6.1 The initial term of this Franchise (the "Initial Term") shall be for a period of five (5) years beginning on the date of its execution by all of the appropriate officials shown on the signature page of this Franchise. The Initial Term shall be automatically renewed or extended for three (3) consecutive terms of five (5) years each ("Extension Term"), unless either party provides ninety (90) days prior written notice to the other party of its intent not to renew or unless terminated in accordance with the provisions of this Franchise. The Initial Term and Extension Term together shall be the "Term" of this Agreement.

6.2 If the City has reason to believe that ZAYO is materially in violation of this Agreement or other applicable City ordinances, resolutions, rules, regulations or policies, the City shall notify ZAYO in writing of the violation setting forth the nature of such violation. Within ten (10) days of receipt of such notice, ZAYO shall respond in writing providing an explanation or documentation to support that the violation did not occur. Except where the violation involves a circumstance posing imminent danger to personal safety or health or imminent damage to property, ZAYO shall be allowed thirty (30) days to cure violations after written notice is received from the City; provided if the violation is such that it cannot reasonably be cured in thirty (30) days, and ZAYO shall commence the necessary work or action to cure such violation within such thirty (30) days and diligently proceed to cure it, ZAYO may be allowed such additional time to cure it as may be necessary, so long as the work or action to cure the violation is being diligently pursued as determined by the City.

6.3 In addition to all other rights and powers retained by the City under this Agreement or otherwise, the City reserves the right to revoke this license, and all rights and privileges of ZAYO hereunder shall cease, in the event of material breach, subject to reasonable notice and opportunity to cure, of its terms and conditions. A material breach by ZAYO shall include, but shall not be limited to, the following:

6.3.1 ZAYO's violation of any material provision of this Agreement or any material rule, order, regulation or determination of the City made pursuant to this Agreement;

6.3.2 ZAYO's failure to compensate the City properly as required in this Agreement;

6.3.2 ZAYO's attempt to evade any material provision of this Agreement or to practice any fraud or deceit upon the City or City residents, businesses or property owners;

6.3.3 ZAYO's failure to complete its construction and provide services as described herein;

6.3.4 ZAYO's attempt to sell, transfer, convey or assign any of the rights and privileges granted pursuant to this Agreement without the City's prior written approval;

6.3.5 ZAYO's failure to comply with any lawful City permit, ordinance, resolution, rule, regulation or policy.

## **Article 7: Severability.**

If any section, subsection, sentence, clause, phrase, or other portion of this Franchise, or its application to any Person, is, for any reason, declared invalid, in whole or in part by any court or agency of competent jurisdiction, said decision shall not affect the validity of the remaining portions hereof.

## **Article 8: Assignment.**

ZAYO shall not assign this Franchise, in whole or in part, without the prior consent of the City Council, which consent, shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, without such consent ZAYO may a) assign to an Affiliate, b) assign collaterally to a lender as security for a debt or c) assign as part of a merger, corporate reorganization or sale of all or substantially all of its assets or stock.

## **Article 9: No Property Interest.**

This Franchise is not a grant by the City of any fee simple property interest and is made subject and subordinate to the prior and continuing right of the City to use the Public Rights-of-Way as a street and for the purpose of laying, installing, maintaining, repairing, protecting, replacing and removing sanitary sewers, water mains, storm drains, gas mains, poles and for other municipal uses and with right of ingress and egress, along, over, across and in said Public Rights-of-Way.

## **Article 10: Public Works.**

Should the location of the Telecommunications Facilities of ZAYO interfere with any proposed construction, maintenance or repair of public works or improvements by the City, ZAYO, after reasonable advance written notice from the City, at ZAYO's sole expense, shall protect or relocate the Telecommunications Facilities or any applicable part thereof, as directed by the City or other governmental authorities having jurisdiction.

## **Article 11: Use of Public Ways.**

1 1.1: ZAYO, in any opening it shall make in the Public Ways of the City, shall be subject to the provisions of this Franchise and to all applicable ordinances, codes and regulations of the City. The Telecommunications Facilities of ZAYO shall be located so as not to interfere with the public safety or with the convenience of persons using the Public Ways.

11.2: The City reserves the right, by ordinance or resolution of the City Council, or otherwise through proper representatives of the City, to designate specifically the location of the Telecommunications Facilities of ZAYO with reference to municipal facilities, such as sewer and water mains, drainage facilities, fiber optic cable, signal poles and lines and similar services, other facilities, such as public telephone utilities, public electric utilities, public cable television utilities, and railway communication and power lines, in such a manner as to protect the public safety and public and private property and to facilitate the creation of a convenient, attractive and harmonious community. Failure by the City to so designate does not relieve ZAYO of its responsibilities in matters of public safety as provided in this Franchise. ZAYO shall construct, maintain and locate its Telecommunications Facilities so as not to interfere with the construction, location and maintenance of sewer, water, drainage, electrical, signal and fiber optic facilities of the City.

11.3: The City does require that written permits, in any and all cases, be obtained by ZAYO whenever it becomes necessary for ZAYO to excavate in the Public Ways in order to install, construct, maintain or extend the Telecommunications Facilities. Such permits are applicable to any and all types of excavations in the Public Ways. ZAYO and its contractors shall in all instances comply with all Ordinance requirements and policies of the City with respect to "street cuts" and "sidewalk cuts" and openings, including, as applicable and without limitation all surety bonding and street cut fee requirements. Further, and to the extent applicable, and where and if any proposed excavation or construction shall impact or potentially impact any underground or above ground utility fixtures or facilities, Franchisee shall also comply with and adhere to all notice and permitting requirements of such utility providers potentially impacted, including without limitation water, electricity, natural gas and waste water treatment utility providers. Exceptions to the requirement for a previously issued written permit may be allowed in cases of emergencies (conditions involving danger of personal injury or property damage). In the case of emergency excavations made in the Public Ways without a permit, ZAYO shall make a report of each such excavation to the City, the next day that City Hall is open for business and pay such fee as may be established by the City for excavations in Public Ways, even in emergency circumstances. In any

such event, prior to commencement of work the Franchisee shall notify the City Police department prior to the commencement of such activities and shall nevertheless adhere to and obey all regulations related to traffic control, barricades and MUCTD required safety practices.

Any permit applications and inspections related to repair of excavations shall be promptly acted upon by the City so as not to unreasonably delay ZAYO in discharging its public service obligation.

11.4: After installation, repair or extension of the Telecommunications Facilities or any portion thereof or any pavement cut by ZAYO in any Public Way of the City, the incidental trenches or excavations shall be refilled by ZAYO in a manner consistent with the City's ordinances and policy requirements for street cuts, sidewalk cuts and any other excavation of public property. . Pavement, sidewalks, curbs, gutters or any other portions of Public Ways damaged, disturbed or destroyed by such work shall be promptly restored and replaced with like materials to a condition that is consistent with city codes, standards and requirements.by ZAYO at its own expense; however, where it is necessary, and if authorized by the City, in order to achieve repair or replace that is consistent with city codes, standards and requirements, ZAYO shall use materials whose type, specification and quantities exceed those used in the installation, and ZAYO at its own expense shall provide such materials. Where a cut or disturbance is made in a section of sidewalk or paving, rather than replacing only the area actually cut, ZAYO shall replace the full width of the existing sidewalk or appropriate sections of paving as determined by the City Manager and the full length of the section or sections cut, a section being defined as that area marked by expansion joints or scoring or as determined by the City Manager. ZAYO shall maintain, repair and keep in good condition for a period of two (2) years following such disturbance all portions of Public Ways disturbed by ZAYO, provided such maintenance and repair shall be necessary because of defective construction, workmanship or materials by ZAYO or its agents or contractors or by reason of failure to adhere to applicable Ordinance requirements.

1 1.5: ZAYO shall promptly remove or correct any obstruction, damage, or defect in any Public Way that was caused by ZAYO in the installation, operation, maintenance or extension of ZAYO's Telecommunications Facilities. Any such obstruction, damage, or defect which is not promptly removed, repaired or corrected by ZAYO after proper notice to do so, given by the City to ZAYO, may be removed or corrected by the City, and ZAYO shall reimburse the City for the reasonable, actual cost thereof. If ZAYO fails to so reimburse the City, the City shall have the right, in addition to any other rights existing at law or equity, to place a lien upon any of ZAYO's properties or assets within the Public Ways, subject to any prior existing liens. Any expense, cost, or damages incurred for repair, relocation, or replacement to City or other utility owned and or operated water, sanitary sewer, storm sewer, storm drainage, communication facilities or other property resulting from construction, operation, maintenance or extension of ZAYO's Telecommunications Facilities shall be borne by ZAYO and any and all expense and cost incurred in connection therewith by the City or such other utility(ies) shall be fully reimbursed by the ZAYO to the City, or as is applicable to such other utility(ies).

(a) If weather or other conditions do not permit the immediate and complete restoration required by this Article, ZAYO shall temporarily restore the affected Public Ways or property to a serviceable condition. Such temporary restoration shall be at the ZAYO's sole expense and ZAYO shall promptly undertake and complete the required permanent restoration when the weather or other conditions no longer prevent such permanent restoration, and shall make and maintain the affected areas suitable for temporary use with all necessary barricades and safety measures in place. When such areas are governed by the requirements of MUTCD, then all applicable provisions thereof shall be adhered to.

(b) ZAYO or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Manual on Uniform Traffic Control Devices (MUTCD) flagging and other safety requirements.

1 1.6: ZAYO shall not open, disturb or obstruct, at any one time, any more of the Public Ways singularly or in succession, or in contravention of any requirements of the City issued permit in laying or repairing its Telecommunications Facilities. ZAYO shall not permit any Public Ways so opened, disturbed or obstructed by it in the installation, construction, repair or extension of its Telecommunications Facilities to remain open or the Public Way disturbed or obstructed for a longer period of time than reasonably shall be necessary as required by the applicable City issued

permit, whichever time period shall be shorter. In all cases where any Public Ways shall be excavated, disturbed or obstructed by ZAYO, ZAYO shall take all precautions necessary or proper or required for the protection of the public and shall maintain adequate warning signs, barricades, signals and other devices necessary or proper to adequately give notice, protection and warning to the public of the existence of all actual conditions present.

11.7: Whenever the City (or as applicable any current or existing utility services provider not owned or controlled by the City) shall widen, reconstruct, realign, pave or repave, or otherwise work on or in any Public Ways, or shall change the grade or line of any Public Ways, or shall construct or reconstruct any water, sanitary sewer, storm sewer, drainage or communications facility of the City, it shall be the duty of ZAYO at ZAYO's cost and expense to move, alter or relocate its Telecommunications Facilities or any part thereof as reasonably requested by the City or such other utility provider as may be applicable. Upon written notice by the City Manager or such other utility of the intention to perform work as specified above, ZAYO shall within a reasonable period of time accomplish its obligation in accordance with and to conform to the plans of the City or such other utility for such construction, reconstruction or improvements. Should ZAYO fail, refuse or neglect to comply with such notice, the Telecommunications Facilities or any part thereof may be removed, altered or relocated by the City or such other utility, the cost of which shall be paid by ZAYO, and the City shall not be liable to ZAYO for any damages resulting from such removal, alteration or relocation.

11.8 ZAYO or other person acting in its behalf shall use suitable barricades, flags, flagmen, lights, flares and other measures as required for the safety of all members of the general public and to prevent injury or damage to any person, vehicle or property by reason of such work in or affecting such ways or property and shall comply with all federal, state, and local laws and regulations, including the Tennessee Department of Transportation and MUTCD flagging and other safety requirements.

11.9 All trees, landscaping and grounds removed, damaged or disturbed as a result of the construction, installation maintenance, repair or replacement of Telecommunications Facilities must be replaced or restored as nearly as may be practicable, to the condition existing prior to performance of work. ZAYO shall abide by all ordinances and regulations and Permit requirements governing trees and landscaping and shall abide by all directions of the City Manager or her or his designees issued pursuant to such ordinances and regulations and Permit requirements.

## **Article 12. Fees and Charges**

12.1 ZAYO shall pay to the City the fees and charges as specified in and in accordance with the terms and conditions of EXHIBIT B, attached hereto and incorporated herein by reference.

12.2 Non-payment of any amount due under this Franchise shall constitute a default of this Franchise unless the non-payment is cured as hereinafter provided.

12.3 At City's request ZAYO shall furnish a bond or other satisfactory evidence of security in such amount as the City may from time to time require, in an initial amount of the annual franchise fee as calculated in EXHIBIT B, to guarantee payment of any sums which may become due to City for fees due hereunder or charges for work performed for ZAYO's benefit pursuant to this Franchise, upon termination of any franchise issued hereunder. In addition, and prior to the commencement of any construction and or excavation of any city street, sidewalk, right of way or city owned property, ZAYO will provide a running Bond regarding street and sidewalk cuts to address costs of repair and replacement of street and/or sidewalk cuts and excavations.

12.4 ZAYO shall continue to be responsible for franchise fees for use of the rights-of-ways until City receives written notice of removal, whichever is sooner.

## **Article 13: Maintenance, Repair and Emergency Work:**

ZAYO shall maintain its Telecommunications Facilities in a good and safe condition and in a manner that complies with all applicable Laws, codes and regulations.

13.1 The construction, expansion, reconstruction, excavation, use, maintenance and operation of ZAYO's network, facilities and property shall be subject to all lawful police regulations of the City and performed in accordance with the City's standards, policies and code requirements for utility location and coordination.

13.2 Within thirty (30) days of completion of each of ZAYO's Telecommunication Facilities, ZAYO shall supply the City with a complete set of "as built" drawings for approval. Further, after each replacement, relocation, reconstruction, expansion, or removal of its facilities,

ZAYO shall promptly notify the City of the exact changes made and shall provide a new set of "as built" drawings of each modification to the City.

13.3 Upon request of the City, ZAYO shall remove and abate any portion of the network or any facility that City determines is reasonably dangerous to life or property, and if ZAYO, after notice, fails or refuses to act, the City may remove or abate the same, at the sole cost and expense of ZAYO, all without compensation or liability for damages to ZAYO. ZAYO shall promptly restore the City Right-of-Way to its condition prior to ZAYO's construction, maintenance or excavation, to the satisfaction of the City. ZAYO shall excavate only for the construction, installation, expansion, repair, removal, and maintenance of all or a portion of its network.

#### **Article 14: Safety Standards.**

ZAYO shall at all times employ a reasonable standard of care and shall install and maintain and use approved methods and devices for preventing failure or accidents which are likely to cause damages, injuries or nuisances to the public. ZAYO shall at all times, at a minimum adhere to all requirements of MUTCD with respect to work in any public way.

#### **Article 15: Police Power.**

All rights and privileges granted hereby are subject to the lawful exercise of the police power of the City to adopt and enforce local laws, rules and regulations necessary to the health, safety and general welfare of the public.

#### **Article 16: Removal of Unauthorized Facilities:**

Within not more than thirty (30) days following written notice from the City, ZAYO shall, at its own expense, remove any unauthorized Telecommunications Facility from the Public Ways or other areas of the City. A Telecommunications Facility is unauthorized and subject to removal in the following circumstances:

16.1: Upon expiration or termination of this Franchise, unless replaced by a subsequent Franchise between the City and ZAYO that becomes effective prior to the expiration or termination of this Franchise.

16.2: Upon abandonment of a Telecommunications Facility within the Public Ways of the City.

16.3: If the system or facility was constructed or installed without the prior issuance of a required construction permit or otherwise in contravention of the terms of any such permit.

16.4: If the system or facility was constructed or installed at a location not permitted by this Franchise.

#### **Article 17 Emergency Removal or Relocation of Facilities.**

The City retains the right to move any Telecommunications Facilities located within the Public Ways or other areas of the City as the City may reasonably determine to be necessary in response to an imminent public health or safety emergency; provided that prior to taking such action the City will make reasonable attempts to notify ZAYO in of any such emergencies that may impact its Telecommunications Facilities by either attempting to notify ZAYO or the appropriate notification center as hereinafter provided.

#### **Article 18: Damage to ZAYO's Facilities.**

The City, its officers, agents, employees, or volunteers shall not be liable for any damage to or loss of any Telecommunications Services or any Telecommunications Facility within the Public Ways or any other areas of the City as a result of or in connection with any public works, public improvements, construction, excavation, grading, filling, or work or activity or lack of any activity of any kind by or on behalf of the City; except to the extent that such damage is caused by the City's negligence or willful misconduct. Nothing herein shall be construed to relieve either ZAYO or the City of the provisions of T.C.A. §65-31-101 et seq., as the same be amended (Underground Utility Damage Prevention Act).

#### **Article 19: Facilities Maps.**

After completion of construction of the Telecommunications Facilities, ZAYO shall provide the City with "as built" drawings and an accurate map or maps in an electronic form agreed to by City.

## Article 20: Insurance Requirements.

1. ZAYO shall at its sole expense obtain and maintain in full force and effect for the duration of the Agreement and any extension hereof at least the following types and amounts of insurance for claims which may arise from or in connection with this Agreement, including risks associated with the use and occupancy of the City Right-of-Way. All insurance must be underwritten by insurers with an A.M. Best rating of A-VIII or better.

2. Commercial General and Umbrella Liability Insurance; occurrence version commercial general liability insurance, and if necessary umbrella liability insurance, with a limit of not less than \$2,000,000 each occurrence for bodily injury, personal injury, property damage, and products and completed operations. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than \$3,000,000. Such limits shall be increased after the first renewal/extension terms to not less than \$3,000,000 and \$5,000,000, respectively.

Such insurance shall:

(a.) Contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of ZAYO including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds. Proof of additional insured status up to and including copies of endorsements and/or policy wording will be required.

(b.) For any claims related to this project, ZAYO's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering the City, its officials, officers, employees, and volunteers shall be in excess of ZAYO's insurance and shall not contribute with it.

(c.) At the sole discretion of the City, dedicated limits of liability for this specific project may be required.

3. Automobile Liability Insurance; including vehicles owned, hired, and non-owned, with a combined single limit of not less than \$3,000,000 each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the City, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Zayo. Such limits shall be increased after the first renewal/extension terms to not less than \$3,000,000 and \$5,000,000, respectively.

4. Worker's Compensation Insurance. Zayo shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$500,000 or statutory requirements, whichever is greater. Zayo shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Zayo's workers' compensation insurance coverage.

5. Environmental Impairment Liability. Zayo shall maintain environmental impairment liability insurance with limits of not less than One Million (\$1,000,000.00) dollars per occurrence. Such limits shall be increased after the first renewal/extension terms to not less than \$1,000,000 dollars respectively.

6. Pollution Liability Insurance. Zayo shall procure pollution liability coverage, ISO CG 0039, or equivalent. If the coverage is written on a claims-made form:

(a.) The "Retro Date" must be shown and must be before the date of the contract or the beginning of contract work.

(b.) Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract work and acceptance by the City.

(c.) If coverage is cancelled or non-renewed and not replaced with another claims made policy form with a "Retro Date" prior to the contract effective date, Zayo must purchase "extended reporting" coverage for a minimum of five (5) years after completion of contract work.

(d.) A copy of the claims reporting requirements must be submitted to the City for review.

7. Excess Liability Insurance. Zayo shall maintain excess liability insurance in addition to the insurance specified above with a limit of not less than \$10,000,000 each occurrence. This coverage shall be on a follow form basis,

8. Other Insurance Requirements. Zayo shall:

(a.) Prior to commencement of services, furnish the City with original certificates and amendatory endorsements effecting coverage required by this section and provide that said insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except upon 30 days' prior written notice to the City. Proof of policy provisions regarding notice of cancellation will be required.

(b.) Replace certificates, policies, and endorsements for any such insurance expiring prior to completion of services.

(c.) Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by the City as a material breach of contract.

(d.) If ZAYO cannot procure insurance through an insurer having an A.M. Best rating of A-VIII, or better, ZAYO may, in the alternative, place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A. Modification of this standard may be considered only upon appeal to the City.

(e.) Require all subcontractors to maintain during the term of the Agreement Commercial General Liability insurance, Business Automobile Liability insurance, and Workers' Compensation/ Employer's Liability insurance (unless subcontractor's employees are covered by ZAYO's insurance) in the same manner as specified for ZAYO. ZAYO shall furnish subcontractors' certificates of insurance to the City without expense immediately upon request.

Any deductibles and/or self-insured retentions greater than \$50,000 must be disclosed to and approved by the City of Red Bank prior to the commencement of services. Use of large deductibles and/or self-insured retentions will require proof of financial ability as determined by the City.

The insurer shall agree to waive all rights of subrogation against the City, its officers, officials, and employees for losses arising from work performed by ZAYO for or with regard to the City. Proof of waiver of subrogation up to and including copies of endorsements and/or policy wording will be required.

All general liability policies must be written on an occurrence basis unless the City Attorney determines that a claims made basis is reasonable in the specific circumstance. Use of policies written on a claims made basis must be approved by the City Attorney and retroactive dates and/or continuation dates must be provided to the City prior to commencement of any work performed. Professional Liability and Environmental Liability (Pollution Coverage) are most commonly written on a claims made basis and are generally acceptable in that form.

#### **Article 21. Indemnification of City.**

ZAYO shall defend, indemnify and hold harmless the City, its officers, employees and agents from any and all liabilities which may accrue against the City, its officers, employees and agents or any third party for any and all lawsuits, claims, demands, losses or damages alleged to have arisen from an act or omission of ZAYO in performance of this Agreement or from ZAYO's failure to perform this Agreement using ordinary care and skill, except where such injury, damage, or loss was caused by the negligence of the City, its agents or employees.

ZAYO shall save, indemnify and hold the City harmless from the cost of the defense of any claim, demand, suit or cause of action made or brought against the City alleging liability referenced above, including, but not limited to, costs, fees, attorney fees, and other expenses of any kind whatsoever arising in connection with the defense of the City; and ZAYO shall assume and take over the defense of the City in any such claim, demand, suit, or cause of action upon written notice and demand for same by the City. ZAYO will have the right to defend the City with counsel of its choice that is satisfactory to the City, and the City will provide reasonable cooperation in the defense as ZAYO may request. ZAYO will not consent to the entry of any judgment or enter into any settlement with respect to an indemnified claim without the prior written consent of the City, such consent not to be unreasonably withheld or delayed. The City shall have

the right to participate in the defense against the indemnified claims with counsel of its choice at its own expense.

**Article 21.1 LIMITATION OF LIABILITY.**

EXCEPT FOR ZAYO'S INDEMNIFICATION OBLIGATIONS SET FORTH HEREIN AND EXCEPT FOR CLAIMS ARISING FROM A PARTY'S INTENTIONAL MISCONDUCT AND EXCEPT WITH RESPECT TO ANY AND ALL COSTS ASSOCIATED WITH ZAYO'S DEFAULT OR FAILURE TO ADHERE TO OR COMPLY WITH PERMIT REQUIREMENTS OR OTHER AFFIRMATIVE REQUIREMENTS OF THIS FRANCHISE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES WHATSOEVER, ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, LOST REVENUE, LOSS OF GOODWILL, LOSS OF ANTICIPATED SAVINGS, LOSS OF DATA, INCURRED OR SUFFERED BY EITHER PARTY, WHETHER IN AN ACTION IN CONTRACT OR TORT, EVEN IF THE OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**Article 22: Bonds.**

ZAYO shall obtain and maintain, at its sole cost and expenses, for the benefit of and filed with the City, two (2) corporate surety bonds, each written with a surety company authorized to do business in the State of Tennessee and found acceptable by the City, in an amount to be reasonably determined by the City depending upon the nature of the work to be performed and the permit fee. The first bond will guarantee the timely and safe construction of ZAYO's network (the "Construction Bond"). The second bond will secure ZAYO's performance of its obligations and faithful adherence to all requirements of this Agreement (the "Agreement Bond").

**Article 23: Coordination of Construction Activities.**

ZAYO agrees to cooperate with the City and with other telecommunications providers and all construction locations, activities and schedules shall be coordinated, as ordered by the City Engineer, to minimize public inconvenience, disruption or damages.

**Article 24: Non-enforcement.**

Neither party shall be excused from complying with any of the terms and conditions of this Franchise by any failure of the other party, upon any one or more occasions, to insist upon such party's performance or to seek such party's compliance with any one or more of such terms or conditions of this Franchise.

**Article 25: Controlling Law.**

Notwithstanding any conflicts of laws doctrines to the contrary, this Franchise shall be construed and enforced in accordance with the substantive law of the State of Tennessee and any applicable federal laws.

**Article 26: Removal of Franchisee's Facilities.**

Upon termination of this Franchise, ZAYO shall promptly remove all Telecommunications Facilities from the Public Ways.

**Article 27: Notices.**

All notices required or permitted to be given under this Franchise shall be in writing, addressed as set forth below, and shall be hand-delivered to the addressee, sent by Federal Express or similar overnight delivery service, or sent by U.S. Mail, certified and return receipt requested.

If to the City:

City of Red Bank  
Attn: City Manager's Office  
3105 Dayton Blvd.  
Red Bank, Tennessee 37415

With a copy to:

Mayor  
3105 Dayton Blvd.,  
Red Bank, TN 37415

(It shall be the obligation of ZAYO to determine whoever is in office as Mayor at the time of any such notice)

City Attorney  
3105 Dayton Blvd.  
Red Bank, TN 37415

If to ZAYO:

Zayo Group, LLC  
1805 29th Street  
Boulder, CO 80301  
Attn: General Counsel

**Article 28: Nondiscriminatory Access.**

Notwithstanding anything included in this Franchise to the contrary, in no event shall ZAYO be required to pay any fee, charge, cost, expense or compensation, or perform any service, that is (a) in excess of that amount permitted or directed by Law; or (b) not imposed by the City upon and performed by all other telecommunication providers or telecommunication carriers using the Public Rights-of-Way.

**Article 29: Default and Termination.**

In the event either Party shall fail to observe or perform any of the terms and provisions of this Franchise and such failure shall continue for a period of thirty (30) days after receipt of written notice from the non-defaulting party ("Default"), then the non-defaulting party may terminate this Franchise, provided however, that where such Default cannot reasonably be cured within such period, and the defaulting party has proceeded promptly to cure the same and is prosecuting such cure with diligence, the time for curing such Default shall be extended for an amount of time, not to exceed sixty (60) days, as may be necessary under the circumstances to complete such cure. Notwithstanding the foregoing, the cure period for failure to pay money or failure to maintain required insurance coverage shall be ten (10) days after written notice. Upon the occurrence of a Default, as defined above, by either Party, the non-defaulting Party may exercise any and all remedies available at law or equity, including but not limited to termination of this Franchise.

BE IT FURTHER ORDAINED that this Ordinance shall take effect immediately after its passage.

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Recorder

\_\_\_\_\_  
Passed on First Reading

\_\_\_\_\_  
Passed on Second and Final Reading

Approved as to form:

\_\_\_\_\_  
City Attorney

Accepted and Agreed:

ZAYO GROUP, LLC

\_\_\_\_\_  
Title: \_\_\_\_\_ (date)

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

Before me \_\_\_\_\_, a Notary Public, duly appointed, commissioned and qualifies in and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who upon oath acknowledged himself to be the \_\_\_\_\_ of ZAYO Group, LLC the within named bargainor, and that he as such \_\_\_\_\_ being authorized so to do, executed the foregoing instrument by his own free will and for the terms and conditions contained therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notary seal in office in said State and County on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

ATTEST:

BY: \_\_\_\_\_

Title: \_\_\_\_\_ (date)

ZAYO Group, LLC

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

Before me \_\_\_\_\_, a Notary Public, duly appointed, commissioned and qualifies in and for the State and County aforesaid, personally appeared \_\_\_\_\_, with whom I am personally acquainted, and who upon oath acknowledged himself to be the \_\_\_\_\_ of ZAYO Group, LLC the within named bargainor, and that he as such \_\_\_\_\_ being authorized so to do, executed the foregoing instrument by his own free will and for the terms and conditions contained therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and notary seal in office in said State and County on this \_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
Notary Public

My Commission Expires: \_\_\_\_\_

**EXHIBIT A**

**MAP OF ZAYO'S TELECOMMUNICATIONS FACILITIES IN THE CITY OF RED  
BANK**

(This Exhibit A may be amended and updated from time to time in order to show an accurate depiction of the ZAYO's facilities. Upon such amended EXHIBIT A, any prior EXHIBIT A, shall be replaced with the amended or updated document).

**EXHIBIT B**

**SCHEDULE OF COMPENSATION AND CHARGES**

This EXHIBIT B is an integral part of the Franchise Agreement and contains the fees and charges governing the Attachments of Zayo Group, LLC in the corporate boundaries of the City of Red Bank.

ZAYO acknowledges that the City is permitted to collect a fee that is reasonably related to the City's costs associated with owning, managing and maintaining public rights-of-way and that the amounts listed below are fair, reasonable and reasonably related to the pro-rata share ZAYO's facilities to be located underground in the public rights-of-way contribute to the City's overall costs associated with owning, managing and maintaining the public rights-of-way. ZAYO and the City agree that the compensation for this right-of-way use shall be as follows:

Years 1 through 5	\$5,000.00
Years 6 through 10	\$7,500.00
Years 11 through 15	\$10,000.00
Years 16 through 20	\$15,000.00

(a) Payment Frequency.

The first payment will be due as a lump sum upon the issuance of a permit by the City for the installation of facilities, and the remaining payments shall be made at the commencement of each five (5) Extension Term. The parties agree that the amounts listed above are a reasonable estimate of these costs given that the actual costs are indeterminable or difficult to measure at the time of the parties' entry into this Franchise Agreement, and that it is the parties' mutual intent that these amounts serve as a reasonable measurements of these costs until this Franchise Agreement expires by its terms.

(b) Payment Date.

All bills for such other charges shall be payable upon presentment to Franchisee, and failure to pay within thirty (30) days after receipt of the invoice by Franchisee shall constitute a default of this Franchise, which, subject to notice and cure provisions set out in the Ordinance to which this Exhibit B is appended, shall entitle City to revoke the Franchise and recover any unpaid or delinquent compensation and charges, together with its attorney and costs incurred in enforcing any term or provision hereof and/or with respect to recovery and collecting any unpaid fees, compensation, charges and costs incurred..

**ORDINANCE NO. 19-1147**

**AN ORDINANCE OF THE CITY OF RED BANK, TENNESSEE TO REPEAL THE EXISTING RED BANK SIGN ORDINANCE CODIFIED AT RED BANK CITY CODE TITLE 9, CHAPTER 8, SECTIONS 9-801 ET SEQ. AND TO ADOPT IN ITS PLACE AND STEAD THE RED BANK SIGN ORDINANCE, ALSO TO BE CODIFIED AT TITLE 9, CHAPTER 8, SECTIONS 9-801 ET SEQ. OF THE RED BANK CITY CODE**

**WHEREAS** the City Administration has identified the need to update and revise the existing as currently codified at Red Bank City Code Title 9, Chapter 8, Section 9-801 et seq. of the Red Bank City Code; and

**WHEREAS**, the Red Bank Planning Commission has reviewed and had significant input into the review of the existing sign regulations, administrations and employment ordinance and has provided an opportunity to submit comments in favor of or against the new proposed Sign Ordinance as set forth hereafter all at an advertised public hearing held in conjunction with its regular meeting on February 21, 2018

**WHEREAS**, the Red Bank Planning Commission has recommended approval of the revisions and amendments hereafter set forth, and

**WHEREAS**, the City Commission provided an opportunity to submit comments in favor of or against the new and Amended Sign regulations Ordinance at an advertised public hearing on March 5, 2019, prior to the final reading of this ordinance.

**WHEREAS**, the City of Red Bank has reviewed and had significant input into the review of the existing sign regulations, administrations and employment ordinance and has provided an opportunity to submit comments in favor of or against the new proposed Sign Ordinance as set forth hereafter all at an advertised public hearing held in conjunction with its regular meeting on March 5, 2018

**WHEREAS**, the City Commission enacts this Ordinance with the following purposes and findings:

(a) Purposes. The following purposes have been considered and agreed to:

(1) To protect the rights of individuals and businesses to convey their messages through signs;

(2) To encourage the effective use of signs as a means of communication;

(3) To promote economic development;

(4) To improve traffic and pedestrian safety as it may be affected by distracting signs; in general and signs with moving parts and displays, signs with variable and changing content and those with light emitting (as opposed to light reflecting) functions and displays in particular.

(b) The City Commission finds in enacting this Ordinance:

(1) There hereinafter provisions are necessary and appropriate to protect and enhance public safety, to improve the aesthetics of the City and promote quality of life; and

(2) That signs are a proper use of private property, are a means of personal free expression and being reasonably regulated are an appropriate component of a commercial environment. As such, signs are entitled reasonable protection of the law. In the absence of reasonable regulation, however, the number of such signs tends to proliferate, with property owners tending to desire ever increasing numbers and sizes of signs with moving photos and flashing lights, light emitting technology and ever increasing intensity which are or can be distracting to motorists and conducive to distraction of the aesthetics of the City and/or intrusive on the general overall qualities of life in the City, leading to cluttered and aesthetically blighted thoroughfares. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises.

(3) That the regulation of the size, height, number and spacing of signs is necessary to protect the public safety, to ensure compatibility of signs with surrounding land uses, to enhance the business and economy of the city, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, and to provide for the orderly and reasonable display of advertising for the benefit of all the city's citizens.

(4) That there is a substantial difference between signs erected by public authority and signs erected by private citizens or businesses. Signs erected by public authority are virtually all erected for the purpose of maintaining the public safety either through direct control of traffic or through provision of such type signage as street signs which enable the traveling public to know where they are located and to find where they are going. As such, with the exception of signs identifying government buildings, virtually all government signs are erected purely for public safety purposes. Moreover, their use in the public right-of-way is necessary to ensure their visibility to the motoring public. The city commission finds that public utility signs are frequently of the same nature as those signs erected by governmental entities in that they provide necessary information to safeguard the public from downed power lines and from street excavations. Even where signs serve a propriety purpose, such as identifying markings on utility poles, those signs are marked primarily for the purpose of benefiting the public generally through identification of locations where there may be temporary losses of power.

(5) That some signage has a single targeted function and that identification of such signage by description is impossible without referring to its function. For instance, address numerals are used for the sole purpose of locating addresses, which is of benefit to persons looking for those addresses and is essential to public safety personnel responding to emergencies. Subdivision signs at the entrances to subdivisions favor a similar purpose in enabling both the traveling public and emergency personnel to quickly locate subdivision entrances for the purpose of either visitation or responding to emergency calls. While such signage is referenced based upon

the function it serves within the context of this article, the bulk of the provisions of this article are unrelated to the content of the speech provided and allow maximum expressive potential to sign owners.

(6) That the public safety is of compelling importance and that signs distracting to motorists, pedestrians, bicyclists and the general public are not generally conducive to the protection of such concerns and should be reasonably and appropriately regulated, as to size, brightness/luminosity and particularly with regard to perceptions of “movement” and changes of content, color, motion as perceived by the human eye of flashing lights, moving characters or flashing lights of any kind or sign content that changes either rapidly or at intervals.

**NOW THEREFORE, BE IT ORDAINED**, by the City Commission of the City of Red Bank, Tennessee as follows

SECTION 1: The existing Red Bank Sign Ordinance as codified at Red Bank City Code Title 9, Chapter 8, Section 9-801 et seq., is hereby REPEALED in its entirety, and there in substituted in its place and stead, at Title 9, Chapter 8, Section 9-801 et seq., the following:

SECTION 2: This Ordinance shall be known and cited as the RED BANK SIGN ORDINANCE.

**SEE EXHIBIT A, ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE**

**BE IT FURTHER ORDAINED**, that every section, sentence, clause, and phrase of this ordinance is separable and severable. Should any section, sentence, clause, or phrase be declared unconstitutional or invalid by a court of competent jurisdiction, said unconstitutionality or invalidity shall not effect or impair any other section, sentence, clause, or phrase.

**FINALLY, BE IT ORDAINED** that this ordinance shall take effect from and after the date of its final passage, the public welfare of the City of Red Bank, Tennessee requiring it.

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MAYOR

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CITY RECORDER

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PASSED ON FIRST READING

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PASSED ON SECOND AND FINAL READING

APPROVED AS TO FORM:

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CITY ATTORNEY

## CHAPTER 8

### ADVERTISING SIGNS, ADMINISTRATION, AND

#### ENFORCEMENT SECTION

- 9-801. Exemptions from and applicability of Chapter.
- 9-802. Definitions.
- 9-803. License required for erecting Off-premise signs or On-premise signs.
- 9-804. Reserved.
- 9-805. Disposal of glue, paste, waste material.
- 9-806. Permit required to erect, maintain signs.
- 9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits.
- 9-808. Schedule of Permit Fee's; No permits are to be issued in violation of any ordinances; approval of City Manager; yearly maintenance and safety inspection fee; inventory of certain existing signs.
- 9-809. Power to revoke permit; remedies for violation.
- 9-810. Owner's name required on off-premise signs.
- 9-811. Non-conforming.
- 9-812. Violation declared misdemeanor; penalty.
- 9-813. Violations declared nuisances; pre-existing violations.
- 9-814. Notice requiring abatement of violation; abatement by City lien for costs.
- 9-815. Appeals.
- 9-816. Obscene displays on signs.
- 9-817. Signs over streets, sidewalks; where other advertising prohibited.
- 9-818. Change of sign classification - removal.
- 9-819. Signs distracting to motor vehicle operators prohibited.
- 9-820. General off-premise sign regulations.
- 9-821. Billboards and Digital Billboards.
- 9-822. Scenic Areas and Scenic Corridors.
- 9-823. Scenic Corridor areas.
- 9-824. Scenic Corridors established.
- 9-825. Off-premise signs along Scenic Corridors or within Scenic areas prohibited.
- 9-826. Prohibited on premise signs and devices.
- 9-827. Authorized use of temporary signs, banners and special events.
- 9-828. Removal of temporary signs.
- 9-829. Balloon signs.
- 9-830. Banners.
- 9-831. Special events.
- 9-832. General regulation of permanent Monument on premise signs.
- 9-833. Number and size of permitted Monument on premise signs
- 9-834. Maximum size limitations for Monument signs
- 9-835. Set-back requirements for Monument signs.
- 9-836. General regulation of permitted, On-premise pole signs.
- 9-837. Number and size of permitted On-premise pole signs.

- 9-838. Maximum size limitations for On-premise pole signs.
- 9-839. Set-back requirements for On-premise pole signs.
- 9-840. Minimum and Maximum height limitations for On-premise pole signs.
- 9-841. Traffic directional signs.
- 9-842. Directional signs on Hospital premises
- 9-843. Maintenance of On-premise signs
- 9-844. Flags
- 9-845. Compliance and corrective provisions.
- 9-846. Various building and safety codes applicable.
- 9-847. Political signs regulated.
- 9-848. Set-back variances and procedures.
- 9-849. Premises Identification
- 9-850. Sign Illumination

**9-801. Exemptions from and applicability of chapter.**

- (1) Nothing in this chapter shall apply to any notice required by this code or other ordinances of the city or legal notices of public officers and attorneys, posted in the manner and places provided by law, or to the right of any newspaper to distribute its paper throughout the city.
  
- (2) Nothing contained herein is intended to conflict with the provisions of the Red Bank Zoning Ordinance as now enacted or hereafter amended except that the provisions of 9-822 through 9-825 are intended to provide that, notwithstanding provision in the zoning ordinance that would otherwise permit the erection and maintenance of on premise and/or off-premise signs in a zone or zones, the provisions of 9-822 through 9-825 shall override the permissive provisions of the zoning ordinance currently located in zones where such uses are currently permitted by the zoning ordinance.

**9-802. Definitions.** For the purposes of this chapter, the following definitions shall apply:

Words and phrases used in this article shall have the meanings set forth in this section. Words and phrases not defined in this section, but defined in the city zoning ordinance, shall be given the meanings set forth in such ordinance. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise. Section headings or captions are for reference purposes only and shall not be used in the interpretation of this article.

- (1) **“Abandoned sign”** Any sign that contains or exhibits broken panels, visible rust, visible rot, damaged support structures, or missing letters or which is otherwise dilapidated, unsightly, or unkempt, and for which no person accepts maintenance responsibility.

(2) **“Animated illumination or effects”** Illumination or effects with action, motion, moving characters or flashing lights. This may require electrical energy, but shall also include wind-actuated devices. This definition includes light emitting diode (LED) and/or electronic variable message center (EVMC) signs and digital signs and digital message centers. Specifically included is any motion picture or video mechanism used in conjunction with any sign structure in such a manner as to permit or allow the images to be visible from any public right-of-way.

(3) **"Attached sign"** Attached sign shall mean a non-digital on premise sign painted onto or attached to a building, canopy, awning, marquee or mechanical equipment located outside a building, which does not project more than eighteen (18) inches from such building, canopy, awning, marquee or mechanical equipment. Any such sign which projects more than eighteen (18) inches from a building, canopy, awning, marquee or mechanical equipment shall be considered a "projecting sign." For the purposes of this definition only, "canopy" shall mean a canopy which is permanently attached to a building or which, if detached from a building, has more than two hundred (200) square feet of roof area.

(4) **“Auxiliary Signs”** Are signs that operate by incandescent light bulbs, Neon tube lights, or digital LED technology such as open signs, lottery signs or similar that are attached to the outside or inside of the window facade or within 5 feet of the inside or outside of the window.

(5) **"Awning"** Awning shall mean a roof-like cover providing protection from the weather placed over or extending from above any window door or other entrance to a building but excluding any column, pole, or other supporting structure to which the awning is attached.

(5)A **“Awning signs”** Awning sign shall mean any sign that is a part of or attached to an awning, canopy, or other fabric, plastic or structural protective cover over a door, entrance, window, or outdoor service area.

(6) **"Balloon sign"** Balloon sign shall mean any sign painted or printed onto or otherwise attached to or suspended from a balloon, or other inflatable device, whether such balloon or device is anchored or affixed to a building or any other portion of the premises or tethered to and floating above any portion of the premises. Section 9-829

(7) **"Banner"** Banner shall mean an on premise or off-premise sign which is made of fabric, paper, plastic, vinyl or any material and which has no enclosing framework or internal supporting structure but not including balloon signs. Section 9-830

(8) **"Billboards"** Are considered off-premise signs, Section 9-822 through 9-825 also Section 14-403 of the Red Bank Zoning Ordinance limits the number of billboards permitted within the City. Digital Billboards are prohibited in the City of Red Bank, section 9-821

(9) **"Building"** Building shall mean any structure that encloses a place for sheltering any occupancy that:

(a) Contains not less than three hundred (300) square feet of enclosed space at the ground level

Or

(b) Is routinely used for human occupancy in the ordinary course of business.

(10) **"Building identification sign"** Building identification sign shall mean an on-premise sign which is limited to the identification of the name of the building and/or the address of the building upon which such sign is located.

(11) **"Canopy"** Canopy shall mean a marquee or permanent roof-like structure providing protection against the weather, whether attached to or detached from a building, but excluding any column, pole or other supporting structure to which the canopy may be attached.

(12) **"Changeable copy sign"** Any sign that incorporates changing lights, lettering, or images to form a sign message or messages, whether such changes are accomplished electronically or manually. Digital signs are included in the description of changeable copy sign.

(13) **"Construction sign"** Construction sign shall mean any temporary on-premise sign located upon a site where construction or landscaping is in progress and relating specifically to the project which is under construction, provided that no such sign shall exceed a total of thirty-two (32) square feet in sign area.

(14) **"Detached sign"** Detached sign shall mean:

(a) Any freestanding self-supported unattached sign that has a permitted sign area of 32 square feet or less. See portable signs, temporary signs. Any detached signs which utilize digital technology is prohibited in the City of Red Bank.

(b) Any sign attached to a structure which is not a building is considered a snipe sign.

(15) **"Digital Billboard"** A Digital Billboard is an **"off-premise" billboard sign** that is digital in nature and uses LCD, LED, or similar electronic technology for providing changeable content to the billboard with a single message or any number of messages in sequence. Digital billboards are not permitted within the City of Red Bank

(16) **"Digital Message Center"** Any on premise electronic sign that conveys information using electronic technology. Also known as a digital changeable copy sign, which may be no larger than 16 square feet in sign area.

(17) **"Digital Signs"** Crystal Display (LCD) or Light Emitting Diode (LED) or any light emitting technology for graphically moving changeable context or display. Digital Signs are synonymous with animated illumination or effects, changeable copy signs, electronic signs, digital billboard, digital message center.

(18) **"Electronic sign"** A sign whose message may be changed at intervals by electronic process or by remote control, including the device known as a commercial electronic variable message sign. Digital signs, changeable copy signs and animated illumination signs are included within this definition of electronic signs.

(19) **"Electronic sign, stationary"** A sign, kept constant in intensity when in use, which does not exhibit sudden or marked changes in lighting effects, and which does not exhibit any other changes of any nature within any continuous one-minute time interval.

(20) **"Erect"** Erect means to build, construct, attach, hang, place, suspend, or affix, and shall also include the painting of signs on building surfaces.

(21) **"Facade"** Facade shall mean the total internal, external surface, vertical side of a building, window, canopy, awning, or mechanical equipment used to dispense a product outside or inside of a building. If a building, canopy, awning, or mechanical equipment has a non-rectangular shape, then all walls of surfaces facing in the same direction, or within twenty-five (25) degrees of the same direction, shall be considered as part of a single facade. Additionally, any portion of the surface face of a mansard, parapet, canopy, window, marque or awning which is oriented in the same direction (or within twenty-five (25) degrees of the same direction) as the wall to which, or over which, such mansard, parapet, canopy, marquee, or awning is mounted shall be deemed a part of the same facade as such wall.

(22) **"Facing and surface"** Facing and surface mean the surface of the sign upon, against, or through which the message is displayed or illustrated on the sign.

(23) **"Flashing"** Includes illumination which is not kept constant in intensity at all times when in use and which exhibits sudden or marked changes in lighting effects, content or display.

(24) **"Foot-candle"** A quantitative unit measuring the amount of light cast onto a given point, measured as one (1) lumen per square foot.

(25) **"Freestanding sign"** Freestanding sign shall mean a single faced or multi-faced sign which is constructed independent of any building and supported by any means. Freestanding signage may not be digital in nature. No on premise freestanding sign shall have a sign area greater than one hundred seventy five (175) square feet and shall not be digital in nature and no off-premise sign shall have a sign area greater than two hundred eighty eight (288) square feet and shall not be digital in nature.

(26) **"Gross surface area of sign"** Gross surface area of sign means the entire area defined by the limits of the perimeter of a sign. However, such perimeter shall not include any structural elements lying outside or inside of the limits of such sign and not forming an integral part of the display.

(a) For computing the area of any wall sign which consists of letters, trademarks or symbols mounted on a wall, the gross surface area shall be the area within a single continuous perimeter formed by the parallel lines at the top, bottom and sides of such letters, trademarks or symbols.

(b) For computing the area of any multi-sided sign, the gross surface area shall refer to all sides of such sign.

(27) **"Height"** Height shall mean the total measurement of the vertical side of the rectangle which is used to calculate "sign area" as specified in Section 9-802.

(28) **"Illuminated sign, external"** A sign illuminated by an external light source. Such source cannot be a device that changes color, flashes or alternates in content or intensity.

(29) **"Incidental sign"** Incidental sign shall mean an on premise sign, emblem or decal mounted flush with the inside or outside of the building or window facade to which it is attached and not exceeding two (2) square feet in sign area informing the public of facilities or services available on the premises (e.g., a credit card sign, ice machine sign, vending machine sign or a sign indicating hours of business) or an on- premise sign which is affixed

to mechanical equipment used to dispense a product and which is less than two (2) square feet in sign area. These signs are not calculated in the total window facade calculation.

(30) **"Inflatable or air-supported signs"** Inflatable or air supported signs means structures which are used for advertising promotional purposes which are supported by air. This shall include but shall not be limited to balloons or dirigibles and is synonymous with "balloon signs." Section 9-827 and 9-839.

(31) **"Landmark sign"** Landmark sign shall mean any on premise sign which identifies and is attached to any building which is included on the National Register of Historic Places, is listed as a Certified Historic Structure, is listed as a National Monument or is listed under any similar state or national historical or cultural designation.

(32) **"Liquor Store Signs"** See Title 8 Section 8-128 through 8-129 of the Municipal Code for liquor store signs regulations.

(33) **"Lumen"** A quantitative unit measuring the amount of light emitted by a light source.

(34) **"Maintenance"** Maintenance means the replacing or repairing of a part of a sign made unusable or unsightly by ordinary wear and tear damage or the reprinting or repainting of existing copy without changing the wording, composition or color of the sign as it was approved.

(35) **"Mansard"** Mansard shall mean the lower portion of a roof with two pitches, including a flat-top roof with a mansard portion.

(36) **"Mansard sign"** Mansard sign shall mean any sign attached to the mansard portion of a roof.

(37) **"Marquee"** Marquee shall mean a permanent roof-like structure projecting from and beyond a building wall at an entrance to a building or extending along and projecting beyond the building's wall and generally designed and constructed to provide protection against the weather.

(38) **"Message center"** Message center shall mean an on premise sign that changes messages automatically on a lamp bank or through digital technology or a mechanical means also known as a commercial electronic variable message sign and which shall have a sign area of no greater than 16 square feet.

(39) **"Mobile Digital Billboard"** Mobile digital billboard shall mean an off-premise billboard sign mounted upon a movable device such as truck, trailer, or similar device that is digital in nature and uses LCD, LED, or similar electronic technology for providing

changeable content to the billboard with a single message or any number of messages in sequence. These signs are not permitted within the City of Red Bank.

(40) **“Monument Sign that has no more than two (2) Occupants”** An on premise sign that is not Digital in nature that is ground mounted with no larger than 32 square feet in sign area and 6 feet in height and as to which there is either no space or no more than 24” inches (2 feet) between the ground and the bottom of the sign structure. Section 9-832 through 9-835.

(41) **"Monument Sign that has more than two (2) Occupants"** An on premise sign that is not Digital in nature, ground mounted with no larger than 100 square feet in sign area and no greater than 8 feet in height and as to which there is no more than 24” inches (2 feet) of space between the ground and the bottom of the sign structure. Section 9-832 through 9-835.

(42) **“Obscene”** Material is obscene if to the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex or excretion; the material taken as a whole lacks serious literary, artistic, political or scientific value; and the material depicts or describes, in a patently offensive way, sexual conduct specifically defined as:

- (1) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;
- (2) Acts of masturbation;
- (3) Acts involving excretory functions or lewd exhibition of the genitals;
- (4) Acts of bestiality or the fondling of sex organs of animals; or
- (5) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.

(43) **"Occupant"** Occupant shall mean each separate person which owns or leases and occupies a separate portion of a premises, whether it be individuals, businesses or services.

(44) **"Off-premise sign"** Off-premise sign shall mean a freestanding sign not in excess of 288 square feet of sign area that is not digital in nature or a portion thereof which directs attention to a business, profession, commodity or entertainment which is not primarily conducted, sold or offered upon the same premises on which the sign is located and shall include any sign which is not an “on premise” sign. Digital Signs are prohibited. Sections 9-820 through 9-825.

(45) **"On-premise sign"** On-premise sign shall mean any sign that is not in excess of 32 square feet of sign area ~~or~~ and that is not digital in nature whose content relates to the premises on which it is located, referring exclusively to the name, location, products, persons, accommodations, services, entertainment or activities conducted on or offered from or on those premises, or the sale, lease, or construction of those premises. Section 9-836 through 9-940. Except for Reader Boards, Message Centers and Monument Signs.

(46) **"Owner."** Owner means any person or persons having legal title to any sign, property, building, structure or premises, with or without accompanying actual possession thereof, and shall include such person's duly authorized agent or attorney, a purchaser, devise, lessee, executor, trust officer, administrators or fiduciary and any person having a vested or contingent interest or control of or in the sign, property, building structure or premises in question. The term "person" shall include any legal entity.

(47) **"Person"** Person shall mean individual, company, corporation, association, Limited Liability Company, partnership, joint venture, business, proprietorship, or any other legal entity.

(48) **"Pole Signs"** Are Freestanding On Premise signs or Off-Premise signs. See definitions for freestanding signs, Off-Premise signs Section 9-820 through 9-825 and On-Premise signs Section 9-832 through 9-840. Digital signs that are pole mounted are prohibited. Except See Reader Boards Message Centers.

(49) **"Portable sign"** Portable sign shall mean any on premise sign which is not affixed to real property in accordance with the city's then applicable building codes which is intended to be or can be removed at the pleasure of the owner, including, without limitation, single or multi-faced sandwich boards, wheel-mounted mobile signs, sidewalk and curb signs, ground signs, wind aided, and balloon signs. Section 9-827 through 9-828. Portable signs that utilize digital technology are not permitted in the City of Red Bank.

(50) **"Premises"** Premises shall mean all contiguous land in the same ownership which is not divided by any public highway, street or alley, or right-of-way and therefore shall be synonymous with the terms tax parcel or lot of record.

(51) **"Projecting sign"** Projecting sign shall mean an on premise sign attached to a building, canopy, awning or marquee and projecting outward therefrom in any direction a distance or more than eighteen (18) inches, provided, however, that no projecting sign shall extend horizontally from the building more than eight (8) feet at the greatest distance. Projecting signs that utilize digital technology are not permitted in the City of Red Bank.

(52) "**Public interest directional markers**" A small, off-premise (no more than two (2) square feet total area) non-illuminated and non-electrified directional placard or sign directing pedestrian and/or vehicular traffic toward public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries, and/or other public facilities.

(53) "**Public right-of-way or right-of-way**" Public right-of-way or right-of-way means all of the land included within an area which is dedicated, reserved by deed or granted by easement for a street, alley, walkway, parkway, or easement, in which the public, public agencies, utilities and service have access.

(54) "**Reader board**" Reader board shall mean any on premise sign that is or is not digital in nature attached to or made a part of the support system of a Freestanding sign which either displays interchangeable messages or advertises some product or service offered separately from the name of the premises where it is located such as "Deli Inside," "Tune-Ups Available", "Year-End Special" Reader board signs are limited to a sign area no larger than 16 square feet.

(55) "**Rigid materials**" Rigid materials means a material or composition of materials which cannot be folded and can support its own weight when rested upon parallel edges of such materials.

(56) "**Roof sign**" shall mean an attached or projecting sign, which does not utilize digital technology and which is not a digital sign.

- (a) Which is placed on top of or over a roof, excluding the mansard portion of a roof, or is attached to any flagpole, antenna, elevator housing facilities, air conditioning towers or coolers, or other mechanical equipment on top of a roof,
- (b) Any portion of which extends above the top of the wall, canopy or awning to which such sign is attached, or
- (c) Any portion of which extends above the top of the mansard.

(57) "**Scenic corridor**" Scenic corridor shall mean those land areas within the city limits which lie within six hundred sixty (660) feet of either side of the outermost edge of any of the roads, rivers, or rights-of-way more specifically designated in 9-822 through 9-825, which are either of uncommon visual importance or scenic attractiveness.

(58) "**Sign**" Sign shall mean any structure or wall or device or other object that is or not digital in nature used for the display of any message or messages; such term shall include without limitation any structure, display, device or inscription which is

located upon, attached to, or painted or represented on any land, on any building or structure, on the outside of a window, or on an awning, canopy, marquee, or similar appendage, and/or which displays or includes in any manner designed or intended or which can be seen from out of doors, any message or messages, numeral, letter work, model, emblem insignia, symbol, device, (including without limitation balloons, blimps, or other similar or dissimilar devices) light projected images, trademark, or other representation or platform or background of any kind used as, or in the nature of, an announcement, advertisement, attention arrester, warning or designation of any person, firm, group, organization, place, community, product, service, location, businesses, profession, enterprise or industry. Provided, however, that the following shall be excluded from this definition:

- (a) Address/name signs A sign, not exceeding 1 square foot in area, identifying the name or house number of the occupant or the presence of a permitted home occupation.
- (b) Any message or messages on the clothing of any person or on motor vehicles unless otherwise prohibited in accordance with 9-826 hereof.
- (c) Incidental signs Are signs placed in store windows regarding hours of operation, accepted charge cards, warnings or similar information that are not digital in nature. These signs are not included in the 25% calculation of the total window facade.
- (d) Business nameplates Non-illuminated nameplates not exceeding 1 square foot which denote the business name of an occupation legally conducted on the premises. Only 1 nameplate per proprietor shall be permitted.
- (e) Construction signs one sign per street frontage not exceeding 32 square feet in area. Such signs may indicate the architect, engineer contractor and can be installed upon receipt of a building permit and removed upon the issuance of a certificate of completion.
- (f) Flags and pennants Flags and pennants at educational, governmental, or charitable institutions which are not displayed for commercial purposes and are not greater than 50 square feet in size. A maximum of 4 flags or pennants per site may be displayed. The pole height shall be limited to the zoning district height limitation.
- (g) Garage sale signs advertising garage sales, yard sales, or house

sales, on the day(s) that the sale is actually taking place, which do not exceed 4 square feet. No more than 2 signs per sale shall be permitted, with 1 sign per street frontage on the premises.

- (h) Government signs Traffic signs, regulatory signs, municipal sign, legal notices, railroad crossing signs, danger signs, and such temporary emergency or noncommercial signs as may be approved by the City manager or his/her designee, governmental banners whether decorative or informational in nature.
- (i) Gravestones
- (j) Historical site plaques
- (k) Inside and outside faces of scoreboard sponsor's signs, fences, or walls at athletic fields
- (l) Interior signs which are located on the interior of premises and which are primarily oriented to persons within the premises.
- (m) Monuments/ Plaques, tablets, cornerstones, or lettering inlaid into the architectural materials of a building or structure not exceeding four (4) square feet, denoting the name of that structure and date of erection.

Promotions/special displays a non-animated display or promotion, including the use of bunting, flags or pennants, which shall be permitted for three (3) periods in each calendar year for a maximum of ninety (90) days. A separate permit for such display or promotion shall be required for each instance of its use but no more than (2) two displays at any one time will be permitted. The display of American flags shall be allowed on a permanent or temporary basis without a permit, provided that each flag does not exceed 24 square feet. The pole height shall be limited to the zoning district.

- (n) "Real estate signs" Signs pertaining to the sale, rental, management or lease of real property, referred to in this section as "real estate signs," subject to the following conditions:
  - (1) Real estate signs shall be non-illuminated, and no more than 1 sign per street frontage shall be posted on any property.
  - (2) No real estate sign pertaining to residential property may contain more than 4 square feet, excluding the post. When

computing the 4-square-foot area, any marking or symbol which identifies a real estate licensee or group of real estate licensees shall be included.

(3) A placard stating "Open House" may be temporarily erected on or above a residential sign on the subject property and 1 off-premise directional sign may be permitted on private property.

(o) Signs or flags Signs or flags erected, provided, owned, authorized or required by duly constituted governmental body, including, but not limited to, traffic or similar regulatory devices, legal notices, or warnings at railroad crossings.

(p) The display of street numbers.

#### **(59) "Sign Area"**

Sign area shall mean for all signs except on premise attached signs (as defined in section 9-802, the area within the rectangle (or any other geometric configuration) which is defined by the larger of (4) lines which include the outer extremities of all letters, figures, characters, messages, graphics or delineations on the sign structure, or (5) lines which include the outer extremities of the framework or background of the sign structure or device, without limitation. The support for the sign background, if it be columns, a pylon, or a building or part thereof, shall not be included in the sign area unless it forms a part of the message of the sign to which it is attached. Other devices such as balloons, inflatables, etc. shall be included in the sign area, whether or not forming a part of the message of the sign. On any sign structure which has multiple sign faces, any sign faces which are separated by an angle of less than sixty (60) degrees as measured from the rear of each sign face, shall be counted separately in computing sign area; if the angle of separation of the backs of sign faces exceeds sixty (60) degrees, then all such faces shall be included together in the computations of any sign area. The sign area of a sign made of individually cut out letters is the area of the rectangle necessary to enclose all such letters. For off- premise signs shall not have a sign area larger than two hundred eighty eight (288) square feet and on premise pole signs no larger than one hundred seventy-five (175) square feet. See Monument Signs for sign area-limitations.

(a) For attached on premise signs, the foregoing definition of subparagraph (a) shall also apply, except that if any word, symbol, or group of words or symbols which would otherwise be included within the rectangle defined above are separated from another word, symbol or group of words or symbols by a distance of greater than three (3) times the height of the largest letter or symbol within such word, symbol, or group of words or symbols, then separate rectangles

may be used to calculate sign area, and the total of all such rectangles shall then be considered as the "sign area."

(b) The foregoing definition is applicable to all signs and when used in the context of a maximum or "not to exceed" sign area has reference to the sign area facing in any one direction. If a particular sign or sign structure faces in more than one (1) direction the maximum sign area or the "not to exceed" area refers to each side of a sign and not to the total sign area of the combined faces of the sign.

(60) **"Snipe sign"** Snipe sign shall mean any on premise sign that is electrically illuminated, including neon tube lights or any style of LED digital lights or sign for which a permit has not been issued which is attached in any way to a building facade, window façade, inside or outside of the window or within five (5) feet of the inside or outside of the window or building. Including utility poles, trees, rocks, fences or post of any kind or similar in character. Except window signs will be allowed for no more than 25% percent of the total window facade area. Auxiliary signs shall be included in the 25% calculation of the total window facade area. Incidental signs are not included in the 25% calculation of the total window facade area. See definitions for Window signs, Auxiliary signs, and Incidental signs. Section 9-827 through 9-828.

(61) **"Special event"** Special event shall mean a short-term event of unique significance not in excess of ten (10) days; such term shall include only sales events, business grand openings, health-related promotions or health-related service programs (i.e., flu shot clinic, blood donation drives, chest x-ray clinic, etc.), going-out-of-business sales, promotions sponsored by a governmental entity, fairs, school fairs, school bazaars, charity runs, festivals, religious celebrations, and charity fundraisers, and shall not include other sales or promotions in the ordinary course of business. Section 9-827 through 9-830

(62) **"Sport facilities, Field or team sponsorship signs, Scoreboards, Message boards and Banners"** Are on premise banners or structures with a sign face attached upon them which list names of sponsors or advertisements. Banners, message boards, and other similar signs are on premise only.

(63) **"Stationary vehicle signs"** Motorized vehicles or equipment of any type including trucks, cars, tractors, trailers, motor homes, or any other similar vehicle or equipment that has been placed on or off premise for the purpose of advertising a business, product, service, event, or individual.

(64) **"Temporary sign"** Temporary sign shall mean any on premise sign permitted specifically and exclusively for a temporary use as allowed under the provisions of Section 9-827 through 9-830.

(65) **"Visibility Triangle"** Shall mean all signs located near the corners of an intersection, and shall be located outside of the sight distance triangle. Such triangle shall be measured at a distance of 25 feet running parallel along each leg of the road right-of-way connecting them to form a triangular area. This area shall be free of any permanent or temporary signs that may inhibit a clear sight line for motorists.

(66) **"Wall graphics or Wall murals"** Wall graphics or wall murals shall mean a painted scene, figure, or decorative design so as to enhance the building architecture, and which does not include written trade names, advertising or commercial messages. Wall graphics or Wall murals are permitted to be 20% of the facade that they are painted upon. Except if a monument or pole sign is not used then the graphics or mural may be increased to 30%.

(67) **"Width"** Width shall mean the total measurement of the horizontal side of the rectangle or other geometric figure which is used to calculate "sign area" as specified in Section 9-802.

(68) **"Window Signs"** Any sign placed on either the internal or external surface of a window or within 5 feet of the inside or outside of the building or window façade. Window Signs may not exceed 25% of each window's total facade area. These signs are also known as Snipe signs, Auxiliary signs, and Incidental signs Section 9-802.

**9-803. License required for erecting off-premise signs and on premise signs.** No person shall carry on the business of erecting or posting or maintaining off-premise signs or on premise signs (as defined in 9-802) without having secured a business license from the city to carry on such business. Persons holding a license under the provisions of this section of the Red Bank Municipal Code which formerly regulated this activity shall have a grace period of sixty (60) days after final passage of this chapter to obtain a new license.

**9-804. Reserved.**

**9-805. Disposal of glue, paste, waste material.** No person shall scatter, daub or leave any glue, paste, adhesive material or other like substance for affixing signs upon any street or sidewalk or public right of way or scatter or throw any old signs or waste material resulting from the erection or maintenance of signs or removal from signs on the surface of any public property, street or sidewalk or upon any private property.

**9-806. A. Permit required to erect, maintain sign.** Except as specified in subsection (2) of this section, any person must obtain a sign permit from the building inspector prior to the erection, installation, or material alteration of any sign. As used in the preceding sentence, the term "material alteration" shall mean any change in:

- (1) The height of a sign,
- (2) The sign area of a sign,
- (3) The location of a sign,
- (4) The supporting structure of a sign,
- (5) The number of words in excess of six (6) inches in height for an attached sign,
- (6) Addition of any digital sign or light emitting technology or capability, Such term shall not include routine maintenance and repair or electrical work only for which an electrical permit must be obtained. Such sign permit shall be obtained in addition to any building permit otherwise required by this code.

**B. No sign permit shall be required for any of the following on premise signs:**

- (1) Construction signs, as defined in 9-802.
- (2) Incidental signs, as defined in 9-802.
- (3) Signs advertising the sale or lease of real estate which are located upon the real estate offered for sale or lease, provided that such signs do not exceed four (4) square feet in sign area
- (4); Entrance and exit signs regulated by 9-841.
- (5) Landmark sign, as defined in 9-802.
- (6) Signs for special events as allowed in 9-831.
- (7) Sport facilities, field sponsorship signs, message boards, banners are on premise only. Off premise banners of any type shall be not permitted. Section 9-827 and 9-830.
  - (a) Special Events or Grand opening events not lasting longer than ten (10) days. Section 9-831

**9-807. Application for sign permit; notification to building inspector; expiration and renewal of permits.** Application for the sign permit required by the proceeding section shall be made to the building inspector concurrently with an application for a building permit if required and shall be accompanied by such drawings, plans, specifications, and engineering designs in compliance with the provisions of the then current International Building Code most recently adopted by the City of Red Bank for the proposed sign as may be necessary, in the judgment of the City inspector or City Manager, to fully advise and acquaint the building inspector and the City Manager or his/her designee with the proposed construction thereof. The application shall also include the owner and address of the premises where such sign is to be located, together with the size of the proposed sign, and a description of any other signs located on such premises or for which a permit has been issued and remains outstanding. Any application for a sign permit or temporary sign permit shall be approved or denied by the office of the building inspector within ten (10) business days, excluding holidays

recognized by the City of Red Bank, after the filing of the application for such permit, and in the event the office of the building inspector does not approve or deny an application within said period, the applicant may refer the matter directly to the City Manager who shall require action thereon. Notwithstanding the provisions of the foregoing sentence the office of the building inspector may grant contingent approval subject to on-site inspection in cases where an applicant for a temporary sign permit requires immediate attention on the application.

The owner of any sign for which a new sign permit is required, and which permit has been granted, shall notify or cause to be notified the office of the building inspector of the date the erection or material alteration of the sign will begin not less than forty-eight (48) hours prior to the beginning of such work. Such owner shall also notify or cause to be notified the office of the building inspector of the completion of such work within forty-eight (48) hours after completion of such work. The failure to give or cause to be given either of the notices set forth in this paragraph shall constitute a violation of this chapter and shall subject any sign erected without both of the above notices having been given to abatement as a nuisance.

Any sign for which any permit has been issued but for which no substantial expenditures have been made as of the effective date of this chapter shall only be erected in accordance with the provisions of this chapter except that no additional initial permit charge will be required for any permit which has already been issued and for which a permit fee has been paid.

Any sign permit issued pursuant to this chapter for the erection of a sign shall expire ninety (90) days from the date of its issuance in the event such sign has not been fully erected within said ninety (90) days, provided, that upon good cause shown to the building inspector such permit may be renewed one time for a period not to exceed ninety (90) additional days. If a permit is requested for a location on which a valid permit is already outstanding but has not expired, and upon which no sign has been erected, and if such subsequent permit is requested by a person other than the holder of the outstanding permit, the office of the building inspector shall file, without fee, such application for the subsequent permit. In the event the outstanding permit expires without a sign being erected, as set forth above, the next valid permit application on file with the building inspector shall be processed upon payment of the required fee.

**9-808. No permits to be issued in violation of ordinances; schedule of permit fees; yearly maintenance and safety inspection fee; inventory of certain existing signs.** The building inspector shall not issue any sign permit for any sign which is not in conformance with the city code of Red Bank and applicable state laws, including but not limited to all electrical codes of the City of Red Bank or State of Tennessee; any permit issued which does not so conform will be null and void and any sign constructed pursuant thereto shall be removed in accordance with the

provisions of this chapter. The building inspector shall collect a permit fee with the application for each sign or sign structure. The permit fee shall be as follows:

- (1) For off-premise signs, two hundred (\$200.00) dollars for each such sign.
- (2) For on premise signs other than temporary signs, one hundred fifty (\$150.00) dollars for each Monument sign, Pole sign and each electric or illuminated sign, and a total of fifty (\$50.00) dollars per premises for all other signs. Any on premise sign, other than a detached sign or electric or illuminated sign, which conforms with this chapter and which replaces any other on premise sign for which a permit has been issued hereunder, shall not require the issuance of a new permit nor the payment of the permit fee.
- (3) The owner of each off-premise sign, shall pay to the office of the building inspector an annual maintenance, compliance and safety inspection fee of twenty-five (\$25.00) dollars per sign face. The annual maintenance, compliance and safety inspection for a sign shall not be collected unless and until such sign has been inspected by a representative of the office of the building inspector. The office of the building inspector may place upon any sign subject to annual maintenance, compliance and safety inspection a sticker or other device to indicate the date of such inspection, provided that such sticker or device shall not interfere with the message of such sign. The annual maintenance, compliance and safety inspection fee for each sign shall be due and payable on January 1st of each calendar year and shall be delinquent if unpaid within thirty (30) days thereafter. A ten (10%) percent per day delinquent charge shall be added to any annual maintenance, compliance and safety inspection fee which remains unpaid after January 31st of the calendar year in which such fee is due. The office of the building inspector shall cause notices of the annual maintenance, compliance and safety inspection fee to be mailed to the owner of each sign subject to such fee on or before December 1st of each calendar year and shall cause delinquency notices to be mailed as soon as possible after January 31st. No new sign permit or temporary sign permit shall be issued to any owner of any sign for which the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remains unpaid after January 31st in the calendar year in which such fee became due unless such sign(s) and supporting sign structure(s) shall be abated by action of the building inspector. If the annual maintenance, compliance and safety inspection fee and the delinquent charge thereon remain unpaid on a sign more than one hundred eighty (180) days after the date of the delinquent notice, such sign shall be subject to the provisions of 9-809, 9-812 through 9-815, inclusive.
- (4) Every person maintaining an off-premise sign as of the effective date of this chapter shall, within one hundred twenty (120) days of said effective date, furnish to the office of the building inspector an inventory of all such signs; said inventory shall specify the exact location, measurements and size (including sign area

as defined in 9-802) of each sign, provided, that such persons who have previously furnished such inventory shall not be required to furnish a new inventory. In lieu of such inventory, persons maintaining such signs may furnish or mail to the office of the building inspector a photograph of each sign for which an inventory is required together with the name of the owner of the premises on which the sign is located, the occupant of such premises if different from the owner, the name of the business located on such premises in the case of an on premise sign, and the full address of such premises. The failure to file the inventory for a sign as specified herein shall create a rebuttal presumption that such sign was erected subsequent to the effective date of this chapter.

**9-809. Power to revoke permit; remedies for violation.**

(1) If any sign permit is issued based upon any false or untrue information which is material to the application and the granting of a sign permit, the building inspector shall revoke any such permit and order the removal of such sign within thirty (30) days.

(2) If the building inspector determines that any sign erected pursuant to a permit issued under the provisions of this chapter is in violation of any provision of this chapter by error in the construction of the sign, the building inspector shall

(a) Notify the holder of the permit of the nature of the noncompliance and allow the holder a reasonable amount of time, but not less than fifteen (15) days nor in excess of sixty (60) days, to correct the defects giving rise to the non-compliance; or

(b) If such non-compliance cannot be corrected, to require the removal of the non-complying sign within thirty (30) days of the expiration of the period for correction specified above.

(3) If any sign is erected without a sign permit but is otherwise erected in compliance with the provisions of this code, the building inspector may upon proper application for a sign permit and payment of double the normally required permit fee issue a sign permit for such a sign, provided, however, that any such permit so issued shall in no event operate to relieve the person so erecting a sign without a permit from any penalties provided by this chapter until such permit has been issued.

**9-810. Owner's name required on off-premise signs.** No sign permit shall be issued to any applicant to erect an off premise sign unless the applicant agrees to place and maintain on each such sign the name and permit number of the person or entity owning or in possession, charge or control thereof. The building inspector shall verify

that the name and permit number of the person or entity owning or in control of such sign is placed upon the same forthwith upon the erection of such sign and kept on the signs at all times while such sign is maintained.

**9-811. Non-conforming.**

(1) Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation of any prior ordinance or ordinances shall be subject to removal upon notice from the city. Signs which are now in existence and were constructed in the compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs.

(2) For off-premise signs, any person owning, controlling or having a substantial ownership interest in any illegally erected or maintained non-conforming off-premise sign(s) shall remove all such illegally erected and maintained off-premise sign and its supporting structure prior to the issuance of any off-premise sign permit to such person until such person no longer owns, controls or has a substantial ownership interest in any illegally erected or maintained non-conforming off-premise signs. Evidence of the removal of an illegally erected off-premise sign shall be furnished to the satisfaction of the building inspector. As used herein, "substantial" ownership interest shall mean any ownership interest in excess of five (5%) percent of the total ownership interest

(3) For on premise signs, any occupant (as defined in 9-802) who applies for a new sign permit for any on premise signs shall be required to either remove all legal non-conforming signs and the devices designated in Section 9-811 on the area of the property occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premise attached sign shall be required to either remove all legal non-conforming attached signs and the devices designated within this ordinance on the premises occupied by such occupant, or to bring such non-conforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued.

(4) Notwithstanding any other provision of this chapter, any person using a portable sign, balloon sign or banner for which a temporary sign permit must be obtained on the effective date of this chapter must obtain a temporary sign permit as required by Section 9-827 through 9-830.

**9-812. Violation declared misdemeanor; penalty.** Any person who shall violate any provision of this chapter, or any person who shall fail or refuse to comply with any notice to abate or other notice issued by the building inspector within the time allowed by such notice, shall be guilty of a misdemeanor; each day of such violation or failure or refusal to comply shall be deemed a separate offense and punishable accordingly. Each violation of this chapter shall be punishable by a fine of up to fifty (\$50.00) dollars, and each day of continuing violation is deemed a separate and continuing offense, punishable by up to fifty (\$50.00) dollars for each day of violation.

**9-813. Violations declared nuisances; pre-existing violations.** The maintenance of any unused sign and/or its supporting structure or any violation of the provisions of this chapter by any person is declared to be a public nuisance dangerous to the public safety and shall be abated as set forth in this section. Any sign for which the annual safety inspection fee remains unpaid more than one hundred eighty (180) days after the delinquent notice of such fee pursuant to this ordinance is declared to be a public nuisance and shall be abated as set forth in this section. For the purposes of this section, "unused sign" shall include any sign which

(1) Has not displayed a message or messages for ninety (90) days consecutive, or

(2) Is not kept in good structural repair, or

(3) For which the sign face contains a physically and/or visibly deteriorated torn, weathered, chipped, peeling message, or

(4) Any violations of the electrical code and/or any other applicable city adopted code, such that the sign could pose a risk to public health or safety. Except for temporary signs regulated by 9-827 and 9-830 of this chapter, every sign to which the provisions of this chapter shall apply that was legally erected prior to the effective date of this chapter and was in use on said date, but which violates any of the provisions of this chapter, shall not be subject to removal, provided, that the owner of any legal nonconforming off-premise sign shall obtain (without charge) within sixty (60) days of the effective date of this chapter a permit from the building inspector which permit shall be marked on the face thereof: "non-conforming sign permit". In the event that there shall be future non-use of any legal non-conforming on premise or off-premise sign and/or its supporting structure for more than ninety (90) days, said non-conforming sign and its supporting structure shall then be removed forthwith within the time allowed in this ordinance or the building inspector may cause said removal to be done as provided in this chapter.

**9-814. Notice requiring abatement of violation; abatement by city lien for costs.** Upon

ascertaining a violation of the provisions of this chapter, the building inspector shall cause to be served upon either the offender, or his agent, and upon the owner, or his agent, or the occupant(s) of the premises, a written notice to abate such violation(s) which shall

(1) Describe the conditions constituting a nuisance under this chapter, and

(2) State that the nuisance may be abated by the city at the expense of the offender, and/or owner, and/or the occupant of the premises at the expiration of not less than fifteen (15) days nor more than sixty (60) days from the date of such notice if such condition is not corrected by the person in control of given notice to abate the constituting a nuisance be corrected or that the offender, or the owner, or the occupant, or the premises. If, at the expiration of the time the nuisance described in said notice to abate, the condition has not been corrected, then such condition may be abated by the city at the expense of the offender and/or the owner and/or the occupant of the premises under the direction of the building inspector.

(3) Provided further, in the event of an emergency which, in the opinion of the city inspector justifies immediate action to protect the health and safety of persons and/or to protect property, the city may take such steps as are necessary, without notice, to abate the condition or situation. In any such event(s), the city shall have a lien on the sign structure and upon property upon which such sign is located to secure the amount expended for the abatement of such nuisance; the amount expended for the abatement of such nuisance, including attorney fees and costs of enforcement, and shall include all unpaid annual maintenance and safety inspection fee and delinquent charges due for such a sign.

**9-815. Appeals.** An appeal to the City Manager from any adverse decision of the building inspector may be filed in writing with the city recorder within ten (10) days from any such decision; the city manager shall, within fifteen (15) days of the filing of the appeal, set a date upon which a hearing before the Board of Commissioners shall be held; the city manager shall promptly notify the person filing the appeal of the hearing date. The decision of the City Manager upon any such appeal shall be final. The provisions of this section shall not be construed to allow the city manager to grant any variance or special exception to the provisions of this chapter, and the jurisdiction of the city manager upon any such appeal shall extend only to questions of fact and to questions involving the interpretation of the provisions of this chapter.

**9-816. Obscene displays on signs.** No person shall post or paint, or cause to be posted or painted, or otherwise caused to be displayed so that the same can be seen from the streets or other public places of the city, any advertisements or materials containing pictures or illustrations of any obscene character. For the purpose of this section "obscene" shall have the same meaning as provided in Tennessee Code Annotated, 39-17-901, as now enacted or hereafter amended. See Section 9-802 (42).

**9-817. Signs over streets, sidewalks; where other advertising prohibited.**

(1) No sign of any kind shall be permitted to project over or be suspended over or across any street or sidewalk except in accordance with the limitation provided in the definition of a "projecting sign" in 9-802 of this chapter.

(3) No person shall paste, paint, print, rope, bill, nail, pin, or otherwise attach any sign or any advertisement or notice of any kind whatsoever or cause the same to be done, on any curbstone, or in any portion or part of any sidewalk or street, tree, lamppost, telephone or telegraph pole, awning, porch or balcony, or upon any other structure in the limits of any street or public right-of-way in the city, except such as may be required by this code or other city ordinance.

(4) When any sign of the type enumerated in this section is found in any place prohibited by this section, it shall be prima facie evidence that such sign was so placed contrary to the provisions of this section by the person to whom reference is thereby made.

**9-818. Change of sign classification - removal.** If for any reason an off-premise sign becomes an on premise sign, such on premise sign and its supporting structure shall be removed within thirty (30) days of the change of classification unless such sign is in compliance with all of the provisions of this chapter governing on premise signs. If for any reason an on premise sign becomes an off-premise sign, such off-premise sign and its supporting structure shall be removed within thirty (30) days unless such sign is in compliance with all provisions of this chapter governing off-premise signs.

**9-819. Signs distracting to motor vehicle operators prohibited.**

Where there are entrance and exit ramps to any controlled access facility, or a confluence of traffic, or anywhere else where operators of vehicles might be required to make sudden decisions in order to safely operate their vehicles, then no signs shall be permitted or allowed that will be or may reasonably be distracting to drivers and thereby hazardous and dangerous to the traveling public. Additionally, and regardless of location, no off-premise or on premise sign shall have moving parts, picture tubes, lights or illumination, light emitting diode (LED) or electronic sign technology -that vary in intensity, flash or change color or which utilize light emitting diode (LED), digital or other electronic sign technology as defined herein, except: -

(1) That on premise Monument signs with Message centers, changeable copy signs or reader boards shall be allowed provided a permit has been obtained pursuant to the provisions of this ordinance, and

(2) For any signage which is permitted by the terms of this Ordinance to utilize digital technology, or which would otherwise be characterized as a Digital

Sign, LED signage or LCD signage may display only through the use of digital display, LED lights, LCD lights or similar technology that vary in illumination or intensity not to exceed (0.3) foot candles over ambient light conditions provided further that each display shall remain constant for a minimum of not less than ten (10) seconds.

(3) Signage which utilizes digital technology or which would otherwise be characterized as a digital sign, LED signage or LCD signage or which uses any similar technology is/are general prohibited in the City of Red Bank and are only permitted in certain limited contexts and sign categories and determination i.e., reader boards, message centers and monument signs all other classifications being hereby expressly prohibited.

(4) No signs that resemble any regulatory or warning traffic control device or sign as found in the latest edition of the Manual of Uniform Traffic Control Devices for Streets and Highways as now existing or hereafter amended shall be permitted. No sign shall emit any sound or sounds, audible to the human ear without amplification or exceeding ten (10) decibels.

**9-820. General off-premise sign regulations.** Unless otherwise provided in this chapter, the following regulations shall govern the construction and maintenance of any off-premise sign within the city. Section 9-823. Any off-premise sign which is (or would be) a digital sign, a changeable copy sign, an electronic sign or which utilizes flashing features is prohibited.

**9-821. Billboards** whether structural or mobile are not allowed within the City of Red Bank unless all requirements of this ordinance are met in relation to number of billboards, distance separating billboards and zoning regulations. Digital billboards are not permitted within the City of Red Bank under any circumstance.

Sections 9-822 through 9-825. Scenic Corridors Established and the Red Bank Zoning Ordinance Section 14-403, addresses the number of permitted billboards allowed within the City of Red Bank. No sign shall exceed thirty-five (35) feet in height or fifty (50) feet in width, more particularly, the highest portion of a sign or sign structure shall not exceed thirty-five (35) feet above ground elevation hereafter set out:

(1) Thirty-five (35') feet above the closest point, measured vertically, on the grade of the slope of the real estate upon which the sign or sign structure is located if the sign or sign structure is located on a higher grade than the finished grade of the public road towards which the sign is principally oriented and which it is principally intended to be viewed is the maximum allowable height;

(2) If the sign or sign structure is located on the same or on a lower grade than either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer, than thirty-five (35') feet above the closest point on the top of the finished grade of either the roadway toward which it is principally oriented or the roadway to which it is (measured horizontally) nearer, whichever roadway is nearer.

(3) No billboard sign area shall exceed seven hundred fifty (750) square feet and no new billboard sign with a sign area exceeding seven hundred fifty (750) square feet shall be permitted or erected in the City of Red Bank.

(4) Sign structures supporting an off-premise sign of any size shall be spaced not less than seven hundred (700) feet apart regardless of the direction in which any such sign is facing; said spacing shall only apply to signs on the same side of the street, provided, however, that any off-premise sign located within three hundred (300) feet of the center of any intersection of two or more roads shall be spaced not less than three hundred fifty (350) feet in all directions from any other off-premise sign of any size.

(5) The number of billboards whether traditional or digital within the City of Red Bank shall not exceed the number, i.e., seventy-two (72) specified in Section 14-403 of the Red Bank Zoning Ordinance at any time.

(25) No off-premise sign shall be located closer than twenty (20) feet to the closest edge of any public right-of-way, no closer than ten (10) feet to the property line of any adjacent commercially zoned real property and no closer than twenty-five feet to the property line of any adjacent residential owned property.

(7) No sign shall be erected so that the lowest portion of the sign face is less than twelve (12) feet, measured vertically, from the closest point on the grade of the real estate upon which the sign or sign structure is located.

(8) No sign shall be permitted on top of any building or roof-top.

(9) No sign face shall be permitted atop or beneath another sign face, i.e., no "stacked" signs are permitted on any sign structure, building, or rooftop.

(10) No sign shall be located where prohibited or not permitted by the Red Bank Zoning Ordinance, as amended, or as may hereafter be amended.

(11) (RESERVED)

(12) Nothing contained herein shall be construed to prohibit the erection and maintenance of a single "public interest direction marker," as otherwise defined herein by any public buildings, hospitals, places of worship, public libraries, public museums, public parks, cemeteries or other public facilities provided that:

(a) There shall be no more than one (1) public interest directional marker for any one entity. Such public interest directional marker shall be located only on Commercial zoned private property and with written permission from the private property owner and shall under no circumstances be located on the public right-of-way for any street, road or highway.

(b) In the judgment of the city manager, or his/her designee, such public interest directional marker does not impair traffic site lines or any use of any adjacent sidewalk or right-of-way.

(c) The public interest directional marker shall not exceed two (2) square feet in total area.

(d) The owner shall provide, on forms supplied by the city, contact information for the person responsible for maintenance and a signed agreement that the sign or placard may be removed if required by the owner of the adjoining premises, and further agreeing that the city may require removal if, in its judgment, the public interest requires its removal at any time in the future.

(e) That any public interest directional marker shall be located not more than one-half (1/2) mile (two thousand six hundred forty feet (2,640')) from the nearest corner of the property of the entity to which it is intended to direct attention.

(f) **Visibility Triangle at access points.** No structure, signs, landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, sign or other material impediment to visibility in this area. Such triangle shall be measured at a distance of 25 feet running parallel along each leg of the road right-of-way connecting them to form a triangular area.

**9-822. Scenic areas and scenic corridors.** This section shall govern the erection of off-premise signs and certain on premise signs in scenic areas scenic corridors.

**9-823. Scenic areas.** There are hereby established the following scenic areas, in which off-premise signs shall be prohibited as set forth herein:

**9-824. Scenic corridors established.**

1. There is hereby reaffirmed and established a scenic corridor, which shall consist of those certain strips of land which are located within six hundred sixty (660) feet on either side of the outermost edge of the right-of-way of U.S. Highway 27 (also known as State Route 29 and sometimes referred to as Corridor J) from the southernmost city limits to the northernmost city limits of the City of Red Bank.

2. There are hereby established as scenic corridors, which shall consist of those certain strips of land which are located within six hundred sixty (660') feet on either side of the outermost edge of the right-of-way lines of:

- (a) Dayton Boulevard, from the southernmost city limits to the northernmost city limits of the City of Red Bank;
- (b) Ashland Terrace, from its intersection with Dayton Boulevard to the Chattanooga city limits;
- (c) Signal Mountain Road, from its intersection with Dayton Boulevard to the Chattanooga city limits;
- (d) Morrison Springs Road from Dayton Boulevard to the Chattanooga city limits.

**9-825. Off-premise signs along Scenic corridors or within Scenic areas prohibited.** No off-premise signs shall be permitted within the scenic corridors or within scenic areas established per the provisions of 9-822 through 9-825. No free-standing or off-premise, no bill-board signs shall be permitted, nor electronic signs or digital signs shall be permitted within any scenic corridor other than reader boards, message boards and monument signs.

**9-826. Prohibited on premise signs and devices.**

- (1) Use of the following on premise signs shall be prohibited:
  - (a) Portable signs, except where specifically permitted for an authorized temporary use in accordance with this chapter.
  - (b) Banners in excess of thirty-two (32) square feet in sign area.
  - (c) Snipe signs. See definition.
  - (d) Roof signs, except balloon signs which may be permitted as temporary signs under 9-827 through 9-830 of this chapter.

(e) Any sign printed on or attached to a vehicle and used as a stationary sign.

(f) Freestanding signs or devices are prohibited with moving parts, wind activated, flags, feather signs or animation or sound-emitting devices or similar except not to exceed 30 days by a temporary sign permit and no more than ninety (90) days running consecutive in any one calendar year.

(g) Grand opening events not lasting more than ten (10) days are not required to be permitted but must inform the public works office of such event.

(h) That permanently attached message centers are allowed if built into a monument sign provided, that a sign permit is obtained pursuant to this chapter, and

(i) Signs displaying messages, through lights or digital technology that vary in illumination or intensity shall be allowed, only in the context of monument signs or reader boards, provided, that each display shall remain constant for a minimum of at least ten (10) seconds and not exceed (0.3) foot candles over ambient light conditions and all other provisions of this Ordinance related to permitting, to location, spacing, chargeable content message intervals, total area and luminosity and met and adhered to.

(j) Neon tube lights, LED, digital or electronic signs or Reader boards shall not be attached to any building or window facade.

(k) Auxiliary Signs, Snipe signs or similar will be included in the 25% calculation of the total building or window facade. See Definitions Auxiliary signs, Snipe signs, Incidental signs.

(l) Liquor Store Sign Requirements Title 8 Section 8-128 through 8-129 of and flashing light prohibitions the Red Bank Municipal code for Liquor Store Sign Requirements.

(m) Lights which outline windows, buildings, doors on any on premise or off-premise structures shall not blink, pulsate, flash or strobe.

(n) Billboards off-premise unless all conditions of this Ordinance are met.

(2) Except as provided in 9-827 through 9-830 the use of streamers,

pennants, pinwheels, flags (other than those permitted by 9-839), tinsel and any other device which hangs freely and is intended to be wind-activated or to circulate, flap, rotate, blow or otherwise be put in motion by the wind shall be prohibited. Except Temporary signs, Special events, Grand openings and are limited and regulated by, Section 9-827.

(3) Any on premise sign with a sign area exceeding (175) square feet.

(4) Any on premise freestanding electronic or digital sign, any sign using flashing lights for reader boards/message centers as may be otherwise permitted as provided herein.

**9-827. Authorized use of temporary signs, banners, Wind activated devices and Special events Grand openings and Sales events.** Banners, portable signs and balloon and inflatable signs shall be allowed on premise for certain temporary uses only. A temporary sign permit and Fee shall be required prior to placement or erection of such sign or banner. Each occupant of a premises shall be entitled to obtain a temporary sign permit. Any such temporary sign permit shall be issued only in accordance with the following:

(1) **Permit / Fee Required.** A permit for each temporary sign, banner, and wind activated devices is required along with a (10) ten dollar fee per sign. (Except Sports Field Sponsorship signs on premise.)Special Events or Grand opening events not lasting more than (10) ten days are not required to permit but must notify the office of the Public Works Department of such event. All other sections of 9-827 shall apply.

(2) **Limit on use of temporary signs, banners, wind activated devices.** No person or occupant shall be eligible for issuance of the following signs for more than a total of 90 days during any calendar year, and no occupant or premises shall be allowed to display signs within any consecutive 30 day period. Each occupant shall be allowed no more than two (2) of the following signs at any one time temporary signs, banners, or wind activated devices of any type.

(3) **“Time limit for display of temporary signs”.** All temporary sign permits shall state an effective date and an expiration date; such permits shall be issued only for a minimum of thirty (30) day increments not running within any consecutive 30 day period. Any temporary sign and its supporting structure (including balloons) permitted under this chapter shall be removed at or before 11:59 P.M. of the expiration date on the temporary sign permit notwithstanding any other provision of this chapter. No occupant may obtain a temporary sign permit until the expiration of thirty (30) days from the end of such occupant's last temporary sign permit period but they may not run consecutive from month to month for a total of ninety days.

(4) **“Size and placement of temporary signs”**. No temporary sign shall exceed three hundred (300) square feet in sign area. No temporary sign shall be placed closer than ten (10) feet to any public right-of-way, and no temporary sign may be placed in any public parking space. No part of any temporary sign may be located within forty (40) feet of two (2) public rights-of-way.

**9-828. “Removal of temporary signs”**. Temporary signs shall be removed no later than 48 hours from expiration of the permit. After 48 hours of expiration of the permit. The Building Official or Codes Enforcement officer will remove such signs and dispose of them.

**9-829. “Balloon signs”**. No balloon or other inflatable device upon which a balloon sign is displayed shall exceed a height of thirty (30) feet above the lowest point of the ground or building over which the balloon is situated. No more than two (2) banner signs will be permitted on any balloon. No part of any balloon sign or balloon shall be located closer than thirty (30) feet from any public right-of-way. Any banner sign affixed to a balloon must be mounted flush to the balloon. A banner sign attached to a balloon may not exceed one hundred twenty (120) square feet in surface area, provided, however, that any banner sign attached to a balloon any part of which is within sixty (60) feet of any public right-of-way may not exceed one hundred (100) square feet in surface area. Section 9-827.

**9-830. “Banners”**. All banners shall not exceed 32 square feet in size. A sign permit and fee shall be required for all banners but shall be subject to the provisions of Section 9-827. Banners shall be allowed by permit meeting the requirements of this ordinance for off-premise and on premise signs. An occupant may display only (2) banners at any one time whether attached or detached. (Except Sport Field Sponsorship banners on premise). Off-premise banners for Sport fields are subject to the provisions of 9-827.

**9-831. “Special events”**. Section 9-827

**9-832. “General regulation of permanent On-Premise Monument signs”**. Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on premise signs

**9-833. “Number and size of permitted Monument On-Premise signs”**.

(1) Each premises shall be allowed no more than two (2) Monument signs for each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) Monument signs shall be primarily

oriented towards any such public street. Submit drawings, rendition or photograph of the signs showing the design and features for review to the Public Works Department. Monument sign support systems larger than 32 square feet and taller than 6 feet in sign area will require a set of stamped plans from a registered architect.

(2) In addition, each occupant of a premises who leases or owns a building which is freestanding and unattached to any other building on such premises shall also be allowed one (1) attached sign for each public street upon which occupant's building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) In addition to any attached sign permitted above, on any premises Menu Board where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional detached sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(4) The number of attached signs for a premises, or for each occupant of a premises, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of eight (8) inches in height. If any premises is entitled to use a Monument sign pursuant hereto but does not do so, then the total sign area of attached signs on each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(5) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "Gas for Less", and in such case, each separate letter shall be counted as a word.

(6) Liquor Store Signs. Title 8 section 8-128 through 8-129 of the Municipal Code for Liquor Sign requirements.

**9-834. Maximum size limitations for Monument signs.**

(1) **"On-Premise Monument signs no more than 2 occupants"** Support system can be no greater than 32 square feet and cannot be higher than 6 feet. The support material permitted will be masonry brick or masonry in combination with construction material (EFIS) Exterior Finish Insulation System and match the architecture features of the building that the sign serves. The sign copy face area of

a Monument sign shall not exceed 16 square feet in size per sign face and may not be higher than 4 feet per side. Submit drawings, renderings or photograph showing sign design and placement location and distance of the sign in relation to the right-of-way of any roads, driveways, sidewalks or easements.

(2) **“On-Premise Monument signs which have more than two (2) occupants”**. The Monument sign support system shall be no greater than 100 square feet and may not be higher than 8 feet. The support material permitted will be masonry brick or masonry in combination with construction material (EFIS) Exterior Finish Insulation System and match the architecture features of the building that the sign serves. Submit drawings, rendition or photographs showing sign design and placement location and distances from right-of-ways. A set of stamped plans will be required from a registered architect showing design, wind loads, footing details, electrical and the placement location of the signs in relation to the right-of-way of any roads, driveways, sidewalks or easements when the sign is larger than 32 square feet or more than 6 feet in height.

(3) **Message Centers, Reader Boards**. Changeable copy signs are permitted but must be built within the construction of the sign. Message Centers, Reader Boards and Changeable copy signs cannot be attached to any part of the outside of a monument sign and must meet all other requirements of this Ordinance including, location, set back distances and luminosity limitations.

**9-835 “Set-back requirements for Monument signs”** No monument sign may be closer than ten (10) feet to any public or private street, driveway or right-of-way. Except at corners of intersecting streets no signs shall be placed within the visibility triangle. See definitions Visibility Triangle.

**9-836. “General regulations of permitted permanent On-Premise Freestanding Pole signs”**. Other than signs which are prohibited under the provisions of this chapter or which are permitted as temporary signs pursuant to this chapter, the section hereinafter shall regulate the general use of on premise signs.

**9-837. “Number and size of permitted Freestanding On-Premise Pole signs”**. When Monument signs are not allowed due to site distance requirements and other conditions within this ordinance.

(1) Each premises shall be allowed no more than two (2) Freestanding pole signs. Digital signs and or Electronic signs are not permitted as a freestanding on premises pole sign. For each public street upon which the premises fronts (excluding public and private alleyways), provided that not more than two (2) Freestanding pole signs shall be primarily oriented towards any such public street.

(2) In addition, each occupant of a premises who leases a building which is freestanding and unattached to any other building on such premises

shall also be allowed one (1) Freestanding pole sign for each Public Street upon which occupant's building fronts, provided that such sign is located within the area leased to occupant and oriented towards such public street.

(3) Notwithstanding the provisions of subsections (1) and (2), if a Freestanding pole sign is maintained on premises which fronts upon two (2) or more public streets and any part of such sign is located within fifty (50) feet of the closest edge of the intersecting right-of-way of two (2) or more public streets one (1) freestanding pole sign shall be allowed for such premise

(4) In addition to any freestanding pole sign permitted above, on any premises where goods and/or services are offered from a "drive-thru" window or which may otherwise be purchased by a person without the necessity of exiting his or her motor vehicle, one (1) additional sign not in excess of eight (8) feet in height or in excess of thirty-two (32) square feet in sign area shall be permitted.

(5) The number of attached signs for a premise, or for each occupant of a premise, shall not be limited, but the total sign area of attached signs shall not exceed twenty (20%) percent of the area of the facade to which the signs are attached. The number of words in an attached sign (excluding a message center) shall not be limited, but not more than eight (8) words attached to a facade may contain any letters in excess of eight (8) inches in height. If the premise is entitled to use a freestanding pole sign pursuant hereto but does not do so, then the total sign area of attached signs on each facade may be increased but shall in no event exceed thirty (30%) percent of the area of the facade to which the signs are attached.

(6) For the purpose of this section, "word" shall mean any word, number, abbreviation, trademark, symbol, or name. The purpose of this section may not be circumvented by combining words which are ordinarily separated to make one word such as "gas for less", and in such case, each separate letter shall be counted as a word.

(7) Liquor Store Signs Title 8 section 8-128 through 8-129 of the Red Bank Municipal Code for Liquor Store Requirements.

**9-838. "Maximum size limitations for On-Premise Freestanding Pole signs".** When Monument signs are not allowed due to site distance requirements and other conditions within this Ordinance.

(1) The permitted size of a non-digital detached sign shall be determined in accordance with the distance which such sign is set back from the right-of-way as specified in § 9-834 but the sign area of a detached sign (whether a freestanding sign or projecting sign) shall not exceed one hundred seventy-five (175) square feet in size per sign face. The sign area of a sign shall be calculated in accordance with the provisions of the defined term "sign area" in § 9-802 of this chapter, except that the dimensions of any reader board, message center whether digital or not shall be calculated individually and not as if the reader board, message center whether or not digital were included within the rectangular sign area of any other sign. If, instead of being supported by a simple pole or beam system, a freestanding sign

is supported by or attached to any other type of freestanding opaque structure which serves as a background for the sign and obscures vision through such structure, then the structure shall itself be included in determining the size of the sign.

(2) For premises which have frontage along any single public road or public right-of-way in excess of three hundred fifty (350) linear feet along such road or right-of-way and which have more than two (2) occupants, the sign area of a freestanding sign located along such frontage shall not exceed three hundred (300) square feet. In addition, if any premise which has more than two (2) occupants has less than three hundred fifty (350) linear feet of frontage along a public road or public right-of-way but has a developed store or building frontage of greater than five hundred (500) linear feet, then the sign area of a detached sign shall not exceed three hundred (300) square feet.

**9-839. “Set-back requirements for On-Premise Freestanding Pole signs”.** No pole sign may be closer than ten (10) feet to any street or right-of-way; no pole sign with a sign area larger than forty (40) square feet may be closer than fifteen (15) feet to any street or right-of-way; and no pole sign which is larger than one hundred (100) square feet may be closer than twenty (20) feet to any street or right-of-way. Notwithstanding the foregoing set-back limitations, any projecting sign which is attached to a building whose building line adjoins a public sidewalk or public right-of-way may extend out over the public sidewalk or right-of-way, but no over any public street and not in excess of the distance otherwise permitted hereunder. Notwithstanding the foregoing, any owner from whose property any sign may project over any public right-of-way shall, prior to erecting or installing such sign, obtain a temporary use permit from the city subject to such conditions as may be required by the Board of Commissioners.

**9-840. “Minimum and Maximum Height Limitations For On-Premise Freestanding Pole signs”.** When monument signs are not permitted by this ordinance due to site distance requirements.

All pole signs shall have a minimum clearance between the ground and the lowest portion of such sign of not less than ten (10) feet. A pole sign or its supporting structure whose closest point is located no closer than ten (10) feet from any right-of-way may not exceed twenty (20) feet in height above the adjacent public right-of-way at its closest point. For each additional foot of set-back beyond (10) feet from the right-of-way, a pole sign may extend an additional one (1) foot in height above the level of the adjacent public right-of-way at its closest point, up to a maximum of thirty (30) feet in height. Notwithstanding the foregoing provisions of this section, in the event a pole sign is placed on ground which is higher than the closest point on the adjacent public right-of-way, the maximum height of such sign shall be measured from the lowest point of the ground over which such sign is located, if, and only if, every part of such sign and its supporting structure is located within fifty (50) feet of the closest adjacent public right-of-way.

**9-841. “Traffic directional signs”.** The number, height and set-back to on premise entrance, exit or other directional traffic signs at any premises, provided that no such directional sign shall exceed thirty (30) inches in height nor more than six (6.0) square feet in sign area, and further provided that no such signs shall contain any words other than customary motor vehicle or pedestrian traffic directional instructions, and shall not otherwise, in the judgment of the city manager or his/her designee, obstruct traffic sight lines or otherwise impair traffic movement

**9-842. “Directional signs on hospital premises”.** On-premise directional signs located on the premises of any hospital, medical center or clinic which offers emergency medical care, provided such signs shall not otherwise obstruct traffic sight lines or otherwise impair traffic movement and shall not exceed fifty (50) feet in height above the nearest roadway.

**9-843. “Maintenance of on premise signs”.** All on premise signs shall be properly maintained. Exposed surfaces shall be clean and painted if paint is required. Defective, damaged, broken, or deteriorated parts shall be replaced. The building inspector shall order the removal of any on premise sign which is defective, damaged, or substantially deteriorated pursuant to this chapter.

**9-844. “Flags”.** In addition to the display of the flag of the United States, the state of Tennessee, the County of Hamilton, the City of Red Bank, each premise may display one (1) additional flag provided that such additional flag in no case shall exceed the size of the flag of the United States displayed on the same premises. Such additional flag may be displayed only on a flagpole and only when the flag of the United States, a state within the United States, the County of Hamilton, or the City of Red Bank is being displayed on a flagpole. At no time may such additional flag be secured by any means on more than one (1) side of the flag. The foregoing limitation on the display of flags shall not apply to stadium or athletic fields in which sporting events are routinely held.

**9-845. “Compliance and corrective provisions”.**

(1) Notwithstanding any other provisions of this chapter, the following regulations shall govern the alteration and maintenance of any existing on premises or existing legal non-conforming off premises signs. Nothing contained in this chapter shall be construed in any way to ratify or approve the erection and/or maintenance of any sign which was erected in violation of any prior ordinance or ordinances of the City of Red Bank, Tennessee, and such signs so erected in violation

of any prior ordinance or ordinances shall be subject to removal as provided in this section. Signs which are now in existence and were constructed in compliance with the terms of any prior ordinance or ordinances of the City of Red Bank, Tennessee, but which are not in conformance with the provisions of this chapter are hereby designated as legal, non-conforming signs, and shall be abated and removed hereafter in accordance with this section.

(2) For on premise signs, any occupant who applies for a new sign permit for any on premise pole sign shall be required to either remove or cause the removal of all legal nonconforming pole signs and the devices designated in or on the area of the property occupied by such occupant, or to bring all non-conforming signs on that property into conformance with the provisions of this chapter, before any new permit may be issued. Any occupant who applies for a new sign permit for any on premises attached sign shall be required to either remove all legal non-conforming signs in or on the area of the premises occupied by such occupant, or to bring such nonconforming signs into conformance with the provisions of this chapter, before any new sign permit may be issued. For the purpose of this subsection, the term "property" is intended to mean the entire tract of real property which has been assigned a separate tax map and parcel number and is not intended to be limited to a separate unit of a multi-unit property.

(3) A single occupant non-conforming sign shall be made conforming if one of the following situations occur:

(a) Any modification to the sign structure, other than normal maintenance necessary to retain the original structure of the sign; or

(b) Destruction or deterioration of the sign to an extent that the current cost of repair exceeds fifty percent (50%) of the current cost of constructing a new sign which duplicates the old; or,

(c) Change of business/ownership name or change of sign face to reflect new ownership, business logo, message; or

(d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed, or placed subsequent to the adoption of this chapter.

(4) A multiple occupant non-conforming sign shall be made conforming if one of the following situations occur:

(a) Any modification to the sign structure, other than normal maintenance necessary to retain the original structure of the sign; or

(b) If two-thirds of the occupants are removed from the structure.

(c) Change of business/ownership name or change of sign face to reflect new ownership, business logo, message; or

(d) Any sign prohibited by the adoption of this chapter shall be removed within ninety (90) days from written notification if erected, constructed, or placed subsequent to the adoption of this chapter.

**9-846. “Various Building and Safety Codes Applicable”.** Notwithstanding any other provision of this chapter the various building and safety codes of the City of Red Bank, as now enacted or hereafter adopted or amended, including but not limited to the electrical code, shall be applicable to all signs and sign structures.

**9-847. “Political signs regulated”.**

(1) **Scope of article - definition of political sign**. Notwithstanding anything in this chapter to the contrary, the provisions of this chapter shall govern the use and placement of political signs. "Political sign" shall mean any sign which supports or opposes the candidacy of any candidate for public office or urges action on any other issue on the ballot of a primary, general or special election.

(2) **Political signs regulated**. Political signs with a sign area of more than 32 square feet shall be subject to the provisions of this code and/or this chapter governing off-premise signs, provided, that any political sign at campaign headquarters shall be governed as on premise signs. Political signs with a sign area of 32 square feet or less shall be subject to the following restrictions:

(a) No such political sign may be placed closer than 7 feet to the pavement or curb of any public or private street, except that poster type signs, no larger than 18" (eighteen inches) by 24" (twenty-four inches) may be placed not closer than 3 feet from the pavement or curb of any public or private street. No political sign shall be placed upon any city property.

(b) No such political sign may be placed closer than 25 feet to the closet edge of the pavement or curb of two (2) intersecting public or private streets. See definition Visibility Triangle.

(c) No such political sign may be placed upon or attached in any way to any tree, fence, fence post, utility pole, light pole, or rock located on public property or upon the right-of-way on any street.

(d) All such political signs may be placed sixty (60) days before an election and shall be removed within fifteen days after the election to which they refer

has been held. Such signs erected for a primary election may remain only if they continue to be valid for the next general election.

(e) The offices of the building inspector or the city manager may order the removal or of any such sign which, in its or their opinion, may constitute a hazard to the public traveling on public streets.

(f) No such sign shall be located in a position which is principally designed to be viewed from a controlled access facility.

(g) No such sign may be placed upon a public sidewalk.

(h) Any person or organization planning to erect such political signs shall first file with the office of the building inspector the name, address and telephone number of the person or persons who shall be responsible for the proper erection and timely removal of such signs. Signs that are in violation of this Chapter will be removed and placed at city hall. The City will not be responsible for the safe keeping of any of the signs removed.

(i) Removal – the City public works department may remove political signs which are located so as they impair visually or otherwise, traffic and or which are located on the public right of way or on public property.

(j) Penalty - Any person, firm, corporation or entity violating the provisions hereof may be fined in the amount of up to twenty-five (25) dollars for each violation. In the case of continuing violations, each day shall constitute a separate violation(s).

**9-848. “Set back variances and procedures”.**

(1) The City Commission shall have the authority to grant a limited variance and to lessen the applicable set back requirements by up to five (5) feet from the right-of-way set back requirements for on premises pole or monument signs as otherwise set forth in this ordinance.

(2) No variance shall be issued except upon:

(a) Written application by the owner to the city commission on forms furnished by the city;

(b) Written notice of the application and the date and time of public hearing being issued to all adjoining land owners within two hundred (200') feet of the premises for which the application is pending;

(c) A public hearing shall be advertised and held when the application will be considered and a finding by a majority of the commissioners that multiple legal non-conforming signs exist upon adjacent properties within 200 feet of the requested location which would effectively block the view of the proposed on premises detached sign if a variance were not granted;

(d) The location of the proposed detached on premises sign will not impede visibility and/or traffic flow on the adjacent public street and will not impair vehicular traffic or pedestrian traffic, from a safety and traffic visibility standpoint, for ingress to or egress from the property upon which the proposed sign is to be located.

(e) In no case shall the applicable set back distance be lessened by more than five (5') feet;

(f) In no case shall the applicable set back distance be lessened so as to permit a sign to be located any closer than five (5') feet to any sidewalk;

(g) The placement of the proposed sign will not block or impair the view of any existing legal non-conforming sign from the adjacent public road;

(h) In no case shall the variance be granted if it would violate any other signage separation distance requirements or the other provisions of the "sign ordinance."

(3) Any premises owner desiring to obtain a variance shall obtain and file an application to the city manager's office with detailed plans, drawing and scaled distances showing the size and proposed location of the sign.

#### **9-849. "Premises Identification"**

(1) All buildings, both residential and commercial within the City of Red Bank shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or English alphabet letters. Numbers must be located on a house, garage, or other similar building and shall be a minimum of four (4) inches in height with a minimum stroke width of one-half (0.5) inches.

(2) All properties located within the City of Red Bank that has access to the rear by an alley way or street shall display approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or English alphabet letters. Numbers shall be a minimum of four (4) inches in height with a minimum stroke width of one-half (0.5) inches. Numbers must be located on the house, garage, or other similar building within thirty (30) feet of the rear property.

#### **9-850 “Sign Illumination”**

(1) Sign illumination shall only be achieved through the following standards. All electrical service to ground mounted signs shall be placed underground. Electrical service to other signs shall be concealed from public view.

(2) Awnings with signage included should always be externally illuminated.

#### **“General Illumination Standards”**

1. Illumination should not interfere with or distract from the message conveyed by the sign and shall not exceed (0.3) foot candles over ambient light conditions.
2. Lighting for signs shall not create a hazardous glare or moving digital glare for pedestrians or vehicles either in a public street or on any private premises.
3. The light source, whether internal to the sign or external, shall be shielded from view. This requirement is not intended to preclude the use of creative exposed lighting.
4. Illumination should be appropriate for the location, use and character of the neighborhood.
5. Illumination should seem integrated into the façade.
6. Illuminated signs of any kind shall not be illuminated from 10 p.m. - 6 a.m. When located next to or on any property adjacent to any residential zoned property.
7. Flashing, blinking, revolving, or rotating lights are not permitted.
8. No utilization of digital, LED, LCD or shimmer lights propelling technology except as expressly allowed in the Ordinance, and only then if the same is not likely to be distracting to motorists and the general public.
9. All exposed conduit and junction boxes should be concealed from public view.

**“Internal Illumination Standards”**

1. Internally illuminated sign cabinets that allow the entire face to illuminate are prohibited.
2. The sign background or field should be opaque of a non- reflective material.

**“External Illumination Standards”**

1. Only external lighting fixtures that project light on a sign from above or below are permitted. Light fixtures supported on the front of the building should cast light on the sign and a portion of the facade immediately around the sign.
2. Light fixtures should be simple and unobtrusive in appearance and size.
3. Light fixtures should be positioned so as not to obscure the sign’s message and graphics.
4. Light sources shall be shielded and such that the light source is directed away from pedestrians, residential properties or motorists. Light sources should be directed against the sign face such that it does not shine onto adjacent properties. Bare light bulbs shall not be exposed.

**RESOLUTION NO. 19-1281**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK, TENNESSEE AUTHORIZING SUBMISSION OF AN APPLICATION TO THE AMERICAN AUTOMOBILE ASSOCIATION WITH RESPECT TO THE 2019 TRAFFIC SAFETY GRANT FOR THE POLICE DEPARTMENT**

**WHEREAS**, the American Automobile Association recognizes the challenges faced by cities and law enforcement agencies as the attempt to provide their agencies with much needed equipment

**WHEREAS**, the City of Red Bank desires to submit an application to the American Automobile Association for grant funding relating to the 2019 Traffic Safety Grant for the purchase of a golf cart and enclosed trailer for use during training and exhibit exercises; and

**WHEREAS**, if approved, grant funding will be at 100% requiring no local matching funds.

**NOW, THEREFORE BE IT RESOLVED** by the City Commission of the City of Red Bank that the Police Department is authorized to submit an application on behalf of the City of Red Bank to the American Automobile Association for the 2019 Traffic Safety Grant.

Resolved this 5<sup>th</sup> day of March in the year of 2019

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Mayor

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City Recorder

**RESOLUTION NO. 19-1282**

**A RESOLUTION AUTHORIZING THE CHIEF OF POLICE TO SIGN AN INTERAGENCY AGREEMENT BETWEEN THE CITY OF RED BANK, HAMILTON COUNTY DISTRICT ATTORNEY'S OFFICE, CHILDREN'S ADVOCACY CENTER OF HAMILTON COUNTY, TENNESSEE DEPARTMENT OF CHILDREN'S SERVICES, HAMILTON COUNTY JUVENILE COURT, HAMILTON COUNTY SHERIFF'S OFFICE, CHATTANOOGA POLICE DEPARTMENT, COLLEGEDALE POLICE DEPARTMENT, EAST RIDGE POLICE DEPARTMENT, LOOKOUT MOUNTAIN POLICE DEPARTMENT, SIGNAL MOUNTAIN POLICE DEPARTMENT, UNIVERSITY OF TENNESSEE AT CHATTANOOGA POLICE DEPARTMENT, SODDY DAISY POLICE DEPARTMENT AND CHILDREN'S HOSPITAL AT ERLANGER, IN REGARD TO PARTICIPATION ON THE CHILD PROTECTIVE INVESTIGATIVE TEAM OF HAMILTON COUNTY, TENNESSEE**

**WHEREAS**, the City of Red Bank Police Department has had a member assigned to the Child Protective Investigative Team of Hamilton County, Tennessee, for the past several years; and,

**WHEREAS**, the goal of the Child Protective Investigative Team of Hamilton County, Tennessee, is to coordinate the activities of the agencies to ensure that child abuse victims are protected, that investigations are conducted and needed services are provided in such a way to facilitate victim's recovery, and to ensure that information and evidence is collected; and

**WHEREAS**, in order for the City of Red Bank to assign a member of the Police Department to the Child Protective Investigative Team, it is necessary for the City Commission to accept the Interagency Agreement and to authorize the Chief of Police to sign the agreement..

**NOW, THEREFORE, BE IT RESOLVED**, by the City Commission of the City of Red Bank, Tennessee that Child Protective Investigative Team of Hamilton County, Tennessee, Interagency Agreement be and is hereby accepted.

**BE IT FURTHER RESOLVED**, that the Chief of Police for the City of Red Bank, Tennessee, be authorized and directed to execute same on behalf of the City.

Resolved this the 5<sup>th</sup> day of March 2019

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Mayor

Attest:

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City Recorder Ruth Rohen

**RESOLUTION NO. 19-1283**

**RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE CITY OF RED BANK,  
TENNESSEE  
2017 COMMUNITY DEVELOPMENT BLOCK GRANT  
SEWER SYSTEM IMPROVEMENTS PHASE II  
NOTICE OF AWARD  
AUTHORIZING ADDITIONAL MATCHING FUNDS**

**WHEREAS**, the Hamilton County WWTA sewer system in the City of Red Bank has been experiencing Inflow and Infiltration problems during heavy rainfall; and

**WHEREAS**, the WWTA has documented overflow problems into Stringer Branch to the Tennessee Department of Environment and Conservation during heavy rainfall; and

**WHEREAS**, Stringers Branch is classified by the state as a 303(d) stream; and

**WHEREAS**, the City of Red Bank has been awarded \$525,000 in Community Development Block Grant funds to alleviate Inflow and Infiltration problems during heavy rainfall; and

**WHEREAS**, this project has been bid out and bids have been certified; and

**WHEREAS**, the lowest bid received was from Norris Brothers Excavating, LLC; and

**WHEREAS**, the second lowest bid received was from Brown Brothers, Inc; and

**WHEREAS**, references were checked for both Norris Brothers Excavating, LLC and Brown Brothers, Inc; and

**WHEREAS**, Norris Brothers, Inc, and received previous complaints regarding their ability to clean up and follow project plans and specifications: and

**WHEREAS**, the Hamilton County WWTA believes it is best to award Brown Brothers, Inc a contract to complete this project; and

**WHEREAS**, the bid received from Brown Brothers, Inc has a construction costs of \$2,019,091.06; and

**WHEREAS**, the Hamilton County WWTA commits to the needed funds as stated by Resolution No. 0219-09, approved on February 20, 2019, to complete the project; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Commission of the City of Red Bank, Tennessee, agrees to award the second lowest bidder, Brown Brothers, Inc:

**NOW, THEREFORE, BE IT RESOLVED** that the City Commissioner of the City of Red Bank, Tennessee, agrees that the commitment to the match of a total of \$1,494,091.06 will be paid by the Hamilton County WWTA, with no funding from the City of Red Bank:

**BE IT FURTHER RESOLVED** that the Mayor is authorized to enter into agreements and execute documents for the successful implementation for the project subject to the approval of the state.

MOTION BY \_\_\_\_\_, SECONDED BY

\_\_\_\_\_, said Resolution was approved this 5th day of March 2019

\_\_\_\_\_  
Mayor

Attest

\_\_\_\_\_  
City Recorder